GENERAL LAWS

OF THE

STATE OF IDAHO

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

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Volume 1

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

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SECRETARY OF STATE

PETE T. CENARRUSA
Secretary of State
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CHAPTER 1
(S.B. No. 1002)

AN ACT

DIRECTING THE STATE TREASURER TO DEPOSIT ALL MONEYS RECEIVED FROM THE MASTER TOBACCO SETTLEMENT AGREEMENT FOR A TIME CERTAIN IN THE BUDGET RESERVE ACCOUNT AND THE BUDGET STABILIZATION FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. The State Treasurer shall deposit all moneys received from the Master Tobacco Settlement Agreement, through June 30, 2000, in the Budget Reserve Account and the Budget Stabilization Fund created in Section 57-814, 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 February 8 1999.

CHAPTER 2
(S.B. No. 1012)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE BOARD OF MEDICINE, BOARD OF NURSING AND BOARD OF PHARMACY FOR FISCAL YEAR 1999; INCREASING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS AUTHORIZED FOR THE BOARD OF MEDICINE IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES; 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 139, Laws of 1998, there is hereby appropriated to the Board of Medicine, Board of Nursing and Board of Pharmacy in the Department of Self-Governing Agencies 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, 1998, through June 30, 1999:

A. BOARD OF MEDICINE:

FOR:	
Personnel Costs	$23,800
Capital Outlay	3,300
TOTAL	$27,100
FROM:	
State Regulatory Fund	$27,100

B. BOARD OF NURSING:	
FOR:	
Operating Expenditure	$31,800
FROM:	
State Regulatory Fund	$31,800
C. BOARD OF PHARMACY:	
FOR:	
Operating Expenses	$12,000
Capital Outlay	7,100
TOTAL	$19,100
FROM:	
State Regulatory Fund	$19,100

SECTION 2. In addition to the full-time equivalent positions authorized in Section 2, Chapter 139, Laws of 1998, the Board of Medicine in the Department of Self-Governing Agencies is authorized one (1) additional full-time equivalent position for a total of no more than ten (10) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

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 10, 1999.

CHAPTER 3
(S.B. No. 1013)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1999; PROVIDING TRANSFERS TO THE PEST CONTROL DEFICIENCY FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 377, Laws of 1998, there is hereby appropriated to the Department of Agriculture the following amounts to be expended for the Plant Industries Program according to the designated standard classifications from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$73,100
Operating Expenditures	25,700
TOTAL	$98,800
FROM:	
General Fund	$98,800

SECTION 2. The State Controller shall make cash transfers from the General Fund to the Pest Control Deficiency Fund, at the request of the Director of the Department of Agriculture, not to exceed $98,800 as appropriated in Section 1 of this act.

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

Approved February 10, 1999.

CHAPTER 4
(S.B. No. 1014)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1999; 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 321, Laws of 1998, there is hereby appropriated to the Department of Lands the following amounts to be expended for the Forest and Range Fire Protection program from the listed funds for the period July 1, 1998, through June 30, 1999:

FROM:

General Fund	$ 805,000
Fire Suppression Deficiency Fund	960,000
TOTAL	$1,765,000

SECTION 2. The State Controller shall make cash transfers from the General Fund to the Fire Suppression Deficiency Fund, at the request of the Director of the Department of Lands, not to exceed $805,000 as appropriated from the General Fund in Section 1 of this act.

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

Approved February 10, 1999.

CHAPTER 5
(S.B. No. 1015)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1999; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; 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 217, Laws of 1998, there is hereby appropriated to the Idaho Transportation Department 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, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. MANAGEMENT AND SUPPORT:				
FROM:				
State Highway Fund (Dedicated)	$ 15,700	$ 350,600	$ 25,600	$ 391,900
State Highway Fund (Federal)	16,400	3,904,300		3,920,700
TOTAL	$ 32,100	$4,254,900	$ 25,600	$ 4,312,600
II. PLANNING:				
FROM:				
State Highway Fund (Dedicated)	$ 20,900	$ 271,100	$ 33,200	$ 325,200
State Highway Fund (Federal)	9,600			9,600
TOTAL	$ 30,500	$ 271,100	$ 33,200	$ 334,800
III. HIGHWAY OPERATIONS:				
FROM:				
State Highway Fund (Restricted)	$ 159,700	$ 95,800		$ 255,500
State Highway Fund (Dedicated)		109,000	$ 281,000	390,000
State Highway Fund (Federal)	873,200			873,200
TOTAL	$1,032,900	$ 204,800	$ 281,000	$ 1,518,700
IV. CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION:				
FROM:				
State Highway Fund (Federal)			$15,035,100	$15,035,100
V. PUBLIC TRANSPORTATION:				
FROM:				
State Highway Fund (Dedicated)		$ 1,200	$ 1,500	$ 2,700
GRAND TOTAL	$1,095,500	$4,732,000	$15,376,400	$21,203,900

SECTION 2. In addition to the positions authorized in Section 4, Chapter 217, Laws of 1998, the Idaho Transportation Department is authorized an additional thirty-eight (38) full-time equivalent positions for the period July 1, 1998, through June 30, 1999, for the programs specified in Section 1 of this act.

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

Approved February 10, 1999.

CHAPTER 6
(S.B. No. 1026)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD OF EDUCATION FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1999; 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 372, Laws of 1998, there is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amount to be expended according to the designated standard classification from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$92,500
FROM:	
General Fund	$92,500

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

Approved February 10, 1999.

CHAPTER 7
(H.B. No. 82)

AN ACT

RELATING TO THE TOBACCO MASTER SETTLEMENT AGREEMENT; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 78, TITLE 39, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSE; TO DEFINE TERMS AND TO PROVIDE REQUIREMENTS FOR TOBACCO PRODUCT MANUFACTURERS SELLING CIGARETTES TO CONSUMERS WITHIN IDAHO.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 78, Title 39, Idaho Code, and to read as follows:

CHAPTER 78
TOBACCO MASTER SETTLEMENT AGREEMENT

39-7801. FINDINGS AND PURPOSE. (a) Cigarette smoking presents serious public health concerns to the state of Idaho ("state") and to the citizens of the state. The surgeon general has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(b) Cigarette smoking also presents serious financial concerns for the state. Under certain health-care programs, the state may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(c) Under these programs, the state pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(d) It is the policy of the state that financial burdens imposed on the state by cigarette smoking be borne by tobacco product manufacturers rather than by the state to the extent that such manufacturers either determine to enter into a settlement with the state or are found culpable by the courts.

(e) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the state. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the state (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(f) It would be contrary to the policy of the state if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the state will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the state to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

39-7802. DEFINITIONS. (a) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(b) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or

more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(c) "Allocable share" means allocable share as that term is defined in the Master Settlement Agreement.

(d) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(e) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers.

(f) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with section 39-7803, Idaho Code.

(g) "Released claims" means released claims as that term is defined in the Master Settlement Agreement.

(h) "Releasing parties" means releasing parties as that term is defined in the Master Settlement Agreement.

(i) "Tobacco product manufacturer" means an entity that after the date of enactment of this act directly (and not exclusively through any affiliate):

(1) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(2) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(3) Becomes a successor of an entity described in paragraph (1) or (2) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of paragraphs (1) through (3) of this subsection.

(j) "Units sold" means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the state on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of the state. The state tax commission shall promulgate such rules as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

39-7803. REQUIREMENTS. Any tobacco product manufacturer selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this act shall do one (1) of the following:

(a) Become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

1999: $.0094241 per unit sold after the date of enactment of this act;

2000: $.0104712 per unit sold;

For each of 2001 and 2002: $.0136125 per unit sold;

For each of 2003 through 2006: $.0167539 per unit sold;

For each of 2007 and each year thereafter: $.0188482 per unit sold.

All per unit numbers are subject to verification.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) of this subsection shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(A) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subparagraph: (i) in the order in which they were placed into escrow; and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the state's allocable

share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) To the extent not released from escrow under subparagraphs (A) or (B) of this paragraph, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this section shall annually certify to the attorney general that it is in compliance with this section. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(A) Be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this section, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(B) In the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this section, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and

(C) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed two (2) years.

Each failure to make an annual deposit required under this section shall constitute a separate violation.

(4) In any action brought under this section, the court shall award the attorney general, if he is the prevailing party, reasonable costs, expenses and attorney's fees in bringing his action.

Approved February 12, 1999.

CHAPTER 8
(H.B. No. 87)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1999; 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 219, Laws of 1998, there is hereby appropriated to the Department of Fish and Game the following amounts to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. WILDLIFE:				
FROM:				
Fish and Game Set-aside Fund	$ 75,000	$ 61,000		$136,000
B. INFORMATION AND EDUCATION:				
FROM:				
Fish and Game Fund	40,000		$60,000	100,000
Fish and Game Federal Fund		71,900		71,900
TOTAL	$ 40,000	$ 71,900	$60,000	$171,900
GRAND TOTAL	$115,000	$132,900	$60,000	$307,900

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 12, 1999.

CHAPTER 9
(H.B. No. 94)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD OF EDUCATION FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1999; 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 372, Laws of 1998, there is hereby appropriated to the State

Board of Education for the Idaho Educational Public Broadcasting System the following amount to be expended according to the designated standard classifications from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Operating Expenditures	$64,200
Capital Outlay	25,000
TOTAL	$89,200
FROM:	
General Fund	$89,200

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

Approved February 12, 1999.

CHAPTER 10
(H.B. No. 95)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR COMMISSIONER SALARIES FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 1999; APPROPRIATING ADDITIONAL MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1999; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to any other appropriation, there is hereby appropriated to the Public Utilities Commission for commissioner salaries and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$11,300
FROM:	
General Fund	$11,300

SECTION 2. In addition to any other appropriation, there is hereby appropriated to the State Tax Commission for commissioner sala-

ries and benefit costs, to be expended according to the designated expense class from the listed funds, for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$49,600
FROM:	
General Fund	$44,600
Administration Services for Transportation Fund	5,000
TOTAL	$49,600

SECTION 3. In addition to any other appropriation, there is hereby appropriated to the Industrial Commission for commissioner salaries and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$22,800
FROM	
Industrial Administration Fund	$22,800

SECTION 4. In addition to any other appropriation, there is hereby appropriated to the Executive Office of the Governor for the Governor's salary and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$4,600
FROM:	
General Fund	$4,600

SECTION 5. In addition to any other appropriation, there is hereby appropriated to the Lieutenant Governor for the Lieutenant Governor's salary and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$1,400
FROM:	
General Fund	$1,400

SECTION 6. In addition to any other appropriation, there is hereby appropriated to the Secretary of State for the Secretary of State's salary and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:	
Personnel Costs	$4,600
FROM:	
General Fund	$4,600

SECTION 7. In addition to any other appropriation, there is hereby appropriated to the Superintendent of Public Instruction/State Department of Education for the Superintendent of Public Instruction's

salary and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:

Personnel Costs	$4,600

FROM:

General Fund	$4,600

SECTION 8. In addition to any other appropriation, there is hereby appropriated to the State Treasurer for the State Treasurer's salary and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:

Personnel Costs	$4,600

FROM:

General Fund	$4,600

SECTION 9. In addition to any other appropriation, there is hereby appropriated to the State Controller for the State Controller's salary and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:

Personnel Costs	$4,600

FROM:

General Fund	$4,600

SECTION 10. In addition to any other appropriation, there is hereby appropriated to the Attorney General for the Attorney General's salary and benefit costs, to be expended according to the designated expense class from the listed fund, for the period July 1, 1998, through June 30, 1999:

FOR:

Personnel Costs	$4,600

FROM:

General Fund	$4,600

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 12, 1999.

CHAPTER 11
(H.B. No. 108)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE MILITARY DIVISION FOR FISCAL YEAR 1999; DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE 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 137, Laws of 1998, there is hereby appropriated to the Office of the Governor for the Military Division, 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, 1998, through June 30, 1999:

BUREAU OF HAZARDOUS MATERIALS:

FOR:	
Operating Expenditures	$47,500
FROM:	
General Fund	$47,500

SECTION 2. The State Controller shall make a cash transfer of $47,500 from the General Fund to the Hazardous Substance Emergency Response Fund, as appropriated to the Bureau of Hazardous Materials in Section 1 of this act.

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

Approved February 12, 1999.

CHAPTER 12
(H.B. No. 1)

AN ACT

RELATING TO MISSING PERSONS; AMENDING SECTION 18-4509, IDAHO CODE, TO PROVIDE FOR THE IMMEDIATE ENTRY OF INFORMATION REGARDING MISSING AND RUNAWAY CHILDREN IN THE NATIONAL CRIME INFORMATION CENTER AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-4512, IDAHO CODE, TO PROVIDE FOR A PERMANENT MISSING PERSONS CLEARINGHOUSE AND TO PROVIDE DUTIES OF THE DEPARTMENT OF LAW ENFORCEMENT.

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

SECTION 1. That Section 18-4509, Idaho Code, be, and the same is hereby amended to read as follows:

18-4509. MISSING CHILD REPORTS -- LAW ENFORCEMENT AGENCIES -- DUTIES. (1~~.~~) Upon receiving a report of a missing or runaway child, a law enforcement agency shall~~:~~

~~(a)--I~~immediately enter identifying and descriptive information about the child into the national crime information center computer. Law enforcement agencies having direct access to the national crime information center computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the system.~~;--and~~

~~(b)--If-the-missing-child-was-born-in-Idaho,-notify-the-state-registrar-in-writing-within-five-(5)-business-days.--The-law-enforcement--agency--shall--make-the-written-notification-in-a-manner-and form-prescribed-by-the-state-registrar.---The--notification--shall include--the-missing-child's-name,-date-of-birth,-county-of-birth, the-mother's-maiden-name,-and-the-name-of-a-contact-person-at--the law-enforcement-agency-which-submitted-the-report.~~

~~(c)--If-the-runaway-child-was-born-in-Idaho,-notify-the-state-registrar--in--writing--within--fifteen--(15)--business-days.-The-law enforcement-agencies-shall-make-the-written--notification--in--the manner--and--form-prescribed-by-the-state-registrar.-The-notification-shall-include-the-missing-child's-name,-date-of-birth,-county of-birth,-the-mother's-maiden-name,-and-the-name-of-a-contact-person-at-the-law-enforcement-agency-which-has-submitted-the-report.~~

~~(d)--If-the-missing-child-was-born-in-a-state-other-than-Idaho-and that-information-is-known,-notify-the--state--registrar--or--other state--agency-responsible-for-vital-records-in-the-state-where-the child-was-born,-within-five-(5)-business-days.-The-state-registrar shall-provide-the-registrar-or-appropriate-officer--with--information-concerning-the-identity-of-the-missing-child,-if-requested-to do-so.~~

~~(e)--If-the-runaway-child-was-born-in-a-state-other-than-Idaho-and that--information--is--known,--notify-the-state-registrar-or-other state-agency-responsible-for-vital-records-in-the-state-where--the child--was-born,-within-fifteen-(15)-business-days.-The-state-register-shall-provide-the-registrar-or-the-appropriate-officer--with information--concerning--the--identity--of--the--missing-child,-if requested-to-do-so.~~

(2~~.~~) If the local law enforcement agency has reason to believe that a missing or runaway child is enrolled in an Idaho elementary or secondary school, it shall notify that school of the report, at which time the school shall flag the missing child's record pursuant to section 18-4511, Idaho Code.

(3~~.~~) The department of law enforcement shall report the entries made by local law enforcement in the national crime information center to the state registrar. Upon learning of the return of a missing or runaway child, the department of law enforcement shall so notify the state registrar of this state if the child was born in Idaho, or the appropriate officer in the state where the child was born, and the school informed under the provisions of subsection (2) of this section.

(4~~.~~) The department of law enforcement shall by rule determine the frequency, manner and form of notices and ~~information~~ reports required by this act.

(5~~.~~) Immediately after a missing or runaway child is returned, the law enforcement agency having jurisdiction over the investigation shall clear the entry from the national crime information center computer.

SECTION 2. That Section 18-4512, Idaho Code, be, and the same is hereby amended to read as follows:

18-4512. MISSING PERSONS CLEARINGHOUSE. (1) The department of law

enforcement ~~is--hereby--directed--to~~ shall establish a ~~three-(3)-year pilot-project-to-be-known-as-the~~ missing persons clearinghouse~~.--The clearinghouse--shall--be-established-as-of-July-1,-1996,~~ as a resource center of information and assistance regarding missing and unidentified persons.

(2) The director of the department of law enforcement shall appoint a coordinator ~~who-will-further-define-and-develop-the-most~~ to manage appropriate programs for addressing the problem of missing persons, which may include the following:

(a) Collecting and maintaining computerized data and investigative information on missing and unidentified persons in Idaho;

(b) Establishing access to the national crime information center and to other sources of automated information;

(c) Distributing information to public and private nonprofit agencies that will assist in the location and recovery of missing persons;

(d) Operating a toll-free telephone hotline for accepting reports relating to missing persons;

(e) Publishing a directory of missing persons;

(f) Compiling statistics on missing persons cases handled and resolved each year;

(g) Developing and conducting training on issues relating to missing persons;

(h) Developing and distributing educational and other information regarding the prevention of abduction and sexual exploitation of children.

(3) The department of law enforcement may accept gifts and grants from governmental agencies and private nonprofit organizations to achieve the purposes of the clearinghouse.

(4) The ~~director-of-the~~ department of law enforcement shall ~~submit~~ publish an annual reports~~-to-the-legislature~~ on the activities and ~~progress~~ achievements of the clearinghouse. ~~The-reports-shall-be--published-no-later-than-twenty-(20)-days-prior-to-the-convening-of-a-regular-session.-The-annual-report-published-in-1998-shall-include-recommendations,--made--in--consultation--with--other--state--and-local-law enforcement-agencies,-regarding-the--permanent--establishment--of--the clearinghouse.~~

(5) The department of law enforcement shall determine, by rule, the type and content of information to be collected by the clearinghouse and the manner of collecting and disseminating that information.

(6) The clearinghouse coordinator, in cooperation with the office of the superintendent of public instruction, shall ~~meet-semiannually with-the-director-of-the-department-of-law-enforcement-or-his-designee to~~ develop a coordinated plan for the distribution of information ~~and education--of~~ to teachers and students in the school districts of the state regarding ~~the~~ missing and runaway children. ~~problem--in--the state.~~ The superintendent of public instruction shall encourage local school districts to cooperate by providing the department of law enforcement with information on any missing and runaway children that may be identified within the district.

Approved February 18, 1999.

CHAPTER 13
(H.B. No. 46)

AN ACT

RELATING TO THE COMMISSION ON AGING; AMENDING SECTIONS 67-5003 AND 67-5007, IDAHO CODE, TO CLARIFY THAT GRANTS AND CONTRACTS ARE FUNDING AGREEMENTS; AMENDING SECTION 67-5008, IDAHO CODE, TO PROVIDE THAT THE COMMISSION SHALL ALLOCATE CONTRACTS FOR SPECIFIED PURPOSES AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 67-5009, IDAHO CODE, TO PROVIDE THAT THE OMBUDSMAN FOR THE ELDERLY SHALL SUBMIT A REPORT BY DECEMBER 1 OF EACH YEAR TO SPECIFIED PERSONS WHICH INCLUDES ACTIVITIES CONDUCTED BY HIS OFFICE DURING THE PRIOR FISCAL YEAR; AND AMENDING SECTION 67-5010, IDAHO CODE, TO PROVIDE FOR CONTRACTS FOR DEMONSTRATION PROJECTS.

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

SECTION 1. That Section 67-5003, Idaho Code, be, and the same is hereby amended to read as follows:

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 <u>funding agreements as</u> 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.

SECTION 2. That Section 67-5007, Idaho Code, be, and the same is hereby amended to read as follows:

67-5007. GRANTS TO <u>AND CONTRACTS WITH</u> LOCAL AREA AGENCIES. The commission shall, based on the recommendations of the local area coun-

cils on aging, enter into funding agreements as grants or contracts 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 or contracts shall be subject to performance and financial audit by the agency in conformance with state practices and statutes.

SECTION 3. That Section 67-5008, Idaho Code, be, and the same is hereby amended to read as follows:

67-5008. PROGRAMS FOR OLDER PERSONS. The 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 or contracts 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~~ commission 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 4. 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 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 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 findings. He shall have jurisdiction to investigate administrative acts or omissions of long-term care facilities or state or county departments or agencies providing services to older people. An administrative act of a long-term care facility or state or county department or agency may become an appropriate subject for the ombudsman to investigate under certain circumstances. For example, the ombudsman may investigate such an act if it might be contrary to law, unreasonable, unfair, oppressive, capricious or discriminatory. The ombudsman may make a finding for an appropriate resolution to the subject matter of the investigation.

The ombudsman shall investigate any complaint which he determines to be an appropriate subject for investigation under this section.

When the ombudsman investigates a complaint, he shall notify the complainant, if any, of the investigation and shall also notify the long-term care facility or the state or county department or agency affected by the investigation of his intent to investigate. However, if no investigation takes place, he shall inform the complainant of the reasons therefor. Records obtained by the ombudsman shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

In an investigation of any complaint or administrative act of any long-term care facility or state or county department or agency providing services to older people, the ombudsman may undertake, but not be limited to, any of the following actions:

(a) Make the necessary inquiries and obtain such information he deems necessary.

(b) Hold private hearings.

(c) Enter during regular business hours, a long-term care facility or state or county department or agency's premises.

Following the investigation and upon his determination that particular subject matter should be further considered by the long-term care facility or state or county department or agency, an administrative act should be modified or cancelled, a statute or regulation on which an administrative act is based should be altered, reasons should be given for an administrative act, or some other action should be taken by a long-term care facility or state or county department or agency, he shall report his opinions and recommendations to the respective parties. The ombudsman may request the parties affected by such opinions or recommendations to notify him within the specified time of any action taken by such parties on his recommendation. Following an investigation, the ombudsman shall consult with the particular parties before issuing any opinion or recommendation that is critical to such parties.

The ombudsman shall notify the complainant in writing within a reasonable time from the date the investigation is terminated of any actions taken by him and the long-term care facility, or state or county department or agency to resolve any issues raised by the complaint.

The ombudsman, on December ~~30~~ 1 of each year, shall submit to the

governor, ~~the director of the 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~~ fiscal 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 5. That Section 67-5010, Idaho Code, be, and the same is hereby amended to read as follows:

67-5010. GRANTS OR CONTRACTS FOR DEMONSTRATION PROJECTS. The 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 grants or contracts with area agencies or 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 or contracts will not adversely affect the grants or contracts provided to local area agencies on aging described in section 67-5007, Idaho Code.

Approved February 18, 1999.

CHAPTER 14
(H.B. No. 48)

AN ACT

RELATING TO VOCATIONAL REHABILITATION; AMENDING SECTION 33-2301, IDAHO CODE, TO PROVIDE ACCEPTANCE OF THE FEDERAL REHABILITATION ACT AMENDMENTS OF 1998 AND TO PROVIDE A CURRENT REFERENCE TO THAT FEDERAL LAW.

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 199~~3~~8," P.L. ~~103-73~~ 105-220, ~~103rd~~ 105th Congress, and will observe and comply with all requirements of such acts.

Approved February 18, 1999.

CHAPTER 15
(H.B. No. 49)

AN ACT

RELATING TO THE STATE HISTORICAL SOCIETY; AMENDING SECTION 67-4124, IDAHO CODE, TO PROVIDE REVISED CONDITIONS FOR THE QUALIFICATION, APPOINTMENT AND TERMS OF 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 67-4124, Idaho Code, be, and the same is hereby amended to read as follows:

67-4124. BOARD OF TRUSTEES ~~--~~ QUALIFICATIONS, APPOINTMENT AND TERMS OF MEMBERS. The board of trustees shall consist of seven (7) members to be appointed by the state board of education. The members of the board shall be chosen with due regard to their knowledge, competence, experience and interest in the fields related to the preservation of ~~the historical archives of~~ Idaho history. The state board of education shall consider geographic representation ~~and population distribution~~ when selecting board members by appointing one (1) trustee from each of the seven (7) judicial districts as set forth in chapter 8, title 1, Idaho Code. All appointees shall be chosen solely on the basis of their qualifications~~, and not more than four (4) members of the board shall belong to the same political party~~.

All members of the board of trustees shall serve for a specific term. Upon expiration of the terms of members serving on the board of trustees on the effective date of this act, the board shall appoint ~~one (1) member for a term of two (2) years, two (2)~~ members for a term of ~~four (4) years, and two (2) members for a term of~~ six (6) years~~. Appointments thereafter~~, except appointments for the unexpired portion of a term~~, shall be for a term of six (6) years~~. No member shall serve more than two (2) consecutive full terms.

Approved February 18, 1999.

CHAPTER 16
(H.B. No. 118)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 1999; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission, the following amount to be expended for the designated program according to the designated standard classifications from the listed fund for the period July 1, 1998, through June 30, 1999:

IDAHO STATE CAPITOL COMMISSION:

FOR:	
Operating Expenditures	$ 46,400
Capital Outlay	151,600
TOTAL	$198,000
FROM:	
Capitol Endowment Income Fund	$198,000

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

Approved February 18, 1999.

CHAPTER 17
(H.B. No. 18)

AN ACT

RELATING TO CLASSIFICATION OF STATE EMPLOYEES; AMENDING SECTION 67-5303, IDAHO CODE, TO ADD ALL QUALITY ASSURANCE SPECIALISTS OR MEDICAL INVESTIGATORS OF THE BOARD OF MEDICINE TO THE LIST OF NONCLASSIFIED EMPLOYEES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this act and to the system of personnel administration which it prescribes. Nonclassified employees shall be:

(a) Members of the state legislature and all other officers of the state of Idaho elected by popular vote, and persons appointed to fill vacancies in elective offices, and employees of the state legislature.

(b) Members of statutory boards and commissions and heads of departments appointed by and serving at the pleasure of the governor, deputy directors appointed by the director and members of advisory boards and councils appointed by the departments.

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant-governor, secretary of state, attorney general,

state treasurer, state controller, and state superintendent of public instruction who are appointed on and after the effective date of this act.

(d) Except as otherwise provided by law, not more than one (1) declared position for each board or commission and/or head of a participating department in addition to those declared to be nonclassified by other provisions of law.

(e) Part-time professional consultants who are paid on a fee basis for any form of legal, medical or other professional service, and who are not engaged in the performance of administrative duties for the state.

(f) Judges, temporary referees, receivers and jurors.

(g) All employees of the Idaho supreme court and district courts.

(h) All employees of the Idaho state bar.

(i) Assistant attorneys general attached to the office of the attorney general.

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho department of vocational education and vocational rehabilitation administered by the state board for vocational education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally engaged in academic research. The word "officer" means presidents, vice presidents, deans, directors, or employees in positions designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

(k) Employees of the military division.

(l) Patients, inmates or students employed in a state institution.

(m) Persons employed in positions established under federal grants, which, by law, restrict employment eligibility to specific individuals or groups on the basis of nonmerit selection requirements. Such employees shall be termed "project exempt" and the tenure of their employment shall be limited to the length of the project grant, or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is of the shortest duration. No person hired on a project-exempt appointment shall be employed in any position allocated to the classified service.

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey advertising commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; the Idaho

prune commission, as provided in chapter 30, title 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the state board of sheep commissioners, as provided in chapter 1, title 25, Idaho Code; the state brand board, as provided in chapter 11, title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and the Idaho dairy products commission, as provided in chapter 31, title 25, Idaho Code.

(p) All inspectors of the fresh fruit and vegetable inspection service of the Idaho department of agriculture, except those positions involved in the management of the program.

(q) All employees of the division of correctional industries within the department of correction.

(r) All wardens employed by the department of correction.

(s) All public information positions with the exception of secretarial positions, in any department.

(t) Any division administrator.

(u) Any regional administrator or assistant administrator in the division of environmental protection in the department of health and welfare.

(v) All employees of the division of financial management.

(w) All employees of the Idaho food quality assurance institute.

(x) The state appellate public defender, deputy state appellate public defenders and all other employees of the office of the state appellate public defender.

(y) All quality assurance specialists or medical investigators of the Idaho board of medicine.

Approved February 19, 1999.

CHAPTER 18
(H.B. No. 78)

AN ACT

RELATING TO SALARIES OF THE PUBLIC UTILITIES COMMISSIONERS; AMENDING SECTION 61-215, IDAHO CODE, TO INCREASE THE SALARIES OF THE PUBLIC UTILITIES COMMISSIONERS ON AND AFTER JULY 1, 1999 AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the per-

formance of his/her duties and shall each receive an annual salary as follows: Commencing on July 1, 19~~98~~9, an annual salary of seventy-~~three~~five thousand dollars ($7~~3~~5,000), and shall be paid from sources set by the legislature.

Approved February 19, 1999.

CHAPTER 19
(H.B. No. 117)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 1999; TRANSFERRING MONEYS FROM THE INEEL SETTLEMENT FUND; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; 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 36, Laws of 1998, there is hereby appropriated to the Department of Commerce the following amounts to be expended according to the designated standard classifications from the listed funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$43,200	$13,400	$10,000	$ 66,600
Miscellaneous Revenue Fund	46,200	7,500	2,000	55,700
TOTAL	$89,400	$20,900	$12,000	$122,300

SECTION 2. The State Controller is hereby directed to transfer $55,700 from the INEEL Settlement Fund to the Department of Commerce's Miscellaneous Revenue Fund.

SECTION 3. In addition to the full-time equivalent positions authorized in Section 2, Chapter 36, Laws of 1998, the Department of Commerce is hereby authorized an additional two (2) full-time equivalent positions for a total of no more than fifty-four (54) full-time equivalent positions at any point during the period July 1, 1998, through June 30, 1999, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

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 19, 1999.

CHAPTER 20
(S.B. No. 1021)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5224, IDAHO CODE, TO PROVIDE THAT A PENDING RULE SHALL BECOME FINAL AND EFFECTIVE UPON THE CONCLUSION OF THE LEGISLATIVE SESSION AT WHICH THE RULE WAS SUBMITTED TO THE LEGISLATURE FOR REVIEW, OR THEREAFTER, AS PROVIDED IN THE RULE, AND TO PROVIDE FOR PUBLICATION OF THE DATE UPON WHICH THE LEGISLATURE ADJOURNED AND RULES BECAME EFFECTIVE AND A LIST OF FINAL RULES BECOMING EFFECTIVE ON A DIFFERENT DATE.

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. PENDING RULE -- FINAL RULE -- EFFECTIVE DATE. (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 a pending rule in the bulletin. In addition, the agency shall publish a concise explanatory statement containing:

(a) reasons for adopting the rule;

(b) a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any changes;

(c) the date on which the pending rule will become final and effective, as provided in subsection (5) of this section, and a statement that the pending rule may be rejected, amended or modified by concurrent resolution of the legislature; and

(d) an identification of any portion of the pending rule imposing or increasing a fee or charge and a statement that this portion of the rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature.

(3) With the permission of the coordinator, the agency need not publish in full the text of the pending 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 pending 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 pending rule until at least seven (7) days after the close of all public comment.

(5) (a) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, a pending rule shall become final and effective ~~on July 1 following~~ <u>upon</u> the conclusion of the legislative session at which the rule was submitted to the legislature for review, or as provided in the rule, but no pending rule adopted by an agency shall become final and effective before the conclusion of the reg-

ular or special legislative session at which the rule was submitted for review. A rule which is final and effective may be applied retroactively, as provided in the rule.

(b) When the legislature approves, amends or modifies a pending rule pursuant to section 67-5291, Idaho Code, the rule shall become final and effective upon adoption of the concurrent resolution or such other date specified in the concurrent resolution.

(c) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, no pending rule or portion thereof imposing a fee or charge of any kind shall become final and effective until it has been approved, amended or modified by concurrent resolution.

(6) Each agency shall provide the administrative rules coordinator with a description of any pending rule or portion thereof imposing a new fee or charge or increasing an existing fee or charge, along with a citation of the specific statute authorizing the imposition or increase of the fee or charge. The administrative rules coordinator shall provide the legislature with a compilation of the descriptions provided by the agencies.

(7) At the conclusion of the legislative session or as soon thereafter as is practicable, the coordinator shall publish the date upon which the legislature adjourned sine die and rules became effective and a list of final rules becoming effective on a different date, ~~other than July 1,~~ as provided in section 67-5224(5), Idaho Code, and temporary rules remaining in effect as provided in section 67-5226(3), Idaho Code.

Approved February 19, 1999.

CHAPTER 21
(S.B. No. 1022)

AN ACT

RELATING TO THE ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 67-454, IDAHO CODE, TO PROVIDE THE PROCEDURE BY WHICH THE GERMANE JOINT SUBCOMMITTEES FOR REVIEW OF ADMINISTRATIVE RULES MAY CALL A MEETING REGARDING RULES DURING THE INTERIM; AMENDING SECTION 67-5223, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 33-105, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-454, Idaho Code, be, and the same is hereby amended to read as follows:

67-454. SUBCOMMITTEES FOR REVIEW OF ADMINISTRATIVE RULES -- MEETINGS REGARDING RULES. For the purposes of review of proposed administrative rules pursuant to chapter 52, title 67, Idaho Code, germane joint subcommittees are hereby authorized and created. The speaker of the house of representatives and the president pro tempore of the senate shall designate a subcommittee of each germane committee of each

house for the consideration of proposed rules of the respective state agencies. The respective germane subcommittee of each house thus designated shall meet with the germane subcommittee of the other house and shall constitute the germane joint subcommittee. A subcommittee of each standing committee of each house shall be composed of the chairman of the committee, one (1) member of the majority party from the committee, appointed by the president pro tempore in the case of senate members, and by the speaker in the case of house members, and one (1) member of the minority party from the committee, appointed by the minority leader of the senate in the case of senate members, and by the minority leader of the house in the case of house members. If vacancies occur or exist in the majority party membership of the subcommittees of the senate, the president pro tempore shall appoint a replacement member; if vacancies occur or exist in the minority party membership of the subcommittees of the senate, the minority leader shall appoint a replacement member. If vacancies occur or exist in the majority party membership of the subcommittees of the house, the speaker shall appoint a replacement member; if vacancies occur or exist in the minority party membership of the subcommittees of the house, the minority leader shall appoint a replacement member. Meetings of a joint germane subcommittee shall be governed by the joint rules of the legislature; the chairmen shall sit as cochairmen.

Upon notice of intended action as provided in ~~chapter 52, title 67~~ sections 67-5221 and 67-5223, Idaho Code, and transmission of analysis from the director of legislative services, ~~the cochairmen shall determine--whether~~ the subcommittees may hold a meeting, which ~~of the subcommittee~~ shall be held~~. If no meeting is to be held, each member shall be notified of this decision within fifteen (15) days of receipt of the original notice. If two (2) or more members of the subcommittee object to the decision of the cochairmen within five (5) days, a meeting of the subcommittee shall be held within ten (10) days~~ within forty-two (42) days of receipt of the analysis. A meeting may be called by the cochairmen or by two (2) or more members of the subcommittees giving oral or written notice to the legislative services office within fourteen (14) days of receipt of the analysis from the legislative services office. Upon a finding of the same objection by a majority of the members of the subcommittee of each house voting separately, an objection to a rule shall be transmitted to the agency with a concise statement of the reasons for the objection. A report of the joint subcommittee on each rule transmitted to it, including a finding that there is no objection to the rule or that an objection has been filed, shall be filed with the agency, transmitted to the membership of the germane standing committees, and submitted to the next regular session of the legislature.

SECTION 2. That Section 67-5223, Idaho Code, be, and the same is hereby amended to read as follows:

67-5223. INTERIM LEGISLATIVE REVIEW ~~--- LEGISLATIVE HEARINGS~~ -- STATEMENT OF ECONOMIC IMPACT. (1) At the same time that notice of proposed rulemaking is filed with the coordinator, the agency shall provide the same notice, accompanied by the full text of the rule under consideration in legislative format, as well as a statement of the

substance of the intended action, to the director of legislative services. If the proposed rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services. The director of legislative services shall analyze and refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code.

(2) ~~If the germane joint subcommittee notifies the agency -- within fourteen -- (14) -- days -- of the date of publication of the notice of proposed rulemaking in the bulletin or within fourteen (14) days prior to the end of the comment period, whichever is later, that the subcommittee intends to hold a hearing on the proposed rulemaking within -- fourteen -- (14) -- days, -- the agency shall extend the comment period for such additional time as required to receive comments from the subcommittee. The notification from the germane joint -- subcommittee -- to -- the -- agency shall -- be sent to the agency and shall also be published in the bulletin.~~

~~(3)~~ An agency shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to a proposed rule if~~, -- within -- fourteen -- (14) -- days of the receipt of the proposed rule,~~ the germane joint subcommittee files a written request with the agency for such a statement. The statement shall contain an evaluation of the costs and benefits of the rule, including any health, safety, or welfare costs and benefits. The adequacy of the contents of the statement of economic impact is not subject to judicial review.

SECTION 3. That Section 33-105, Idaho Code, be, and the same is hereby amended to read as follows:

33-105. RULES ~~AND REGULATIONS~~ -- EXECUTIVE DEPARTMENT. (1) The state board shall have power to make rules ~~and regulations~~ for its own government and the government of its executive departments and offices; and, upon recommendations of its executive officers, to appoint to said departments and offices such specialists, clerks and other employees as the execution of duties may require, to fix their salaries and assign their duties.

(2) Statements of the state board of education and board of regents of the university of Idaho which relate to the curriculum of public educational institutions, to students attending or applicants to such institutions, or to the use and maintenance of land, equipment and buildings controlled by the respective institutions, are not rules and are not statements of general applicability for the purposes of chapter 52, title 67, Idaho Code.

(3) Notwithstanding any other provision of chapter 52, title 67, Idaho Code, the state board of education and board of regents of the university of Idaho shall be deemed to be in full compliance with the notice requirements of section 67-5221, Idaho Code, if:

(a) Notice is given by including the intended action in the official written agenda for a regularly scheduled meeting of the board, and the agenda is available for public inspection at the central office of the board not less than five (5) days prior to the meeting; and

(b) Notice of the intended action, accompanied by the full text

of the rule under consideration prepared so as to indicate words added or deleted from the presently effective text, if any, is transmitted to the director of the legislative ~~council~~ services office at the same time that notice is given under paragraph (a) of this subsection. The director of the legislative ~~council~~ services office shall refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code, to afford the subcommittee opportunity to submit data, views or arguments in writing to the board prior to the time for receiving comment as provided in paragraph (d) of this subsection; and

(c) The intended action is discussed but not acted upon during the regularly scheduled meeting for which the agenda was prepared, but instead is held for final action at the next regularly scheduled or later meeting of the board; and

(d) At least fifteen (15) days prior to the scheduled date for final action, the board shall mail to all persons who have made timely request in writing to the board and shall publish in an issue of the Idaho administrative bulletin a brief description of the intended action, or a concise summary of any statement of economic impact required pursuant to section 67-5223(~~3~~2), Idaho Code, and shall note the time when, the place where, and the manner in which interested persons may present their views thereon; and

(e) Upon adoption of a rule, the board, if requested in writing to do so by an interested person either prior to adoption or within twenty-eight (28) days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

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 19, 1999.

CHAPTER 22
(S.B. No. 1051)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION; 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 64, Laws of 1998, there is hereby appropriated to the State Tax Commission in the Department of Revenue and Taxation, the following amount to be expended for the designated program according to the designated standard classification from the listed funds for the period July 1, 1998, through June 30, 1999:

GENERAL SERVICES:	
FOR:	
Operating Expenditures	$100,000
FROM:	
General Fund	$ 92,000
Administration Services for Transportation Fund	8,000
TOTAL	$100,000

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

Approved February 19, 1999.

CHAPTER 23
(S.B. No. 1060)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 1999; 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 31, Laws of 1998, there is hereby appropriated to the Department of Juvenile Corrections the following amounts to be expended for the named program according to the designated standard classification from the listed funds for the period July 1, 1998, through June 30, 1999:

INSTITUTIONS:	
FOR:	
Trustee and Benefit Payments	$2,850,000
FROM:	
General Fund	$2,300,000
Miscellaneous Revenue Fund	550,000
TOTAL	$2,850,000

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

Approved February 19, 1999.

CHAPTER 24
(S.B. No. 1061)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 1999; 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 402, Laws of 1998, there is hereby appropriated to the Office of the State Appellate Public Defender the following amount to be expended according to the designated standard classification from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Operating Expenditures	$100,000
FROM:	
General Fund	$100,000

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

Approved February 19, 1999.

CHAPTER 25
(S.B. No. 1062)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION; AMENDING THE APPROPRIATION MADE IN SECTION 1, CHAPTER 404, LAWS OF 1998; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SENDING INMATES OUT OF STATE; AND DECLARING AND EMERGENCY.

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

SECTION 1. That Section 1, Chapter 404, Laws of 1998, be, and the same is hereby amended to read as follows:

SECTION 1. 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 funds for the period July 1, 1998, through June 30, 1999:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION DIVISION:					
FROM:					
General Fund	$ 2,756,200	$ ~~2,245,400~~ 2,195,400	$ 592,800	~~$6,500,800~~ 5,959,300	~~$12,095,200~~ 11,503,700
Parolee Supervision Fund	51,000	14,700			65,700
Federal Grant Fund		70,800		846,800	917,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	800	7,200			8,000
TOTAL	$ 2,808,000	$ ~~2,338,100~~ 2,288,100	$ 592,800	~~$7,347,600~~ 6,806,100	~~$13,086,500~~ 12,495,000
II. PRISONS DIVISION:					
A. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$13,878,500	$ 2,391,400	$ 179,100		$16,449,000
Penitentiary Endowment Fund		1,187,600	70,900		1,258,500
Miscellaneous Revenue Fund	211,900	62,600			274,500
TOTAL	$14,090,400	$ 3,641,600	$ 250,000		$17,982,000
B. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 3,950,100	$ 1,243,900	$ 70,000		$ 5,264,000
Inmate Labor Fund	264,900	244,700	61,300		570,900
Miscellaneous Revenue Fund	79,300	31,800			111,100
TOTAL	$ 4,294,300	$ 1,520,400	$ 131,300		$ 5,946,000
C. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 2,219,700	$ ~~928,300~~ 672,800	$ 120,000		$ ~~3,268,000~~ 3,012,500
Inmate Labor Fund	62,500	96,600			159,100
Miscellaneous Revenue Fund	34,500	118,200			152,700
TOTAL	$ 2,316,700	$ ~~1,143,100~~ 887,600	$ 120,000		$ ~~3,579,800~~ 3,324,300
D. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 3,555,900	$ 1,147,200	$ 100,000		$ 4,803,100
Inmate Labor Fund	675,600	400,200			1,075,800
Miscellaneous Revenue Fund	40,400	34,900			75,300
TOTAL	$ 4,271,900	$ 1,582,300	$ 100,000		$ 5,954,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 6,236,100	$ 1,693,700	$ 100,000		$ 8,029,800
Miscellaneous Revenue Fund	36,100	38,000			74,100
TOTAL	$ 6,272,200	$ 1,731,700	$ 100,000		$ 8,103,900
F. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,213,000	$ 204,800	$ 28,700		$ 1,446,500
Inmate Labor Fund	317,100	464,300	51,200		832,600
Miscellaneous Revenue Fund		6,200			6,200
TOTAL	$ 1,530,100	$ 675,300	$ 79,900		$ 2,285,300
G. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 2,597,000	$ ~~1,098,900~~ 898,900	$ 11,800		$ ~~3,707,700~~ 3,507,700
Federal Grant Fund		29,200			29,200
Inmate Labor Fund	108,500	21,000			129,500
Miscellaneous Revenue Fund	77,800	14,400			92,200
TOTAL	$ 2,783,300	$ ~~1,163,500~~ 963,500	$ 11,800		$ ~~3,958,600~~ 3,758,600
H. INSTITUTIONAL SUPPORT:					
FROM:					
General Fund	$ 2,401,700	$ 8,124,400	$ 10,900	$ 272,700	$10,809,700
Federal Grant Fund	820,200	467,600			1,287,800
Miscellaneous Revenue Fund	136,800	25,100			161,900
TOTAL	$ 3,358,700	$ 8,617,100	$ 10,900	$ 272,700	$12,259,400
DIVISION TOTAL	$38,917,600	$~~20,075,000~~ 19,619,500	$ 803,900	$ 272,700	$~~60,069,200~~ 59,613,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Fund	~~$10,013,400~~	~~$ 1,822,200~~	$ 631,600		~~$12,467,200~~
	9,887,400	1,768,700			12,287,700
Parolee Supervision Fund	1,257,600	195,000	175,000		1,627,600
Federal Grant Fund		136,300			136,300
Inmate Labor Fund		559,300	40,000		599,300
Miscellaneous Revenue Fund	14,200	86,800			101,000
TOTAL	~~$11,285,200~~	~~$ 2,799,600~~	$ 846,600		~~$14,931,400~~
	11,159,200	2,746,100			14,751,900
IV. COMMISSION FOR PARDONS AND PAROLE:					
FROM:					
General Fund	$ 744,700	$ 192,900	$ 11,600		$ 949,200
GRAND TOTAL	~~$53,755,500~~	~~$25,405,600~~	$2,254,900	~~$7,620,300~~	~~$89,036,300~~
	53,629,500	24,846,600		7,078,800	87,809,800

SECTION 2. It is legislative intent that the Department of Correction is directed to use county jail beds in state, prior to sending inmates out of state.

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 19, 1999.

CHAPTER 26
(H.B. No. 85)

AN ACT

RELATING TO THE MULTISTATE TAX COMPACT ACCOUNT; AMENDING SECTION 63-3709, IDAHO CODE, TO PROVIDE THAT THE ACCOUNT SHALL RECEIVE FUNDS COLLECTED AS A DIRECT RESULT OF AUDITS OR COMPLIANCE ACTIVITIES CONDUCTED BY THE MULTISTATE TAX COMMISSION OR BY STATE TAX COMMISSION EMPLOYEES FUNDED BY THE ACCOUNT; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3709, Idaho Code, be, and the same is hereby amended to read as follows:

63-3709. MULTISTATE TAX COMPACT ACCOUNT -- CREATION -- APPROPRIATIONS. (a) There is hereby created in the office of the state treasurer and subject to his control and custody in the state operating fund an account to be known and designated as the "Multistate Tax Compact Account."

(b) All moneys collected as a direct result of audits or compliance activities conducted by the multistate tax commission or by employees of the state tax commission whose salaries are appropriated from the multistate tax compact account shall be paid by the state tax commission into the multistate tax compact account.

(c) Upon receipt by the state tax commission of the budget of the multistate tax commission, and the statement of Idaho's share of such budget to be appropriated, the state tax commission shall review said budget and Idaho's share, and shall determine compliance or noncompliance of said budget and share with section 4(b) of article VI of the multistate tax compact. Upon reviewing said budget and Idaho's share thereof, the state tax commission shall, on or before February 1 of each year, certify to the Senate finance committee, the House appropriations committee, the Senate local government and taxation committee, and the House revenue and taxation committee, that the budget and Idaho's share thereof either comply or do not comply with the provisions of section 4(b) of article VI of the multistate tax compact. Unless the legislature determines otherwise prior to adjournment, the amounts which the state tax commission has certified as complying with section 4(b) of article VI are hereby continually appropriated from the multistate tax compact account to the multistate tax commission.

(d) If, at any time, the funds in the multistate tax compact account exceed one hundred and ten percent (110%) of the most recent continuing annual appropriation to the multistate tax commission, the excess thereof shall be transferred to the general account.

(e) Payments to the multistate tax commission from the multistate tax compact account shall be made only with the approval of the state tax 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, and retroactively to July 1, 1998.

Approved February 25, 1999.

CHAPTER 27
(H.B. No. 98)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE 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, 1998~~9~~.

(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 its passage and approval, and retroactively to January 1, 1999.

Approved February 25, 1999.

CHAPTER 28
(H.B. No. 120)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022M, IDAHO CODE, TO MODIFY THE OFFSET FOR EXPENSES AND INTEREST RELATED TO EXEMPT INCOME FROM IDAHO STATE AND LOCAL SECURITIES; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

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

63-3022M. EXPENSES AND INTEREST RELATING TO TAX EXEMPT INCOME. For taxable years commencing on and after January 1, 1998~~9~~:

(1) Add interest and dividends received or accrued during the taxable year from foreign securities and from securities issued by states and other political subdivisions exempt from federal income tax under the Internal Revenue Code, less applicable amortization.

(2) Subtract any expenses and interest not allowed under sections

265 and 291 of the Internal Revenue Code in computing taxable income, as defined in section 63-3011B, Idaho Code, for interest on indebtedness incurred or continued to purchase or to carry obligations the interest of which is not subject to the taxes imposed under the Internal Revenue Code.

(3) Subtract interest and dividends received or accrued during the taxable year from securities issued:

(a) By the federal government and its instrumentalities to the extent included in taxable income and not subject to taxation by this state, and

(b) By the state of Idaho, its cities and political subdivisions, exempt from federal income tax under the Internal Revenue Code.

(~~3~~4) No deduction shall be allowed for interest on indebtedness incurred or continued to purchase or to carry obligations the interest of which is not subject to 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 interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year. "Aggregate amount allowable" means the taxpayer's total interest expense deducted in determining taxable income as defined in section 63-3011B, Idaho Code, plus interest expense disallowed under sections 265 and 291 of the Internal Revenue Code, plus interest expense from a pass-through entity, plus the interest expense of a foreign corporation that, pursuant to sections 63-3027 and 63-3027B through 63-3027E, Idaho Code, is included in a combined report with the taxpayer less interest expense of any corporation included with the taxpayer in a consolidated federal return but not a part of the combined report filed with the state tax commission for the same taxable year. The deduction under this subsection shall not exceed the amount of interest and dividend income added pursuant to subsection (1) of this section less interest and dividend income from the state of Idaho, its cities and political subdivisions, subtracted pursuant to subsection (3) of this section.

(~~4~~5) No deduction shall be allowed for expenses (other than interest) attributable to interest or dividend income which is not subject to the taxes imposed under this chapter.

~~(5) A deduction shall be allowed for expenses disallowed under sections 265 and 291 of the Internal Revenue Code to the extent such expenses are attributable to interest and dividends received or accrued during the taxable year from foreign securities and from securities issued by states and other political subdivisions exempt from federal income tax under the Internal Revenue Code and not excluded under subsection (3) or (4) of this section. The deduction under this subsection shall not exceed the amount of interest and dividend income added pursuant to subsection (1) of this section less interest and dividend income from the state of Idaho, its cities and political subdivisions, subtracted pursuant to subsection (2) of this section.~~

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, 1999.

Approved February 25, 1999.

CHAPTER 29
(H.B. No. 92)

AN ACT

RELATING TO CAMPAIGN EXPENDITURES; AMENDING SECTION 67-6611, IDAHO CODE, TO REQUIRE THAT STATEMENTS OF INDEPENDENT EXPENDITURES BE FILED WITH THE SECRETARY OF STATE NOT LESS THAN THIRTY DAYS AFTER A PRIMARY ELECTION.

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

SECTION 1. That Section 67-6611, Idaho Code, be, and the same is hereby amended to read as follows:

67-6611. INDEPENDENT EXPENDITURES. (1) Each person who makes independent expenditures in an aggregate amount exceeding one hundred dollars ($100) in support of or in opposition to any one (1) candidate, political committee or measure, shall file a statement of the expenditure with the secretary of state.

(2) Statements shall be filed with the secretary of state, not less than seven (7) days prior to the primary and general election and thirty (30) days after the <u>primary and</u> general election.

(3) The statement shall contain the following information: (a) the name and address of any person to whom an expenditure in excess of fifty dollars ($50.00) has been made by any such person in support of or in opposition to any such candidate or issue during the reporting period, together with the amount, date and purpose of each such expenditure; and (b) the total sum of all expenditures made in support of or in opposition to any such candidate or measure.

Approved February 25, 1999.

CHAPTER 30
(H.B. No. 93)

AN ACT

RELATING TO PUBLIC RECORDS; REPEALING SECTION 9-340, IDAHO CODE; AMENDING CHAPTER 3, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 9-340A, IDAHO CODE, TO EXEMPT FROM DISCLOSURE RECORDS FOR WHICH FEDERAL OR STATE LAW PROVIDES EXEMPTIONS FROM DISCLOSURE AND TO EXEMPT CERTAIN COURT FILES OF JUDICIAL PROCEEDINGS; AMENDING CHAPTER 3, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION

9-340B, IDAHO CODE, TO EXEMPT FROM DISCLOSURE CERTAIN LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES AND WORKER'S COMPENSATION RECORDS; AMENDING CHAPTER 3, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 9-340C, IDAHO CODE, TO EXEMPT FROM DISCLOSURE PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS AND PROFESSIONAL DISCIPLINE RECORDS; AMENDING CHAPTER 3, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 9-340D, IDAHO CODE, TO EXEMPT FROM DISCLOSURE TRADE SECRETS, PRODUCTION RECORDS, APPRAISALS, BIDS AND PROPRIETARY INFORMATION; AMENDING CHAPTER 3, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 9-340E, IDAHO CODE, TO EXEMPT FROM DISCLOSURE RECORDS REGARDING ARCHAEOLOGICAL MATTERS, CERTAIN ENDANGERED SPECIES RECORDS, CERTAIN LIBRARY RECORDS AND CERTAIN INFORMATION REGARDING LICENSING EXAMS; AMENDING CHAPTER 3, TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 9-340F, IDAHO CODE, TO EXEMPT FROM DISCLOSURE DRAFT LEGISLATION AND SUPPORTING MATERIAL, CERTAIN TAX COMMISSION RECORDS AND CERTAIN RECORDS OF THE PETROLEUM CLEAN WATER TRUST FUND; AMENDING SECTION 16-1623, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE REGARDING EXEMPTION FROM DISCLOSURE; AMENDING SECTION 31-3418, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE REGARDING EXEMPTION FROM DISCLOSURE; AMENDING SECTION 41-227, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE REGARDING EXEMPTION FROM DISCLOSURE; AMENDING SECTION 41-335, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE REGARDING EXEMPTION FROM DISCLOSURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-5103, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE REGARDING EXEMPTION FROM DISCLOSURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-204, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE REGARDING EXEMPTION FROM DISCLOSURE; AMENDING SECTION 54-918, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE REGARDING EXEMPTION FROM DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-934, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE REGARDING EXEMPTION FROM DISCLOSURE AND TO MAKE A TECHNICAL CORRECTION.

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 repealed.

SECTION 2. That Chapter 3, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-340A, Idaho Code, and to read as follows:

9-340A. RECORDS EXEMPT FROM DISCLOSURE -- EXEMPTIONS IN FEDERAL OR STATE LAW -- COURT FILES OF JUDICIAL PROCEEDINGS. 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) 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.

SECTION 3. That Chapter 3, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-340B, Idaho Code, and to read as follows:

9-340B. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) 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.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, 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 juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. 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.

(3) Records 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. Records exempt from disclosure shall include, but not be limited to, those containing the names and addresses of witnesses or victims or those containing information identifying victims or witnesses.

(4) Voting records of the sexual offender classification board. In accordance with section 18-8315, Idaho Code, the written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that board member shall be exempt from disclosure to the public and shall be made available upon request only to the governor, the chairman of the senate judiciary and rules committee, and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes.

(5) Records of the sheriff or department of law enforcement

received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

SECTION 4. That Chapter 3, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-340C, Idaho Code, and to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PER-

SONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.

(8) Any personal records, other than names, business 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.

(9) 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.

(10) The records, finding, determinations and decision of any prelitigation screening panel formed under chapter 10, title 6, Idaho Code.

(11) Board of professional discipline reprimands by informal admonition pursuant to subsection (6)(f) of section 54-1806A, Idaho Code.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) 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.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.

(17) Records of the department of law enforcement or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

SECTION 5. That Chapter 3, Title 9, Idaho Code, be, and the same

is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-340D, Idaho Code, and to read as follows:

9-340D. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records are exempt from disclosure:

(1) 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.

(2) 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.

(3) Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by a public agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) Information obtained from books, records and accounts required in chapter 47, title 22, Idaho Code, to be maintained by the Idaho canola and rapeseed commission and pertaining to the individual production records of canola or rapeseed growers.

(11) 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.

(12) Records of laboratory test results provided by or retained by the Idaho food 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.

(13) 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.

(14) Voluntarily prepared environmental audits, and voluntary disclosures of information submitted on or before December 31, 1997, to an environmental agency as defined in section 9-803, Idaho Code, which are claimed to be confidential business information.

(15) 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.

(16) Active investigative records and trademark usage audits of the Idaho potato commission specifically relating to the enforcement of chapter 12, title 22, Idaho Code, until the commencement of formal proceedings as provided by rules of the commission; purchase and sales information submitted to the Idaho potato commission during a trademark usage audit, and investigation or enforcement proceedings. Inactive investigatory records shall be disclosed unless the disclosure would violate the standards set forth in subsections (1)(a) through (f) of section 9-335, Idaho Code. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

SECTION 6. That Chapter 3, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-340E, Idaho Code, and to read as follows:

9-340E. EXEMPTIONS FROM DISCLOSURE -- ARCHAEOLOGICAL, ENDANGERED SPECIES, LIBRARIES, LICENSING EXAMS. The following records are exempt from disclosure:

(1) Records, maps or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

SECTION 7. That Chapter 3, Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 9-340F, Idaho Code, and to read as follows:

9-340F. RECORDS EXEMPT FROM DISCLOSURE -- DRAFT LEGISLATION AND SUPPORTING MATERIALS, TAX COMMISSION, PETROLEUM CLEAN WATER TRUST

FUND. The following records are exempt from disclosure:

(1) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative services office 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.

(2) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the legislative services office or the director of legislative performance evaluations prior to release of the related final audit and all other records or materials in the possession of the legislative services office or the director of legislative performance evaluations that would otherwise be confidential or exempt from disclosure.

(3) Records that identify the method by which the Idaho state tax commission selects tax returns for audit review.

(4) Underwriting and claims records of the Idaho petroleum clean water trust fund obtained pursuant to section 41-4904, 41-4908, 41-4910A, 41-4911 or 41-4911A, Idaho Code. Provided however, that this subsection shall not prevent the Idaho petroleum clean water trust fund's submittal to the Idaho department of health and welfare, division of environmental quality, or other regulatory agencies of information necessary to satisfy an insured's corrective action requirement under applicable federal or state standards in the event of a release into the environment from a petroleum storage tank; and provided further that nothing in this subsection shall prevent the Idaho petroleum clean water trust fund from providing auditing, reporting, or actuarial information as otherwise required of it pursuant to section 41-4918, 41-4924A, 41-4931, 41-4933, 41-4935, 41-4940 or 41-4941, Idaho Code.

SECTION 8. That Section 16-1623, Idaho Code, be, and the same is hereby amended to read as follows:

16-1623. POWERS AND DUTIES OF THE DEPARTMENT. The department, working in conjunction with the court and other public and private agencies and persons, shall have the primary responsibility to implement the purpose of this chapter. To this end, the department is empowered and shall have the duty to do all things reasonably necessary to carry out the purpose of this chapter, including, but not limited to, the following:

(a) The department shall administer treatment programs for the protection and care of neglected, abused and abandoned children, and in so doing may place in foster care, shelter care, group homes or other diagnostic, treatment, or care centers or facilities, children of whom it has been given custody. The department is to be governed by the standards found in title 39, chapter 12, Idaho Code.

(b) On December 1, the department shall make an annual statistical report to the governor covering the preceding fiscal year showing the number and status of persons in its custody and including such

other data as will provide sufficient facts for sound planning in the conservation of children and youth. All officials and employees of the state and of every county and city shall furnish the department upon request, such information within their knowledge and control as the department deems necessary. Local agencies shall report in such uniform format as may be required by the department.

(c) The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information.

(d) The department shall make periodic evaluation of all persons in its custody or under its supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of evaluation made pursuant to this section shall be filed with the court which vested custody of the person with the department. Reports of evaluation shall be provided to persons having full or partial legal or physical custody of a child. Failure of the department to evaluate a person or to reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1611, Idaho Code.

(e) In a consultive capacity, the department shall assist communities in the development of constructive programs for the protection, prevention and care of children and youth.

(f) The department shall keep written records of investigations, evaluations, prognosis and all orders concerning disposition or treatment of every person over whom it has legal custody. Department records shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person. Notwithstanding the provisions restricting disclosure or the ~~provisions of section 9-340~~ exemptions from disclosure provided in chapter 3, title 9, Idaho Code, all records pertaining to investigations, the rehabilitation of youth, the protection of children, evaluation, treatment and/or disposition records pertaining to the statutory responsibilities of the department shall be disclosed to any duly elected state official carrying out his official functions.

(g) The department shall establish appropriate administrative procedures for the processing of complaints of child neglect, abuse and abandonment received and for the implementation of the protection, treatment and care of children formally or informally placed in the custody of the department under this chapter.

(h) The department having been granted legal custody of a child, subject to the judicial review provisions of this subsection, shall have the right to determine where and with whom the child shall live, provided that the child shall not be placed outside the state without the court's consent. Provided however, that the court shall retain jurisdiction over the child, which jurisdiction shall be entered on any order or petition granting legal custody to the department, and

the court shall have jurisdiction over all matters relating to the child. The department shall not place the child in the home from which the court ordered the child removed without first obtaining the approval of the court.

(i) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody at intervals of not to exceed six (6) months. There shall be a rebuttable presumption that if a child is placed in the custody of the department and was also placed in out of the home care for a period not less than fifteen (15) out of the last twenty-two (22) months from the date of adjudication, the department shall initiate a petition for termination of parental rights. This presumption may be rebutted by a finding of the court that the filing of a petition for termination of parental rights would not be in the best interests of the child or reasonable efforts have not been provided to reunite the child with his family, or the child is placed permanently with a relative.

(j) The department shall establish appropriate administrative procedures for the conduct of administrative reviews and hearings as required by federal statute for all children committed to the department and placed in out of home care.

(k) At any time the department is considering a placement pursuant to this act, the department shall make a reasonable effort to place the child in the least disruptive environment to the child and in so doing may consider, without limitation, placement of the child with related persons.

SECTION 9. That Section 31-3418, Idaho Code, be, and the same is hereby amended to read as follows:

31-3418. CONFIDENTIALITY -- PROCEEDINGS AND RECORDS OF INDIGENTS. All proceedings and records related to indigency, pursuant to chapter 34, title 31, Idaho Code, shall be exempt from disclosure pursuant to ~~section 9-340~~ chapter 3, title 9, Idaho Code.

SECTION 10. 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 com-

pany 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 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 refiling 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 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 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 a contract examiner or an employee of the department as an authorized representative to conduct the hearing.

Nothing contained in this section shall require the department to disclose any information or records which would indicate or show the 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.

(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 which report or results are a public record and shall be exempt from the ~~provisions of section--9-340~~ exemptions from disclosure provided in chapter 3, title 9, Idaho Code.

(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~~ exemptions from disclosure provided in chapter 3, title 9, Idaho Code.

SECTION 11. That Section 41-335, Idaho Code, be, and the same is hereby amended to read as follows:

41-335. ANNUAL STATEMENT. (1) Each authorized insurer shall annually on or before March 1, or within any extension of time therefor, not to exceed thirty (30) days, which the director for good cause may have granted, file with the director a full and true statement of its financial condition, transactions and affairs as of the preceding December 31. Unless otherwise required by the director, the statement is to be prepared in accordance with the annual statement instructions and the accounting and procedures manual adopted by the national association of insurance commissioners (NAIC) and is to be submitted on the NAIC annual convention blank form, and any statement, form or other information relating to the compensation of any officer, director or employee will be deemed confidential. At the seasonable request of a domestic insurer the director shall furnish to the insurer the blank form of annual statement to be used by it. The statement shall be verified by the oath of the insurer's president or ~~vice-president~~

vice president, and secretary or actuary as applicable, or if a reciprocal insurer, by the oath of the attorney in fact or its like officers if a corporation.

(2) The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized, and shall relate only to the insurer's transactions and affairs in the United States unless the director requires otherwise. If the director requires a statement as to the insurer's affairs throughout the world, the insurer shall file such statement with the director as soon as reasonably possible.

(3) An insurer which is subject to section 41-337, Idaho Code, (resident agent, countersignature law) shall attach to its annual statement the affidavit required under section 41-339, Idaho Code.

(4) Any insurance company licensed to do business in this state which neglects to file or fails to file in the time prescribed by statute its annual statement or supplemental summary statement requested by the director shall be subject to a penalty of twenty-five dollars ($25.00) per day for each day in default. This penalty will be in addition to any administrative penalty which may be assessed pursuant to sections 41-327 and 41-324, Idaho Code.

(5) Each domestic insurer authorized to do business in this state shall annually, on or before March 1 of each year, file with NAIC its annual financial statement in a form prescribed by the director along with any additional filings prescribed by the director for the preceding year. The information filed with NAIC shall be in the same format and scope as that required by this code. Any amendments or addenda to the annual statement shall also be filed with NAIC.

(6) At time of filing, the insurer shall pay to the director the fee for filing its statement as prescribed by rule of the department of insurance.

(7) The financial statements filed with the director pursuant to this section, with the exception of information relating to officer, director, or employee compensation referred to in subsection (1) of this section, are public records and available to the public, notwithstanding the ~~provisions of section 9-340~~ exemptions from disclosure provided in chapter 3, title 9, Idaho Code.

SECTION 12. That Section 41-5103, Idaho Code, be, and the same is hereby amended to read as follows:

41-5103. LICENSURE. (1) No person, firm, association or corporation shall act as a RB in this state if the RB maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation:

(a) In this state, unless such RB is a licensed producer in this state; or

(b) In another state, unless such RB is a licensed producer in this state or another state having a law substantially similar to this law or such RB is licensed in this state as a nonresident reinsurance intermediary.

(2) No person, firm, association or corporation shall act as a RM:

(a) For a reinsurer domiciled in this state, unless such RM is a

licensed producer in this state;

(b) In this state, if the RM maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this state, unless such RM is a licensed producer in this state;

(c) In another state for a nondomestic insurer, unless such RM is a licensed producer in this state or another state having a law substantially similar to this law or such person is licensed in this state as a nonresident reinsurance intermediary.

(3) The director may require a RM subject to subsection (2) of this section to:

(a) File a bond in an amount from an insurer acceptable to the director for the protection of the reinsurer; and

(b) Maintain an errors and omissions policy in an amount acceptable to the director.

(4) (a) The director may issue a reinsurance intermediary license to any person, firm, association or corporation who has complied with the requirements of this chapter. Any such license issued to a firm or association will authorize all the members of such firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements thereto. Any such license issued to a corporation shall authorize all of the officers, and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of such corporation, and all such persons shall be named in the application and any supplements thereto.

(b) If the applicant for a reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the director as agent for service of process in the manner, and with the same legal effect, provided for in this title for designation of service of process upon unauthorized insurers, and shall also furnish the director with the name and address of a resident of this state upon whom notices or orders of the director or process affecting such nonresident reinsurance intermediary may be served. Such licensee shall promptly notify the director in writing of every change in its designated agent for service of process, and such change shall not become effective until acknowledged by the director.

(5) The director may refuse to issue a reinsurance intermediary license if, in his judgment, the applicant, ~~any one~~ anyone named on the application, or any member, principal, officer or director of the applicant, is not trustworthy, or that any controlling person of such applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance of such license. Upon written request therefor, the director will furnish a summary of the basis for refusal to issue a license, which document shall be privileged and exempt from disclosure pursuant to ~~section--9-340~~ exemptions provided in chapter 3, title 9, Idaho Code.

(6) Licensed attorneys at law of this state when acting in their professional capacity as such shall be exempt from the provisions of

this section.

SECTION 13. 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 pre-

scribed 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 proceed with disciplinary proceedings 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~~ chapter 3, title 9, 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 14. That Section 54-918, Idaho Code, be, and the same is hereby amended to read as follows:

54-918. EXAMINATIONS -- CERTIFICATE OF QUALIFICATION. At least once in each calendar year, the board or its agent shall conduct separate examinations in dentistry and in dental hygiene. Examinations shall be written or clinical, or both, and upon such subjects in dentistry and dental hygiene as the board shall determine will thoroughly test the fitness and ability of the applicant to practice dentistry or dental hygiene. It shall report and record the names of applicants who pass and of those who fail the examination. Upon the candidate's request, the board will issue to each passing applicant in dentistry,

who is qualified for Idaho licensure, a certificate of qualification to practice dentistry, and to each passing applicant in dental hygiene, who is qualified for Idaho licensure, a certificate of qualification to practice dental hygiene within the state of Idaho.

Prior to an examination, or by general rule, the board shall determine the relative weight of the written and of the clinical examination, the passing grade, not exceeding seventy ~~per-cent~~ percent (70%), for each subject, section, or part of the examination and the general average passing grade, not exceeding seventy-five ~~per-cent~~ percent (75%). The board may recognize a certificate granted by the commission on national dental examinations.

Applicants who fail the examination shall be notified thereof in writing by the board or its agent, which shall also record the fact of failure and the date and means of notification.

Written questions and answers of applicants shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless exempt from disclosure ~~as provided by section 9-340, Idaho Code~~ in that chapter and title, and shall be destroyed by the board after the period of one (1) year following the examination.

SECTION 15. That Section 54-934, Idaho Code, be, and the same is hereby amended to read as follows:

54-934. PEER REVIEW COMMITTEES -- IMMUNITY FROM LIABILITY -- CONFIDENTIALITY OF RECORDS. (1) The state board of dentistry or the Idaho state dental association or both may establish one (1) or more peer review committees pursuant to this section, for the purpose of:

(a) Determining the relevancy of a dentist's usual and reasonable fees or treatment procedure to the terms of a contract;

(b) Assessing the quality of services rendered; or

(c) Evaluating claims against dentists or engaging in underwriting decisions in connection with professional liability insurance coverage for dentists.

(2) The board or the associations, any one (1) of which has established a peer review committee pursuant to law, any committee member or any staff member of either the board or of the associations assisting a peer review committee, and any witness or consultant appearing before or presenting information to a peer review committee shall be immune from liability in any civil action brought as a result of a peer review investigation or proceeding conducted by a peer review committee, if the board, association, committee or staff member, witness or consultant, acts in good faith within the scope of the function of the committee, has made a reasonable effort to obtain the facts of the matter as to which the board or association or he acts, in the reasonable belief that the action taken is warranted by the facts.

(3) Any entity, organization or person acting without malice in making any report or other information available to a peer review committee, or who assists in the origination, investigation or preparation of that information, or assists a committee in carrying out any of its duties or functions, shall be immune from civil liability for any such actions.

(4) Any communications or information relating to peer committee

investigations or proceedings as provided by law, and the proceedings and records of the committee related to them, shall be subject to disclosure according to chapter 3, title 9, Idaho Code, unless exempt from disclosure ~~as provided in section 9-340, Idaho Code~~ in that chapter and title, and shall not be subject to discovery or introduced into evidence in any civil action against a dentist arising out of matters which are the subject of evaluation and review by the committee.

Approved February 25, 1999.

CHAPTER 31
(H.B. No. 106)

AN ACT

RELATING TO IDAHO MEDICAL SAVINGS ACCOUNTS; AMENDING SECTION 63-3022K, IDAHO CODE, TO PROVIDE FOR DISPOSITION OF A MEDICAL SAVINGS ACCOUNT UPON THE DEATH OF THE ACCOUNT HOLDER; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

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

63-3022K. MEDICAL SAVINGS ACCOUNT. (1) For taxable years commencing on and after January 1, 1995, annual contributions to a medical savings account not exceeding two thousand dollars ($2,000) for the account holder and interest earned on a medical savings account shall be deducted from taxable income by the account holder, if such amount has not been previously deducted or excluded in arriving at taxable income. For married individuals the maximum deduction shall be computed separately for each individual. Contributions to the account shall not exceed the amount deductible under this section.

(2) For the purpose of this section, the following terms have the following meanings unless the context clearly denotes otherwise:

(a) "Account holder" means an individual, in the case of married individuals each spouse, including a self-employed person, on whose behalf the medical savings account is established.

(b) "Dependent" means a person for whom a deduction is permitted under section 151(b) or (c) of the Internal Revenue Code if a deduction for the person is claimed for that person on the account holder's Idaho income tax return.

(c) "Dependent child" means a child or grandchild of the account holder who is not a dependent if the account holder actually pays the eligible medical expenses of the child or grandchild and the child or grandchild is any of the following:

(i) Under nineteen (19) years of age, or enrolled as a full-time student at an accredited college or university.

(ii) Legally entitled to the provision of proper or necessary subsistence, education, medical care or other care nec-

essary for his or her health, guidance or well-being and not otherwise emancipated, self-supporting, married or a member of the armed forces of the United States.

(iii) Mentally or physically incapacitated to the extent that he or she is not self-sufficient.

(d) "Depository" means a state or national bank, savings and loan association, credit union or trust company authorized to act as a fiduciary or an insurance administrator or insurance company authorized to do business in this state, a broker or investment advisor regulated by the department of finance, a broker or insurance agent regulated by the department of insurance or a health maintenance organization, fraternal benefit society, hospital and professional service corporation as defined in section 41-3403, Idaho Code, or nonprofit mutual insurer regulated under title 41, Idaho Code.

(e) "Eligible medical expense" means an expense paid by the taxpayer for medical care described in section 213(d) of the Internal Revenue Code, medical insurance premiums, dental and long-term care expenses of the account holder and the spouse, dependents and dependent children of the account holder.

(f) "Long-term care expenses" means expenses incurred in providing custodial care in a skilled nursing facility or intermediate care facility as those terms are defined in section 39-1301, Idaho Code, and for insurance premiums relating to long-term care insurance under chapter 46, title 41, Idaho Code.

(g) "Medical savings account" means an account established with a depository to pay the eligible medical expenses of the account holder and the dependents and dependent children of the account holder. Medical savings accounts shall carry the name of the account holder, a designated beneficiary or beneficiaries of the account holder and shall be designated by the depository as a "medical savings account."

(3) Upon agreement between an employer and employee, an employer may establish and contribute to the employee's medical savings account or contribute to an employee's existing medical savings account. The total combined annual contributions by an employer and the account holder shall not exceed two thousand dollars ($2,000) for the account holder. Employer contributions to an employee's medical savings account shall be owned by the employee.

(4) Funds held in a medical savings account may be withdrawn by the account holder at any time. Withdrawals for the purpose of paying eligible medical expenses shall not be subject to the tax imposed in this chapter. The burden of proving that a withdrawal from a medical savings account was made for an eligible medical expense is upon the account holder and not upon the depository or the employer of the account holder. Other withdrawals shall be subject to the following restrictions and penalties:

(a) There shall be a distribution penalty for withdrawal of funds by the account holder for purposes other than the payment of eligible medical expenses. The penalty shall be ten percent (10%) of the amount of withdrawal from the account and, in addition, the amount withdrawn shall be subject to the tax imposed in this chapter. The direct transfer of funds from a medical savings account

to a medical savings account at a different depository shall not be considered a withdrawal for purposes of this section. Charges relating to the administration and maintenance of the account by the depository are not withdrawals for purposes of this section.

(b) After an account holder reaches fifty-nine and one-half (59 1/2) years of age, withdrawals may be made for eligible medical expenses or for any other reason without penalty, but subject to the tax imposed by this section.

(c) Upon the death of an account holder, the account principal, as well as any interest accumulated thereon, shall be distributed without penalty to the designated beneficiary or beneficiaries.

(d) Funds withdrawn which are later reimbursed shall be taxable unless redeposited into the account within sixty (60) days of the reimbursement. Deposits of reimbursed eligible medical expenses shall not be included in calculating the amount deductible.

(e) Funds deposited in a medical savings account which are deposited in error or unintentionally and which are withdrawn within thirty (30) days of being deposited shall be treated as if the amounts had not been deposited in the medical savings account. Funds withdrawn from a medical savings account which are withdrawn in error or unintentionally and which are redeposited within thirty (30) days of being withdrawn shall be treated as if the amounts had not been withdrawn from the medical savings account.

(f) Funds withdrawn which are, not later than the sixtieth day after the day of the withdrawal, deposited into another medical savings account for the benefit of the same account holder are not a withdrawal for purposes of this section and shall not be included in calculating the amount deductible.

(5) Reporting -- Depositories shall provide to the state tax commission the following information regarding medical savings accounts: the name of the account holder, the address of the account holder, the taxpayer identification number of the account holder, deposits made during the tax year by the account holder, withdrawals made during the tax year by the account holder, interest earned on the proceeds of a medical savings account or other information deemed necessary by the commission. Reports shall be filed annually on or before the last day of February following the year to which the information in the report relates.

(6) Any medical care savings account established pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, may be continued pursuant to the provisions of this section and all duties, privileges and liabilities imposed in this section upon medical care savings accounts and the beneficiaries of those accounts shall apply to medical care savings accounts and their beneficiaries established pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, as if the medical care savings account were a medical savings account established pursuant to this section.

(7) (a) If the account holder's surviving spouse acquires the account holder's interest in a medical savings account by reason of being the designated beneficiary of such account at the death of the account holder, the medical savings account shall be treated as if the spouse were the account holder.

(b) If, by reason of the death of the account holder, any person

acquires the account holder's interest in a medical savings account in a case to which subparagraph (7)(a) of this section does not apply:

(i) Such account shall cease to be a medical savings account as of the date of death; and

(ii) An amount equal to the fair market value of the assets in such account on such date shall be includable, if such person is not the estate of such holder, in such person's Idaho taxable income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's Idaho taxable income for the last taxable year of such holder.

(c) The amount includable in Idaho taxable income under subparagraph (b) of this subsection (7) by any person, other than the estate, shall be reduced by the amount of qualified medical expenses which were incurred by the decedent before the date of the decedent's death and paid by such person within one (1) year after such date.

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, 1999.

Approved March 1, 1999.

CHAPTER 32
(H.B. No. 10)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-406, IDAHO CODE, TO PROVIDE FOR MIGRATORY WATERFOWL VALIDATION; AMENDING SECTION 36-414, IDAHO CODE, TO DELETE THE WATERFOWL ART STAMP PROGRAM AND TO PROVIDE FOR A MIGRATORY WATERFOWL VALIDATION; AND AMENDING SECTION 36-1401, IDAHO CODE, TO PROVIDE FOR MIGRATORY WATERFOWL VALIDATION.

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

SECTION 1. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of twenty dollars ($20.00) for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, fifteen dollars ($15.00) for a fishing license entitling the purchaser to fish in the public waters of the state, six dollars ($6.00) for a hunting license entitling the pur-

chaser to hunt game animals, game birds, unprotected and predatory animals of the state, and twenty-five dollars ($25.00) for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

(b) Youth Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of four dollars ($4.00) for a hunting license, and five dollars ($5.00) for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Youth Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of ten dollars ($10.00) for a combined fishing and hunting license, and seven dollars ($7.00) for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of three dollars ($3.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-411, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of eighty-one dollars ($81.00) entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, an archery hunt permit, a muzzleloader permit, an upland game permit, a migratory waterfowl ~~stamp~~ validation, a steelhead trout permit and an anadromous salmon permit. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

(i) Three dollars ($3.00) in the set-aside account for the purposes of section 36-111(1)(a), Idaho Code;

(ii) Two dollars ($2.00) in the set-aside account for the purposes of section 36-111(1)(b), Idaho Code;

(iii) One dollar and fifty cents ($1.50) in the set-aside account for the purposes of section 36-111(1)(c), Idaho Code;

(iv) Five dollars ($5.00) in the set-aside account for the purposes of section 36-111(1)(e), Idaho Code;

(v) Two dollars ($2.00) in the set-aside account for the purposes of section 36-111(1)(f), Idaho Code; and

(vi) The balance in the fish and game account.

All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules of the commission regarding

the fish and wildlife of the state.

If the purchaser of this license does not meet the archery education requirements of section 36-411(b), Idaho Code, then, notwithstanding the provisions of section 36-304, Idaho Code, the archery hunt permit portion of this license is invalid. The fee for this license will not change and the issuer of the license must indicate on the face of the license that the archery permit is invalidated.

(g) Disabled Persons. A license of the first class may be had by any resident disabled person on payment of three dollars ($3.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides. A disabled person means a person who is certified as eligible for federal supplemental security income (SSI); social security disability income (SSDI); a nonservice-connected veterans pension; or a service-connected veterans disability benefit with forty percent (40%) or more disability.

SECTION 2. That Section 36-414, Idaho Code, be, and the same is hereby amended to read as follows:

36-414. MIGRATORY WATERFOWL ~~STAMP----PRINTS-----MIGRATORY--WATERFOWL-ART-COMMITTEE~~ VALIDATION. (1) As used in this section:

(a) "Migratory waterfowl" means members of the family Anatidae, including brants, ducks and geese.

~~(b) "Migratory-waterfowl-art-committee"-means-the-committee--created-in-subsection-(5)-of-this-section.~~

~~(c)~~ "Migratory waterfowl ~~stamp~~ validation" means the ~~stamp~~ validation that is required pursuant to this section to be in the possession of persons over sixteen (16) years of age to hunt migratory waterfowl.

~~(d)--"Prints--and--artwork"--mean--replicas--of-the-original-stamp design-that-are-sold-to-the-general-public.-Prints-and-artwork-are not-to-be-construed-to-be-the-migratory-waterfowl--stamp--that--is required-pursuant-to-this-section.-Artwork-may-be-any-facsimile-of the--original--stamp--design,--including--color--renditions,-metal duplications-or-any-other-kind-of-design.~~

(2) A state migratory waterfowl ~~stamp~~ validation is required to hunt migratory waterfowl. The fee for the ~~stamp~~ validation is five dollars ($5.00). The migratory waterfowl ~~stamp~~ validation shall be required in the hunting season starting not later than the fall of 1987. The ~~stamp~~ validation shall be sold pursuant to the procedures contained in chapter 3, title 36, Idaho Code.

(3) No person over sixteen (16) years of age shall hunt any migratory waterfowl without first obtaining a migratory waterfowl ~~stamp~~ validation as required in this section.

(4) ~~The--migratory--waterfowl-stamp-to-be-produced-by-the-department-shall-use-the-design-as-provided-by-the-migratory--waterfowl--art committee.~~ All revenue derived from the sale of the ~~stamps~~ validation by the department shall be deposited in the fish and game set-aside account and shall be used ~~only-for-the-cost-of-printing-and-production of--the--stamp-and~~ for those migratory waterfowl projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state. Acquisition shall include,

but not be limited to, the acceptance of gifts of real property or any interest therein or the rental, lease or purchase of real property or any interest therein. If the department acquires any fee interest, leasehold or rental interest in real property under this section, it shall allow the general public reasonable access to that property and shall, if appropriate, insure that the deed or other instrument creating the interest allows this access to the general public. If the department obtains a covenant in real property in its favor or an easement or any other interest in real property under this section, it shall exercise its best efforts to insure that the deed or other instrument creating the interest grants to the general public in the form of a covenant running with the land reasonable access to the property. The private landowner from whom the department obtains such a covenant or easement shall retain the right of granting access to the lands by written permission.

~~The department may produce migratory waterfowl stamps in any given year in excess of those necessary for sale in that year. The excess stamps may be sold to the migratory waterfowl art committee for sale to the public.~~

~~(5) There is hereby created a migratory waterfowl art committee which shall be composed of seven (7) members. The committee shall consist of one (1) member appointed by the governor, four (4) members appointed by the director of the department, one (1) member appointed by the Idaho commission on the arts, and one (1) member appointed by the director of the department of agriculture. The member appointed by the Idaho commission on the arts shall be knowledgeable in the area of fine art reproduction. The member appointed by the director of the department of agriculture shall represent statewide farming interest. The members appointed by the governor and the director of the department shall be knowledgeable about waterfowl and waterfowl management. The four (4) members appointed by the director of the department shall also represent respectively:~~

~~(a) A northern Idaho sports group;~~

~~(b) A southern Idaho sports group;~~

~~(c) A group with a major interest in the conservation and propagation of migratory waterfowl; and~~

~~(d) A statewide conservation organization.~~

~~(6) The members of the committee shall serve three (3) year staggered terms and at the expiration of their terms shall serve until qualified successors are appointed. Of the seven (7) members, two (2) shall serve initial terms of four (4) years, two (2) shall serve initial terms of three (3) years, and three (3) shall serve initial terms of two (2) years. The appointees of the governor and the director of the department of agriculture shall serve the initial terms of four (4) years. The appointees of the commission on the arts and one (1) of the appointees of the director of the department of fish and game shall serve the initial terms of two (2) years. Vacancies shall be filled for unexpired terms consistent with this subsection. A chairman shall be elected annually by the committee. The committee shall review the director's expenditures of the previous year of both the stamp money and the prints and related artwork money. Members of the committee shall be compensated as provided in section 59-509(a), Idaho Code.~~

~~(7) The committee is responsible for the selection of the annual~~

~~migratory-waterfowl-stamp-design-and-shall-provide-the-design--to--the department.--If--the--committee--does-not-perform-this-duty-within-the time-frame-necessary-to--achieve-proper-and-timely-distribution-of-the stamps-to-license-vendors,-the-director--shall--initiate--the--artwork selection--for--that--year.--The--committee-shall-create-collector-art prints-and-related-artwork,-utilizing-the-same-design-as--provided--to the--department.-The-administration,-sale,-distribution-and-other-matters-relating-to-the-prints--and--sales--of--stamps--with--prints--and related-artwork-shall-be-the-responsibility-of-the-migratory-waterfowl art-committee.~~

~~(8)--The--total--amount--of--moneys--brought--in--from-the-sale-of prints,-stamps,-and-related-artwork-shall-be-deposited-in-the-fish-and game-set-aside-account.-The-costs-of-producing-and-marketing-of-prints and-related-artwork,-including-administrative-expenses-mutually-agreed upon-by-the-committee-and-the-director-shall-be-paid-out-of-the--total amount--of--moneys-brought-in-from-sale-of-those-same-items.-Net-funds derived-from-the-sale-of-prints-and-related-artwork-shall-be--expended as-follows:~~

~~(a)--Twenty--percent--(20%)--of-the-funds-shall-be-provided-by-the director-of-the-department-to-an-appropriate-nonprofit--entity--or wildlife--conservation--agency--for--the--development-of-migratory waterfowl-propagation-projects-within-the-provinces-of-Alberta-and British-Columbia-in-Canada.~~

~~(b)--Eighty-percent-(80%)-of-the-funds-shall-be-used-by-the-director-of-the-department--for--the--acquisition--and--development--of waterfowl-propagation-projects-within-Idaho.~~

~~(c)--The--migratory--waterfowl-art-committee-shall-have-a-periodic audit-of-its-finances-conducted-by-the-legislative-services-office or-its-successor-agency-and-shall-furnish-a-copy-of-the--audit--to the-fish-and-game-commission-and-the-senate-resources-and-environment-committee-and-the-house-of-representatives-resources-and-conservation-committee.~~

SECTION 3. That Section 36-1401, Idaho Code, be, and the same is hereby amended to read as follows:

36-1401. VIOLATIONS. (a) Infractions. Any person who pleads guilty to or is found guilty of a violation of the following provisions of the fish and game code or the following rules or proclamations promulgated pursuant thereto is guilty of an infraction:

1. Statutes

(A) Take, transport, use or have in possession bait fish as set forth in section 36-902(d), Idaho Code.

(B) Chumming as set forth in section 36-902(e), Idaho Code.

(C) Nonresident child under the age of fourteen (14) years fishing without a valid license and not accompanied by a valid license holder as set forth in section 36-401(a)2., Idaho Code.

(D) Use or cut a hole larger than ten (10) inches in the ice for ice fishing as set forth in section 36-1509(a), Idaho Code.

(E) Store fish without required tags/permits/statements as set forth in section 36-503, Idaho Code.

(F) Own, possess or harbor any dog found running loose and which is tracking, pursuing, harassing or attacking a big game animal as set forth in section 36-1101(b)6.(B), Idaho Code.

(G) Hunt migratory waterfowl without having in possession a signed federal migratory bird hunting stamp as set forth in section 36-1102(b)2., Idaho Code.

(H) Hunt migratory waterfowl without having in possession a license validated for ~~the Idaho~~ migratory waterfowl ~~stamp~~ as set forth in section 36-414(2), Idaho Code.

(I) Hunt upland game birds without having in possession a license validated for the upland game permit as set forth in section 36-409(h), Idaho Code.

(J) Trap in or on, destroy or damage any muskrat house as provided in section 36-1103(c), Idaho Code.

(K) Hunt migratory game birds with a shotgun capable of holding more than three (3) shells as provided and incorporated in section 36-1102(b), Idaho Code.

2. Rules or Proclamations

(A) Fish from a raft or boat with motor attached in waters where motors are prohibited.

(B) Fish with hooks larger than allowed in that water.

(C) Fish with barbed hooks in waters where prohibited.

(D) Exceed any established bag limit for fish by one (1) fish, except bag limits for anadromous fish, landlocked chinook salmon, kamloops rainbow trout, lake trout, or bull trout.

(E) Fish with more than the approved number of lines or hooks.

(F) Fail to leave head and/or tail on fish while fish are in possession or being transported.

(G) Snag or hook fish other than in the head and fail to release, excluding anadromous fish.

(H) Fail to attend fishing line and keep it under surveillance at all times.

(I) Fail to comply with mandatory check and report requirements.

(J) Fail to leave evidence of sex or species attached as required on game birds.

(K) Hunt or take migratory game birds or upland game birds with shot exceeding the allowable size.

(L) Fail to release, report or turn in nontarget trapped animals.

(M) Fail to complete required report on trapped furbearer.

(N) Fail to present required furbearer animal parts for inspection.

(O) Fail to attach identification tags to traps.

(P) Possess not more than one (1) undersized bass.

(Q) Park or camp in a restricted area, except length of stay violations.

(R) Fail to leave evidence of sex attached as required on game animals.

(b) Misdemeanors. Any person who pleads guilty to, is found

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

(c) Felonies. Any person who pleads guilty to, is found guilty or is convicted of a violation of the following offenses shall be guilty of a felony:

1. Knowingly and intentionally selling or offering for sale or exchange, or purchasing or offering to purchase or exchange, any wildlife, or parts thereof, which has been unlawfully killed, taken or possessed.

2. Releasing into the wild, without a permit from the director, any of the following wildlife, whether native or exotic: ungulates, bears, wolves, large felines, swine, or peccaries.

3. Unlawfully killing, possessing or wasting of any combination of numbers or species of wildlife within a twelve (12) month period which has a single or combined reimbursable damage assessment of more than one thousand dollars ($1,000), as provided in section 36-1404, Idaho Code.

4. Conviction within ten (10) years of three (3) or more violations of the provisions of this title, penalties for which include either or both a mandatory license revocation or a reimbursable damage assessment.

Approved March 2, 1999.

CHAPTER 33
(H.B. No. 39)

AN ACT

RELATING TO THE LIBRARY IMPROVEMENT ACCOUNT; AMENDING SECTION 33-2506, IDAHO CODE, TO CHANGE THE NAME OF THE ACCOUNT, TO REDEFINE POLICY AND PURPOSE, TO PROVIDE FOR APPROPRIATIONS AND REVENUES AND TO PROVIDE FOR PAYMENTS FROM THE FUND.

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

SECTION 1. That Section 33-2506, Idaho Code, be, and the same is hereby amended to read as follows:

33-2506. LIBRARY SERVICES IMPROVEMENT ~~ACCOUNT~~ FUND -- ESTABLISHED. (1) Policy. The state of Idaho recognizes its responsibility to provide ~~public~~ library services to ~~its citizens~~ people in ~~both--the urban--and--rural~~ all areas of the state. The state ~~realizes that many citizens of the state receive--few--library--services.--Some--citizens receive--no--library--services at all. Therefore, there is established~~ acknowledges that the ability of each Idahoan to access information has a critical impact on the state's economic development, educational success, provision for an informed electorate, and overall quality of life. Realizing that libraries of all types and in all parts of the state must be able to interact and cooperate in order to respond to

these informational needs, the state of Idaho hereby creates and establishes in the state treasury the library services improvement ~~account~~ fund. ~~The library improvement account shall have paid into it appropriations or revenues as may be provided by law.~~

(2) Purpose. The purpose of the library services improvement fund is to further the development of library services for all the people of Idaho. Moneys in the library services improvement ~~account~~ fund are appropriated to and may be expended by the state library board at any time for the purposes provided in this section.

(3) ~~(a) The board of trustees of any tax supported city or district library may apply to the state library board to receive a payment or payments from the library improvement account. Provided, however, they must demonstrate to the state library board that their community has a substantial and serious need to have improved library services or a need to expand library services to adjacent rural areas.~~

~~(b) When an application for moneys from the account is approved by the state library board, the state librarian shall inform the applying library that the application has been approved, citing the amount approved for payment and an estimate of the time when the payment can actually be made to the applying library.~~

Appropriations and revenues. The library services improvement fund shall have paid into it such appropriations as may be provided or other moneys and donations described in section 33-2503, Idaho Code.

(4) Payments.

(a) All payments from the library services improvement ~~account~~ fund shall be paid ~~directly to the library~~ out in warrants drawn by the state controller upon presentation of proper vouchers from the state library. Pending payments out of the library services improvement ~~account~~ fund, the moneys in the ~~account~~ fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to idle moneys in the state treasury. Interest earned on the investments shall be returned to the library services improvement ~~account~~ fund.

(~~5~~b) No ~~tax supported city or district~~ library entity is automatically entitled to receive any payments from the library services improvement ~~account, but must demonstrate to the state library board an actual need for payment as set forth in subsection (3)(a) of this section~~ fund. The state library board shall establish the criteria upon which actual need is to be determined in accordance with the purposes set forth in this section. ~~The state library board shall give priority to projects which will improve library services in a community or expand library services into the rural areas of the state.~~

(~~6~~c) Payments from the library services improvement ~~account received by a library~~ fund may be used ~~by the library~~ only for the purposes ~~stated in the application as~~ approved by the state library board. Funding decisions shall be solely within the discretion of the state library board.

Approved March 3, 1999.

CHAPTER 34
(H.B. No. 122)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3033, IDAHO CODE, TO CLARIFY THE TERMS UNDER WHICH THE STATE TAX COMMISSION MAY GRANT AN EXTENSION OF TIME FOR FILING A DOCUMENT OR PAYMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3045A, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO PROVIDE CORRECT CODE REFERENCES; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3033, Idaho Code, be, and the same is hereby amended to read as follows:

63-3033. EXTENSION OF TIME. (a) Taxpayers shall have an automatic extension of time for filing any return, declaration, statement or other document, or payment required by this chapter for a period of six (6) months if on or before the unextended due date the taxpayer has paid at least eighty ~~per-cent~~ <u>percent</u> (80%) of the total tax ~~reported~~ <u>due</u> on the income tax return when it is filed, or the total tax ~~reported~~ <u>due</u> on the income tax return for the prior year if a return was filed for the prior year.

(b) Taxpayers residing outside any of the United States and Puerto Rico (including persons in military or naval service) shall have an automatic extension of time within which to file income tax returns with this state for a period which shall expire on the fifteenth day of the sixth month following the close of their taxable year.

(c) Taxpayers who are military personnel or residents of foreign nations and entitled to extensions for filing federal income tax returns as a result of the application of the provisions of sections 911 and 7508 of the Internal Revenue Code, shall be entitled to extensions of time for the same period for filing income tax returns with the state of Idaho subject to the requirements imposed in implementation of the indicated sections.

(d) Any taxpayer entitled to an extension under subsection (b) or (c) of this section shall attach a statement to his return claiming his right to the extension.

(e) If the amount of payment made under subsection (a) of this section is less than eighty ~~per-cent~~ <u>percent</u> (80%) of the total tax due under the provisions of this chapter and is less than the amount of the total tax ~~reported~~ <u>due</u> on the income tax return for the prior year, a penalty may be applied to the total of the balance due unless reasonable cause can be established. The penalty shall be:

(1) If the return is filed and taxes for the taxable year are paid on or before the extended due date, two ~~per-cent~~ <u>percent</u> (2%) per month from the original due date to the date of payment.

(2) If the return is not filed or the taxes for the taxable year are not paid on or before the extended due date, the penalty pro-

vided in section 63-3046(c), Idaho Code, from the original due date.

(f) In all cases of an extension of time in which to file any return, interest shall be paid on any tax due from the original due date to date of payment at the rate provided in section 63-3045, Idaho Code.

SECTION 2. That Section 63-3045A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3045A. MATHEMATICAL ERROR -- ASSESSMENT OF TAX. (a) In the event that the amount of tax is understated on the taxpayer's return due to a mathematical error, the state tax commission shall notify the taxpayer that an amount of tax in excess of that shown on the return is due and has been asserted. Such a notice of additional tax due shall not be considered a notice of a deficiency nor shall the taxpayer have any right of protest or appeal as in the case of a deficiency based on such notice, and the assessment and collection of the amount of tax erroneously omitted in the return is not prohibited by any provision of this ~~act~~ chapter.

(b) The amount of tax which is shown to be due on the return (including revisions for mathematical errors) shall be deemed to be assessed on the date of filing of the return including any amended returns showing an increase of tax. In the case of a return properly filed without the computation of the tax, the tax computed by the state tax commission shall be deemed to be assessed on the date when payment is due. Any amount paid as a tax or in respect of a tax, other than amounts withheld at the source or paid as estimated income tax, shall be deemed to be assessed upon the date of receipt of payment, notwithstanding any other provisions of this ~~act~~ chapter.

(c) For all other purposes of this ~~act~~ chapter, a tax is deemed assessed when a taxpayer fails to file a protest with the state tax commission within the time prescribed in section 63-3045, Idaho Code, or an action in district court within the time prescribed in subsection (a) of section 63-30~~45~~9, Idaho Code.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1999.

Approved March 3, 1999.

CHAPTER 35
(S.B. No. 1009, As Amended)

AN ACT

RELATING TO OWYHEE COUNTY; AMENDING SECTION 31-139, IDAHO CODE, TO PROVIDE CORRECT BOUNDARIES OF OWYHEE COUNTY AND TO PROVIDE THAT MURPHY IS THE COUNTY SEAT OF OWYHEE COUNTY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-139, Idaho Code, be, and the same is hereby amended to read as follows:

31-139. OWYHEE COUNTY. Owyhee county is described as follows: beginning on the Snake river at the mouth of Owyhee river;

Western boundary. Thence south along the eastern boundary line of the state of Oregon to the northern boundary of the state of Nevada;

Southern boundary. Thence east along the northern boundary of the state of Nevada (1 Ter. Sess. 628) to the thirty-eighth (38th) meridian of longitude west from Washington;

Eastern boundary. Thence north along the said meridian to the south boundary of township 7 south range 12 east. Thence west along the south boundary of township 7 south ranges 12, 11, 10 and 9 east to the southwest corner of township 7 south range 9 east. Thence north along the west boundary of township 7 south range 9 east to the northwest corner of said township. Thence east to the southwest corner of township 6 south range 9 east. Thence north along the west boundary of said township to the Snake river ~~(10 Ter. Sess. 43)~~;

Northern boundary. Thence down the channel of the Snake river in a westerly direction to the mouth of the Owyhee river, the place of beginning.

County seat -- ~~Silver City~~ Murphy.

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

Approved March 3, 1999.

CHAPTER 36
(S.B. No. 1024)

AN ACT

RELATING TO BUDGET HEARINGS; AMENDING CHAPTER 8, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-802A, IDAHO CODE, TO REQUIRE NOTIFICATION OF THE COUNTY CLERK OF THE DATE AND LOCATION OF BUDGET HEARINGS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 8, 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 63-802A, Idaho Code, and to read as follows:

63-802A. NOTICE OF BUDGET HEARING. Not later than April 30 of each year, each taxing district shall set and notify the county clerk of the date and location set for the budget hearing of the district. If no budget hearing will be held, the county clerk shall be so notified.

SECTION 2. This act shall be in full force and effect on and after January 1, 1999.

Approved March 3, 1999.

CHAPTER 37
(H.B. No. 188)

AN ACT

RELATING TO THE STATE BUDGET PROCESS; AMENDING SECTION 67-437, IDAHO CODE, TO PROVIDE CORRECT STATUTORY CITATIONS AND TO REQUIRE THE SUBMITTAL OF ACTUAL AND ESTIMATED RECEIPTS AND EXPENDITURES TO THE DIVISION OF FINANCIAL MANAGEMENT AND THE LEGISLATIVE SERVICES OFFICE FOR THE JOINT FINANCE-APPROPRIATIONS COMMITTEE; AMENDING SECTION 67-3502, IDAHO CODE, TO PROVIDE FOR BUDGET FORMS TO BE IN ELECTRONIC FORMAT, TO DELETE REDUNDANT LANGUAGE AND TO REQUIRE SUBMISSION OF INFORMATION TO THE LEGISLATIVE SERVICES OFFICE; AMENDING SECTION 67-3505, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF FINANCIAL MANAGEMENT SHALL, ON OR BEFORE NOVEMBER 20, PREPARE AND SUBMIT TO THE GOVERNOR OR TO THE GOVERNOR-ELECT INFORMATION FOR DEVELOPMENT OF THE EXECUTIVE BUDGET; AMENDING SECTION 67-3514, IDAHO CODE, TO REVISE THE STATUTORY PROCEDURES FOR APPROPRIATION BILLS TO BE PREPARED BY THE JOINT FINANCE-APPROPRIATIONS COMMITTEE; AND REPEALING SECTION 67-3613, IDAHO CODE.

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

SECTION 1. That Section 67-437, Idaho Code, be, and the same is hereby amended to read as follows:

67-437. DEPARTMENTS, AGENCIES, AND INSTITUTIONS TO SUBMIT INFORMATION. All departments, agencies and institutions of state government which are required by section 67-350~~5~~2, Idaho Code, to submit reports of actual and estimated receipts and expenditures to the ~~bureau of the budget~~ division of financial management shall submit the same information to the legislative services office for the joint finance-appropriations committee, not later than the deadline prescribed in section 67-350~~3~~2, Idaho Code.

SECTION 2. That Section 67-3502, Idaho Code, be, and the same is hereby amended 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, whether in electronic or written format, 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~~,~~ and 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 and the legislative services office. 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 and the legislative services office upon the forms described in this section a report of all of the information required in this section.

SECTION 3. That Section 67-3505, Idaho Code, be, and the same is hereby amended 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, or to the governor-elect if there is one, ~~and-to-the-legislature,~~ information for the development of the executive budget as designated in section 67-3502, Idaho Code, including the requests of the legislative and judicial departments as submitted by those departments.

SECTION 4. 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 FINANCE-APPROPRIATIONS COMMITTEES. 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-admin-~~

~~istrative functions of such department, office 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~~ requests required by section 67-3502, Idaho Code, and the executive budget as required by section 67-3506, Idaho Code, shall prepare and introduce appropriation bills covering the requirements of the various departments, offices and institutions of the state. In the case of any department, office or institution operating under a continuous appropriation, the joint committee may prepare and introduce appropriation bills covering the requirements for the administrative functions of such department, office or institution. The joint committee may, after examining the budget of any department, office or institution operating in part or in whole under a continuing appropriation or fund authorized by the legislature, prepare and introduce appropriation bills covering all the requirements of the respective department, office and institution.

SECTION 5. That Section 67-3613, Idaho Code, be, and the same is hereby repealed.

Law Without Signature.

CHAPTER 38
(H.B. No. 8)

AN ACT
RELATING TO FISH AND GAME; REPEALING SECTION 36-308, IDAHO CODE.

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

SECTION 1. That Section 36-308, Idaho Code, be, and the same is hereby repealed.

Approved March 8, 1999.

CHAPTER 39
(H.B. No. 9)

AN ACT
RELATING TO FISH AND GAME; AMENDING CHAPTER 4, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-415, IDAHO CODE, TO AUTHORIZE THE COMMISSION TO ORDER DISCOUNTED TAG FEES AND TO PROVIDE CERTAIN LIMITS.

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

SECTION 1. That Chapter 4, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-415, Idaho Code, and to read as follows:

36-415. DISCOUNTED TAG FEES. Upon finding a biological need or public need or unsold tags, the commission is authorized to order a discount in tag fees for specific species, units, areas, zones, or gender as necessary to encourage increased tag sales, hunting or use of the resource. Notwithstanding the provisions of other law to the contrary, the discounted tag fee shall be effective only for the time period set by the commission order, and holders of tags purchased before the discount shall not be entitled to a refund except as provided by rule.

Approved March 8, 1999.

CHAPTER 40
(H.B. No. 107)

AN ACT

RELATING TO PROPERTY TAX RELIEF; AMENDING SECTION 63-701, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO FEDERAL LAW, TO FURTHER DEFINE "NONHOUSEHOLD MEMBER" AND TO CORRECT A CODE REFERENCE; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-701, Idaho Code, be, and the same is hereby amended to read as follows:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year in which the claim was filed a claimant must be an owner of a homestead and be:

(a) Not less than sixty-five (65) years old; or

(b) A fatherless or motherless child under the age of eighteen (18) years of age; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled ~~pursuant--to 42--USC--423,--45--USC-228,-45-USC-231-or-5-USC-8337~~ by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected dis-

ability 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

(f) 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

(g) Blind.

(2) "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 multidwelling or multipurpose building and part of the land upon which it is built. Homestead does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "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 (6) of this section. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (9)(b) of this section.

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

(5) "Income" means the sum of federal adjusted gross income as defined in the internal revenue code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income, alimony, support money, income from inheritances, nontaxable strike benefits, the 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, worker's compensation and the gross amount of loss of earnings insurance. It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, cost of medical care as defined in section 213(d) of the internal revenue code, incurred by the household may be deducted from income. "Income" does not include veteran's disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse, provided however, that the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. 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.

(6) "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 (1)(d) or (e) of this section, or who is over age sixty-five (65) and lives in the claimant's dwelling and receives protective oversight, caregiving or personal care services provided by the claimant.

(7) "Occupied" means actual use and possession.

(8) "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 or who is a person entitled to file a claim under section 63-702, Idaho Code. "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. Any partial ownership shall be considered ownership for determining qualification for property tax reduction benefits, however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the 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. 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."

(9) (a) "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:

(i) At least six (6) months during the prior year; or

(ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant less than one (1) year.

(b) Notwithstanding the provisions of paragraph (a) 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 claimant's spouse who resides in a care

facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. 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~~6~~), 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.

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, 1998.

Approved March 8, 1999.

CHAPTER 41
(H.B. No. 121)

AN ACT

RELATING TO WITHHOLDING STATE INCOME TAXES; AMENDING SECTION 63-3035, IDAHO CODE, TO ALLOW EMPLOYEES TO CLAIM FEWER PERSONAL EXEMPTIONS FOR STATE INCOME TAX WITHHOLDING THAN ARE CLAIMED FOR FEDERAL INCOME TAX WITHHOLDING; AMENDING SECTION 63-3036, IDAHO CODE, TO COORDINATE THE FILING AND PAYMENT OF WITHHOLDING TAXES FOR CERTAIN AGRICULTURAL EMPLOYERS WITH THE PAYMENT OF CONTRIBUTIONS UNDER THE EMPLOYMENT SECURITY LAW; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3035, 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 chapter. 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 sub-

stantially 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 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 chapter, 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, 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 payment shall be made not later than five (5) days after the end of the withholding period.

(5) If the payments made pursuant to subsections (a)(2) and (a)(4) of this section are equal to the withholding under this section shown or required to be shown on the return required by subsection (b)(1) of this section, no penalty shall apply to the underpayment for the period between the due date of the payment and the due date of the return. Interest, at the rate provided by section 63-3045, Idaho Code, shall apply to any such underpayment.

(6) 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, file a return upon such form as shall be prescribed by the state tax commission, but not more frequently than quarterly, or as required pursuant to any agreement

between the state tax commission and the department of labor under section 63-3035B, Idaho Code. The return shall show, for the period to which it relates, 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, the amount of any previous payments made pursuant to 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 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 chapter 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 chapter 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 chapter 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, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, 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 chapter, 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 chapter, 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 not more than, but may claim fewer than, 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 chapter. 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 chapter. 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 2. That Section 63-3036, Idaho Code, be, and the same is hereby amended to read as follows:

63-3036. STATE WITHHOLDING TAX FOR FARMERS. (1) Every farmer who is an employer shall at the time of the payment of wages, salaries, bonuses or other emoluments to an employee, deduct and retain therefrom an amount determined in accordance with section 63-3035, Idaho Code, and the amount so withheld and deducted shall be held by said farmer-employer in trust for the state of Idaho and for the payment thereof to the state tax commission. Provided, that no tax need be withheld from an employee whose wages, salaries, bonuses and other emoluments total less than one thousand dollars ($1,000) for the tax year.

(2) The tax so withheld by a farmer-employer subject to this section shall be paid to the state tax commission:

(a) Except as provided in paragraph (b) of this subsection, on or before the last day of February of the year following the year in which such deduction was made.

(b) ~~On-the-last-day-of-the-month-following-the-close-of-a--calendar-quarter-if,-in-that-quarter,-a-farmer-employer-subject-to-this section--pays--gross-wages,-salaries,-bonuses-and-other-emoluments exceeding-twenty-thousand-dollars-($20,000)~~ In the case of an employer who is a "covered employer" paying wages for "agricultural labor," as those terms are defined in the employment

security law in chapter 13, title 72, Idaho Code, on or before the date on which contributions are due from the employer to the department of labor under the employment security law.

(3) The farmer-employer shall deliver to the state tax commission a return upon such form as shall be prescribed by said state tax commission showing the amounts of wages, salaries, bonuses or other emoluments paid to his employee, the amount deducted therefrom in accordance with this section, and such other pertinent and necessary information as the state tax commission may require on or before the date payments required by this section are due.

(4) The farmer-employer making such a deduction as provided for in this section shall furnish to the employee annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of the tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and at the same time every employer shall file a copy thereof with the state tax commission. The provisions of subsections (d), (e), (f), (g) and (h) of section 63-3035, Idaho Code, shall be applicable to the tax withheld by the farmer-employer under this section.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1999.

Approved March 8, 1999.

CHAPTER 42
(H.B. No. 123)

AN ACT

RELATING TO THE SALES TAX ACT; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3606B, IDAHO CODE, TO DEFINE "MOTOR VEHICLE"; AMENDING SECTION 63-3610, IDAHO CODE, TO PROVIDE CONSISTENCY WITH THE DEFINITION OF "MOTOR VEHICLE"; AMENDING SECTION 63-3613, IDAHO CODE, TO PROVIDE THAT THE ALLOWANCE FOR BAD DEBTS IS NOT LIMITED TO BAD DEBTS WRITTEN OFF FOR INCOME TAX PURPOSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE A DEFINITION OF "RESIDENT" FOR PURPOSES OF A SUBSECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 63-3622C AND 63-3622D, IDAHO CODE, TO PROVIDE CONSISTENCY WITH THE DEFINITION OF "MOTOR VEHICLE"; AMENDING SECTION 63-3622K, IDAHO CODE, TO PROVIDE CONSISTENCY WITH THE DEFINITION OF "MOTOR VEHICLE" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3622O, IDAHO CODE, TO PROVIDE CONSISTENCY WITH THE DEFINITION OF "MOTOR VEHICLE" AND TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTIONS 63-3622R, 63-3622S, 63-3622T, 63-3622X, 63-3622JJ, 63-3623 AND 63-3638, IDAHO CODE, TO PROVIDE CONSISTENCY WITH THE DEFINITION OF "MOTOR VEHICLE."

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3606B, Idaho Code, and to read as follows:

63-3606B. MOTOR VEHICLE. The term "motor vehicle" means a vehicle registered or required to be registered for use on public roads. The term "motor vehicle" does not include vehicles not required to be registered pursuant to section 49-426, Idaho Code, or intended for off-road use only, including snowmobiles, boats and aircraft, and all-terrain vehicles and off-road motorcycles when not used on public roads.

SECTION 2. That Section 63-3610, Idaho Code, be, and the same is hereby amended to read as follows:

63-3610. RETAILER. The term "retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal 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 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 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 3. That Section 63-3613, Idaho Code, be, and the same is hereby amended to read as follows:

63-3613. SALES PRICE. (a) The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any

deduction on account of any of the following:

1. The cost of the property sold. However, in accordance with such rules as the state tax commission may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

2. The cost of materials used, labor or service cost, losses, or any other expense.

3. The cost of transportation of the property prior to its sale.

4. The face value of manufacturer's discount coupons. A manufacturer's discount coupon is a price reduction coupon presented by a consumer to a retailer upon purchase of a manufacturer's product, the face value of which may only be reimbursed by the manufacturer to the retailer.

(b) The term "sales price" does not include any of the following:

1. Retailer discounts allowed and taken on sales, but only to the extent that such retailer discounts represent price adjustments as opposed to cash discounts offered only as an inducement for prompt payment.

2. Any sums allowed on merchandise accepted in payment of other merchandise, provided that this allowance shall not apply to the sale of a "new manufactured home" or a "modular building" as defined herein.

3. The amount charged for property returned by customers when the amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

4. The amount charged for labor or services rendered in installing or applying the property sold, provided that said amount is stated separately and such separate statement is not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property; except that charges by a manufactured homes dealer for set up of a manufactured home shall be included in the "sales price" of such manufactured home.

5. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

6. The amount charged for finance charges, carrying charges, service charges, time-price differential, or interest on deferred payment sales, provided such charges are not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.

7. Delivery and handling charges for transportation of tangible personal property to the consumer, provided that the transporta-

tion is stated separately and the separate statement is not used as a means of avoiding imposition of the tax upon the actual sales price of the tangible personal property; except that charges by a manufactured homes dealer for transportation of a manufactured home shall be included in the "sales price" of such manufactured home.

8. Manufacturers' rebates when used at the time of a retail sale as a down payment on or reduction to the retail sales price of a motor vehicle to which the rebate applies. A manufacturer's rebate is a cash payment made by a manufacturer to a consumer who has purchased or is purchasing the manufacturer's product from the retailer.

9. The amount of any fee imposed upon an outfitter as defined in section 36-2102, Idaho Code, by a governmental entity pursuant to statute for the purpose of conducting outfitting activities on land or water subject to the jurisdiction of the governmental entity, provided that the fee is stated separately and is presented as a use fee paid by the outfitted public to be passed through to the governmental entity.

10. The amount of any discount or other price reduction on telecommunications equipment when offered as an inducement to the consumer to commence or continue telecommunications service, or the amount of any commission or other indirect compensation received by a retailer or seller as a result of the consumer commencing or continuing telecommunications service.

(c) The sales price of a "new manufactured home" or a "modular building" as defined in this act shall be limited to and include only fifty-five ~~per-cent~~ <u>percent</u> (55%) of the sales price as otherwise defined herein.

(d) ~~For--sales--made--on-and-after-January-1,-1967,-t~~<u>T</u>axes previously paid on amounts represented by accounts found to be worthless ~~and--actually-charged-off-for-income-tax-purposes~~ may be credited upon a subsequent payment of the tax provided in this chapter or, if no such tax is due, refunded. If such accounts are thereafter collected, a tax shall be paid upon the amount so collected.

(e) Tangible personal property when sold at retail for more than eleven cents ($.11) but less than one dollar and one cent ($1.01) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen ~~per-cent~~ <u>percent</u> (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owner or operator of the vending machines.

SECTION 4. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after July 1, 1965, for storage, use, or other consumption in this state at the rate of five ~~per-cent~~ <u>percent</u> (5%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment,

in which case a recent sales price shall be conclusive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used or consumed wireless telecommunications equipment by virtue of giving, selling or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(c) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or

rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f) If a purchaser who gives a resale certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(g) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars ($100), and each violation shall constitute a separate offense.

(h) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use or other consumption in this state.

(i) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(j) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States in an amount equal to or greater than the amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety

(90) days in any consecutive twelve (12) months, and which is not required to be registered or licensed under the laws of this state.~~;~~ ~~or~~

(1) The use tax herein imposed shall not apply to the use of household goods~~,~~ and personal effects ~~and--private--automobiles~~ by a ~~bona--fide~~ resident of this state, if such articles were acquired by such person in another state while a ~~bona--fide~~ resident ~~thereof~~ of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(~~l~~m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible personal property which is or will be incorporated into real property and which has been donated to and has become the property of:

(1) A nonprofit organization as defined in section 63-3622O, Idaho Code; or

(2) The state of Idaho; or

(3) Any political subdivision of the state.

This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor or subcontractor of the donee, or any other person.

SECTION 5. That Section 63-3622C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622C. MOTOR FUELS SUBJECT TO TAX. There are exempted from the taxes imposed by this chapter purchases which are subject to the motor fuels tax imposed by chapter 24, title 63, Idaho Code, and purchases upon which motor fuels taxes have actually been paid and the sale or use of any fuel which is subsequently transported outside the state for use thereafter outside the state. Nothing in this chapter shall be construed to authorize the imposition of a tax on fuel brought into this state in the fuel tanks of motor vehicles or railroad locomotives in interstate commerce.

SECTION 6. That Section 63-3622D, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622D. PRODUCTION EXEMPTION. There are exempted from the taxes imposed by this chapter:

(a) The sale at retail, storage, use or other consumption in this state of:

(1) Tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for sale.

(2) Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, or fabricating operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which

become a component part of such tangible personal property; provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

(3) Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change in the product or for removing impurities from the product or otherwise placing the product in a more marketable condition as part of an operation described in subsection (a)(2) of this section, and chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries.

(4) Safety equipment and supplies required to meet a safety standard of a state or federal agency when such safety equipment and supplies are used as part of an operation described in subsection (a)(2) of this section.

(5) Plants to be used as part of a farming operation.

(b) Other than as provided in subsection (c) of this section, the exemptions allowed in subsections (a)(1), (2), (3) and (4) of this section are available only to a business or separately operated segment of a business which is primarily devoted to producing tangible personal property which that business will sell and which is intended for ultimate sale at retail within or without this state. A contractor providing services to a business entitled to an exemption under this section is not exempt as to any property owned, leased, rented or used by it unless, as a result of the terms of the contract, the use of the property is exempt under section 63-3615(b), Idaho Code.

(c) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also be available to a business, or separately operated segment of a business, engaged in farming or mining, whether as a subcontractor, contractor, contractee or subcontractee, when such business or segment of a business is primarily devoted to producing tangible personal property which is intended for ultimate sale at retail within or without this state, without regard to the ownership of the product being produced.

(d) As used in this section, the term "directly used or consumed in or during" a farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including, the planting, growing, harvesting and initial storage of crops and other agricultural products and movement of crops and produce from the place of harvest to the place of initial storage. It includes disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking equipment.

(e) The exemptions allowed in this section do not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies.

(f) Without regard to the use of such property, this section does not exempt:

(1) Hand tools with a unit purchase price not in excess of one hundred dollars ($100). A hand tool is an instrument used or worked by hand.

(2) Tangible personal property used in any activities other than

the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, and equipment and supplies used in selling or distributing activities.

(3) Property used in research or development.

(4) Property used in transportation activities.

(5) Machinery, equipment, tools or other property used to make repairs. This subsection does not include repair parts that become a component part of tangible property exempt from tax under this section or lubricants, hydraulic oil, or coolants used in the operation of tangible personal property exempt under this section.

(6) Machinery, equipment, tools or other property used to manufacture, fabricate, assemble or install tangible personal property which is:

(i) Not held for resale in the regular course of business; and

(ii) Owned by the manufacturer, processor, miner, farmer or fabricator;

provided, however, this subsection does not prevent exemption of machinery, equipment, tools or other property exempted from tax under subsection (a)(2) or (a)(3) of this section.

(7) Any improvement to real property or fixture thereto or any tangible personal property which becomes or is intended to become a component of any real property or any improvement or fixture thereto.

(8) Motor vehicles ~~licensed--or--required-to-be-licensed-by-the laws-of-this-state-or-another-state-or-any~~ and aircraft.

(9) Tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from tax under this chapter in sections 63-3622F, 63-3622G and 63-3622I, Idaho Code.

(10) Tangible personal property described in section 63-3622HH, Idaho Code.

(g) Any tangible personal property exempt under this section which ceases to qualify for this exemption, and does not qualify for any other exemption or exclusion of the taxes imposed by this chapter, shall be subject to use tax based upon its value at the time it ceases to qualify for exemption. Any tangible personal property taxed under this chapter which later qualifies for this exemption shall not entitle the owner of it to any claim for refund.

SECTION 7. That Section 63-3622K, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622K. OCCASIONAL SALES. (a) There are exempted from the taxes imposed by this chapter occasional sales of tangible personal property.

(b) As used in this section, the term "occasional sale" means:

(1) A sale of property not held or used by a person in the course of an activity for which he is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number or of such a nature as to constitute the seller a "retailer" under section 63-3610(c), Idaho Code.

(2) Any transfer of all or substantially all of the property held

or used by a person in a business requiring a seller's permit when, after such transfer, the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purpose of this section, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having a "real or ultimate ownership" of the property of such corporation or other entity.

(3) A transfer of capital assets to or by a business when the transfer is accomplished through an adjustment of the beneficial interest of the business and the transferor has paid sales or use taxes pursuant to section 63-3619 or 63-3621, Idaho Code, on the capital assets, incidental to:

(i) A division of joint venture, partnership, or limited liability company assets among the members or partners in exchange for a proportional reduction of the transferee's interest in the joint venture, partnership, or limited liability company. For the purposes of this section, the term "limited liability company" means a business organization as defined in chapter 6, title 53, Idaho Code;

(ii) The formation of a partnership, joint venture, or limited liability company by the transfer of assets to the partnership, joint venture, or limited liability company or transfers to a partnership, joint venture, or limited liability company in exchange for proportionate interests in the partnership, joint venture, or limited liability company;

(iii) The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for stock in proportion to assets contributed;

(iv) The transfer of assets of shareholders in the formation or dissolution of a corporation;

(v) The transfer of capital assets by a corporation to its stockholders in exchange for surrender of capital stock;

(vi) The transfer of assets from a parent corporation to a subsidiary corporation which is owned at least eighty ~~per cent~~ percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

(vii) The transfer of assets from a subsidiary corporation which is owned at least eighty ~~per-cent~~ percent (80%) by the parent corporation to a parent corporation or another subsidiary which is owned at least eighty ~~per-cent~~ percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets.

(4) The sale, lease or rental of a capital asset in substantially the same form as acquired by the transferor and on which the initial transferor has paid sales or use taxes pursuant to section 63-3619 or 63-3621, Idaho Code, when the owners of all of the outstanding stock, equity or interest of the transferor are the same as the transferee or are members of the same family within the second degree of consanguinity or affinity.

(5) The sale of substantially all of the operating assets of a business or of a separate division, branch, or identifiable segment to a buyer who continues operation of the business. For the purpose of this subsection, a "separate division, branch, or identifiable segment" shall be deemed to exist if, prior to its sale, the income and expense attributable to such "separate division, branch, or identifiable segment" could be separately ascertained from the books of accounts and records.

(6) Sales by persons who are not defined as "retailers" in section 63-3610, Idaho Code.

(7) Sales of animals by any 4-H club or FFA club held in conjunction with a fair or the western Idaho spring lamb sale.

(8) The sale or purchase of tangible personal property at home yard sales; provided however, that no more than two (2) such home yard sales per individual calendar year shall be exempt.

(c) As used in this section, the term "occasional sale," when applied to the sale of a ~~self-propelled~~ motor vehicle, means only:

(1) Sales of motor vehicles between members of a family related within the second degree of consanguinity, unless a sales or use tax was not imposed on the sale of that motor vehicle at the time of purchase, in which situation the sale is taxable.

(2) Sales of motor vehicles that fall within the scope of the transactions detailed in subsection (b)(2) through (b)(5) of this section.

(d) The exemption provided by subsection (b)(1), (b)(4), (b)(6) or (b)(8) of this section shall not apply to the sale, purchase or use of aircraft, as defined in section 21-201, Idaho Code, nor shall it apply to the sale, purchase or use of boats or vessels, as defined in section 67-7003, Idaho Code, nor shall it apply to the sale, purchase or use of snowmobiles, recreational vehicles or off-highway motorbikes, as defined in section 63-3622HH, Idaho Code.

SECTION 8. That Section 63-3622O, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622O. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:

(a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest-protective associations and canal companies which are nonprofit organizations; and

(b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and

(c) 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 growing, storage, preparation or service of food, but not including ~~licensed~~ motor vehicles or trailers; and

(d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and

(e) Sales to or purchases by centers for independent living; and

(f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions.

(2) As used in this section, 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 any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities 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.

(i) "Center for independent living" shall mean a private, nonprofit, non-residential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(i) Is designed and operated within a local community by individuals with disabilities;

(ii) Provides an array of independent living services and programs; and

(iii) Is cross-disability.

(j) "Political subdivision" means:

(i) A governmental organization which:

1. Embraces a certain territory,

2. Is organized for public advantage and not in the interest of private individuals or classes,

3. Has been delegated functions of government, and

4. Has the statutory power to levy taxes; or

(ii) A public health district created by section 39-408, Idaho Code; or

(iii) A soil conservation district as defined in section 22-2717, Idaho Code; or

(iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or

(v) An irrigation district created pursuant to title 43, Idaho Code; or

(vi) A state grazing board created by section 57-1204, Idaho Code; or

(vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or

(viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.

(~~i~~k) ~~An a~~"Agency of the state of Idaho" ~~is~~ shall mean an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemptions granted by subsection (1)~~(f)~~ of this section does not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) 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 9. 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 motor vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and

(2) ~~Said~~ The 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 motor 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 educational institution as defined in section 63-3622O, Idaho Code.

SECTION 10. That Section 63-3622S, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622S. RADIO AND TELEVISION BROADCASTING EQUIPMENT. There are exempted from the taxes imposed by this chapter receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production and broadcasting of radio and television programs when the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production and broadcasting, provided, that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production and broadcasting operation, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than actual production and broadcasting operation such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles or aircraft, ~~required--to--be--licensed--by-the-laws-of-this-state,~~ without regard to the use to which such motor vehicles or aircraft are put.

SECTION 11. That Section 63-3622T, Idaho Code, be, and the same

is hereby amended to read as follows:

63-3622T. EQUIPMENT TO PRODUCE CERTAIN NEWSPAPERS. There are exempted from the taxes imposed by this chapter:

(a) Receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production of publications in a newspaper format which are distributed to the public at large and which rely on advertising revenue as their primary source of income; provided, that the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production of said publications; provided, further, that the use or consumption of such tangible personal property is necessary or essential to the performance of such publication business. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production of said publications, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual production of the publication and shall not include property such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research or in transportation activities; nor shall this exemption include motor vehicles or aircraft ~~required to be licensed by the laws of this state~~ without regard to the use to which such motor vehicles or aircraft are put.

(b) Provided, further, that this exemption shall apply when the publication referred to herein is distributed to the public free of charge.

(c) Provided, further, that in order for the exemption to be applicable, at least ten percent (10%) of the total publication, computed on an average annual column inch basis, must be devoted to the publication of nonincome producing informative material.

SECTION 12. That Section 63-3622X, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622X. POLLUTION CONTROL EQUIPMENT. There is hereby exempted from the taxes imposed by this chapter the sale, use or purchase of tangible personal property, which property is pollution control equipment required to meet air and water quality standards of a state or federal agency having authority to regulate and set air and water quality emission standards.

This exemption applies to the purchase of dry cleaning equipment that is designed to protect employees from exposure to perchloroethylene as well as retaining the fluid in the machine in order to protect sewer systems and air quality standards. Dry cleaning machines meeting these standards are referred to as "dry to dry transfer systems."

This exemption does not include motor vehicles or aircraft~~, required to be licensed by the laws of this state,~~ without regard to the use to which such motor vehicles or aircraft are put.

SECTION 13. That Section 63-3622JJ, Idaho Code, be, and the same

is hereby amended to read as follows:

63-3622JJ. LOGGING EXEMPTION. There are exempted from the taxes imposed by this chapter:

(1) The sale at retail, storage, use or other consumption in this state of tangible personal property which is primarily and directly used or consumed in logging including, but not limited to, log loaders, log jammers, log skidders and fuel used in logging trucks, provided that the use or consumption of such tangible personal property is necessary or essential to logging.

(2) The exemption allowed by subsection (1) of this section does not include machinery, equipment, materials and supplies used in a manner that is incidental to logging such as maintenance and janitorial equipment and supplies, and hand tools with a unit purchase price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual logging, such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research, or, except for fuel used in logging trucks, in transportation activities; nor shall this exemption include motor vehicles or aircraft, ~~licensed or required to be licensed by the laws of this state,~~ without regard to the use to which such motor vehicles or aircraft are put; nor shall this exemption apply to vehicles or equipment described in section 63-3622HH, Idaho Code; nor shall this exemption include tangible personal property used to produce tangible personal property exempted from the tax under this chapter by section 63-3622G, Idaho Code.

SECTION 14. That Section 63-3623, Idaho Code, be, and the same is hereby amended to read as follows:

63-3623. RETURNS AND PAYMENTS. (a) The taxes imposed by this act are due and payable to the state tax commission monthly on or before the twentieth day of the succeeding month.

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

(c) On or before the twentieth day of the month a return shall be filed with the state tax commission in such form as the state tax commission may prescribe.

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

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

erty became subject to the use tax during the reporting period; in the case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use, or consumption of which became subject to the use tax during the reporting period.

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

(g) The person required to file the return shall mail or deliver the return together with a remittance of any tax due to the state tax commission for the reporting period.

(h) The state tax commission, if it deems it necessary in order to insure payment to or facilitate the collection by the state of taxes, may require returns for periods other than monthly periods.

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

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

(k) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the rate provided in section 63-3045, Idaho Code, from the date on which the tax would have been due without the extension until the day of payment.

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

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

(n) Retail sales of tangible personal property through a vending machine which are taxable upon the purchase price paid by the owner or operator of the vending machine pursuant to subsection (e) of section 63-3613, Idaho Code, shall be reported upon the sales tax return of the owner or operator of the vending machine in the manner by which the tax commission may by rule prescribe.

SECTION 15. 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 and finance association 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 and finance association 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 and finance association 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 and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(2) An amount equal to the sum required by the provisions of section 63-709, Idaho Code, is continuously appropriated and shall be paid as provided by section 63-709, Idaho Code.

(e) Six percent (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 percent (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 subsections (1) and (2) of section 63-602W, 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 subsections (1) and

(2) of section 63-602W, 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) Each year the county commissioners in each county shall take the tax charge, applicable to the current property roll 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 the current property roll 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 property 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 of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle 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 percent (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 percent (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 percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding

year's market value for assessment purposes for all cities within the state.

(2) One-half (1/2) shall be paid to the state's general account or to the various counties as follows:

(i) One million three hundred twenty thousand dollars ($1,320,000) shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state.

(h) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general account.

Approved March 8, 1999.

CHAPTER 43
(H.B. No. 13)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-407, IDAHO CODE, TO DELETE THE REQUIREMENT THAT NONRESIDENT JUVENILES BE AT LEAST FOURTEEN YEARS OF AGE TO PURCHASE A FISHING LICENSE.

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

SECTION 1. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

36-407. NONRESIDENT FISHING, HUNTING, AND TRAPPING LICENSES -- FEES -- RIGHTS UNDER. Licenses of the sixth class shall be issued to nonresidents in the several kinds and for fees as follows:

(a) Nonresident Hunting License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals and predatory birds and animals and to purchase game tags as provided in section 36-409(b), Idaho Code. Provided, that a license may be issued to qualified persons who are eleven (11) years of age to allow the application for a controlled hunt permit; however, said persons shall not hunt until they are twelve (12) years of age. A license of this kind may be had upon payment of one hundred dollars ($100).

(b) Nonresident Season Fishing License. A license entitling a person to fish in the public waters of the state. A license of this kind may be had by persons fourteen (14) years of age or older upon payment of fifty dollars ($50.00).

(c) Nonresident Trapping License. A license entitling a person to trap fur-bearing, unprotected, and predatory animals. A license of this kind may be had upon payment of one hundred and fifty dollars ($150) providing the state of residence of said person grants similar

trapping license privileges to residents of Idaho.

(d) Nonresident Nongame License. A license entitling a person to carry a shotgun or rifle for the protection of livestock, or to pursue, hunt and kill unprotected birds and animals and predatory birds and animals of this state. A license of this kind may be had by a nonresident person who is twelve (12) years of age or older upon payment of fifteen dollars ($15.00). This license shall be valid only during the period of January 1 to August 31 of the calendar year in which issued, unless verified by the director that the licensee requires such a license to authorize him to carry a shotgun or rifle for the protection of livestock, in which case said license shall be valid until December 31 of the year in which issued.

(e) Nonresident Two Day Hunting License. A license issued only to a person twelve (12) years of age or older, entitling the person to hunt upland game birds (to include turkeys), migratory game birds, cottontail rabbits, and pygmy rabbits for any two (2) consecutive days. A person holding this license shall purchase the appropriate required tags and permits, and may not hunt pheasants in an area during the first five (5) days of the pheasant season in that area. A license of this type may be had upon payment of fifty-five dollars ($55.00).

(f) Falconry Meet Permit. The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of ten dollars ($10.00). Only trained raptors may be used under the special permit issued under the provisions of this subsection.

(g) Daily Fishing License -- Resident May Purchase. A license entitling a person to fish in the waters of the state on a day-to-day basis. A license of this kind may be had by a resident or nonresident person (the provisions of section 36-405, Idaho Code, notwithstanding), upon payment of six dollars ($6.00) for the first effective day and three dollars ($3.00) for each consecutive day thereafter.

(h) Nonresident Three Day Fishing License with Steelhead or Salmon Permit. A license entitling a nonresident to fish in the waters of the state for a period of three (3) consecutive days for steelhead trout or anadromous salmon during an open season for those fish may be had upon payment of thirty dollars ($30.00). The three (3) day license holder may fish for and take one (1) steelhead trout and one (1) anadromous salmon or either two (2) steelhead trout or two (2) anadromous salmon subject to the limitations prescribed in this title and rules promulgated by the commission. A nonresident may purchase as many of the licenses provided in this subsection as he desires provided that the nonresident is otherwise eligible to do so. Moneys collected pursuant to this subsection shall be remitted as specified by law.

(i) Nonresident Juvenile Fishing License. A license entitling a nonresident who is ~~fourteen (14) years of age but~~ less than eighteen (18) years of age to fish in the waters of this state at any lawful time and during any open season, except for steelhead trout or anadromous salmon, may be had upon payment of twenty dollars ($20.00). Moneys collected pursuant to this subsection shall be remitted as provided by law.

Approved March 8, 1999.

CHAPTER 44
(H.B. No. 84)

AN ACT

RELATING TO MINES AND MINING; AMENDING SECTION 47-1206, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF REVENUES FROM THE MINE LICENSE TAX TO THE GENERAL FUND AND TO THE ABANDONED MINE RECLAMATION ACCOUNT; AMENDING THE HEADING FOR CHAPTER 17, TITLE 47, IDAHO CODE; AMENDING SECTIONS 47-1701, 47-1702 AND 47-1703, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 47-1704, IDAHO CODE, TO REVISE THE DEFINITION OF "ABANDONED HARDROCK MINE," TO REVISE THE DEFINITION OF "ELIGIBLE MINE," TO REVISE THE DEFINITION OF "HARDROCK MINE," TO DELETE THE DEFINITION OF "MINERAL" AND TO DEFINE "VALUABLE MINERAL"; AND AMENDING SECTIONS 47-1707 AND 47-1708, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE.

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

SECTION 1. That Section 47-1206, Idaho Code, be, and the same is hereby amended to read as follows:

47-1206. PAYMENT OF MINE LICENSE TAX. The license tax imposed herein shall be paid to the state tax commission on or before the due date of the return and the commission shall receipt therefor and promptly turn same over to the state treasurer, as other receipts of its office, and the state treasurer shall place ~~same~~ sixty-six percent (66%) to the credit of the general fund of the state and thirty-four percent (34%) to the credit of the abandoned mine reclamation account created by the provisions of section 47-1703, Idaho Code.

SECTION 2. That the heading for Chapter 17, Title 47, Idaho Code, be, and the same is hereby amended to read as follows:

IDAHO ABANDONED ~~HARDROCK~~ MINE RECLAMATION ACT

SECTION 3. That Section 47-1701, Idaho Code, be, and the same is hereby amended to read as follows:

47-1701. PURPOSE OF ACT. It is the purpose of this act to provide for the reclamation of abandoned ~~hardrock~~ mines on state and federal lands and on certain private lands, thereby protecting human health, safety and welfare, conserving natural resources, aiding in the protection of wildlife, aquatic resources, domestic animals, and reducing soil erosion.

SECTION 4. That Section 47-1702, Idaho Code, be, and the same is hereby amended to read as follows:

47-1702. SHORT TITLE. This act may be known and cited as the "Idaho Abandoned ~~Hardrock~~ Mine Reclamation Act."

SECTION 5. That Section 47-1703, Idaho Code, be, and the same is

hereby amended to read as follows:

47-1703. FUNDING. This ~~act~~ chapter shall govern the use of state and federal moneys specifically appropriated for abandoned ~~hardrock~~ mine reclamation. This ~~act~~ chapter shall not require the state to expend or appropriate state moneys. The board may receive federal funds, state funds, and any other funds, and, within the limits imposed by a specific grant, expend them as directed by this ~~act~~ chapter. All grants, funds, fees, fines, penalties and other uncleared money which has been or will be paid to the state for abandoned ~~hardrock~~ mine reclamation shall be placed in the state treasury and credited to the abandoned ~~hardrock~~ mine reclamation account, which is hereby created. This account shall be available to the board, by legislative appropriation, and shall be expended for the reclamation of lands affected by ~~hardrock~~ eligible mining operations. Any unencumbered and unexpended balance of this account remaining at the end of a fiscal year shall not lapse but shall be carried forward for the purposes of this chapter until expended or until modified by subsequent statute.

SECTION 6. That Section 47-1704, Idaho Code, be, and the same is hereby amended to read as follows:

47-1704. DEFINITIONS. (1) "Abandoned ~~hardrock~~ mine" means a ~~hardrock~~ mine deserted by the operator, having no regular maintenance, and not covered by a valid mining claim.

(2) "Affected land" means the land adjacent to an eligible mine that is, or may be, adversely affected by past mining operations.

(3) "Board" means the state board of land commissioners or such department, commission, or agency as may lawfully succeed to the powers and duties of such board.

(4) "Director" means the head of the department of lands or such officer as may lawfully succeed to the powers and duties of said director.

(5) "Eligible mine" means an abandoned ~~hardrock~~ mine located on land owned by the state or federal government or an abandoned ~~hardrock~~ mine located on private land when the owner of the private land has requested, and the board has granted, designation as an eligible mine.

(6) "~~Hardrock-m~~Mine" means an area where valuable minerals were extracted from the earth and includes all associated development areas including, but not limited to, milling and processing areas, overburden disposal areas, stockpiles, roads, tailings ponds and other areas disturbed at the mining operation site.

(7) ~~"Mineral"--means any mineral not subject to disposition under the mineral leasing act (30 U.S.C. 181 et seq.), the geothermal--steam act--of--1970--(30 U.S.C. 1001 et seq.), the materials act of 1947 (30 U.S.C. 601 et seq.) or the mineral leasing act for acquired lands--(30 U.S.C. 351 et seq.).~~

~~(8)~~ "Operator" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial including, but not limited to, every public or governmental agency engaged in ~~hardrock~~ mining or mineral

exploration operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every governmental agency owning or controlling the use of any ~~hardrock~~ mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any governmental agency with respect to those ~~hardrock~~ mining or mineral exploration operations as to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of this ~~act~~ chapter.

(8) "Valuable mineral" shall have the same meaning as "valuable mineral" defined in section 47-1205, Idaho Code.

SECTION 7. That Section 47-1707, Idaho Code, be, and the same is hereby amended to read as follows:

47-1707. PRIORITIES. Expenditure of funds from the abandoned ~~hardrock~~ mine reclamation account shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, and general welfare from the adverse effects of past ~~hardrock~~ mining practices.

(2) The restoration of land and water resources previously degraded by the adverse effects of past ~~hardrock~~ mining practices.

SECTION 8. That Section 47-1708, Idaho Code, be, and the same is hereby amended to read as follows:

47-1708. INTERAGENCY COORDINATION. The board shall recognize other governmental, educational, and private organizations or agencies which have expertise and information regarding abandoned ~~hardrock~~ mines and affected lands. The board shall characterize, prioritize, and complete reclamation of eligible mines and affected lands in coordination with these agencies. In addition, the board may reasonably compensate them from the abandoned ~~hardrock~~ mine reclamation account for services that the board requests they provide.

Approved March 8, 1999.

CHAPTER 45
(H.B. No. 113)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-501, IDAHO CODE, TO AUTHORIZE THE BREWING OF BEER FROM NATIVE GROWN PRODUCTS FOR PERSONAL USE.

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

SECTION 1. That Section 23-501, Idaho Code, be, and the same is hereby amended to read as follows:

23-501. NATIVE WINE OR BEER FOR PERSONAL USE. Any person shall

have the privilege of manufacturing wine or brewing beer from native grown products for the personal use of himself, family, and guests.

Approved March 8, 1999.

CHAPTER 46
(H.B. No. 138)

AN ACT

RELATING TO TELEPHONE SOLICITATION; AMENDING SECTION 48-1003, IDAHO CODE, TO PROHIBIT A TELEPHONE SOLICITOR FROM UTILIZING ANY DEVICE OR METHOD TO BLOCK OR MISLEAD THE INTENDED RECIPIENT OF THE CALL AS TO THE IDENTITY OF THE SOLICITOR OR THE TRADE NAME OF THE PERSON BEING REPRESENTED BY THE SOLICITOR ON A CALLER IDENTIFICATION TELECOMMUNICATION DEVICE.

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

SECTION 1. That Section 48-1003, Idaho Code, be, and the same is hereby amended to read as follows:

48-1003. UNLAWFUL ACTS. (1) It is an unlawful act for a telephone solicitor to:

(a) Intimidate or torment any person of normal and reasonable sensitivities in connection with a telephone solicitation;

(b) Refuse to hang up and free the purchaser's line immediately once requested to do so by the purchaser;

(c) Misrepresent the price, quality, or availability of the goods or services being offered to the purchaser, or not to disclose all material matters relating directly or indirectly to the offered goods or services;

(d) Advertise, represent, or imply that the person has the approval or endorsement of any government, governmental office, or agency, unless such is the fact;

(e) Advertise, represent, or imply that the person has a valid registration number when the person does not;

(f) Utilize any device or method to block or mislead the intended recipient of the call as to the identity of the solicitor, or the trade name of the person being represented by the solicitor on a caller identification telecommunication device;

(g) Fail to comply with the provisions of section 48-603A, Idaho Code;

(~~g~~h) Violate any applicable provision or requirement of this chapter; and

(~~h~~i) Send an unsolicited advertisement to a telephone facsimile machine.

(2) Any violation of the provisions of this chapter is an unlawful, unfair, and deceptive act or practice in trade or commerce for the purpose of applying the Idaho consumer protection act, chapter 6, title 48, Idaho Code.

Approved March 8, 1999.

CHAPTER 47
(H.B. No. 153, As Amended in the Senate)

AN ACT

RELATING TO CIRCULATORS OF INITIATIVE AND REFERENDUM PETITIONS; AMENDING SECTION 34-1807, IDAHO CODE, TO PROVIDE THAT CIRCULATORS OF INITIATIVE AND REFERENDUM PETITIONS SHALL BE RESIDENTS OF THE STATE OF IDAHO AND SHALL BE AT LEAST EIGHTEEN YEARS OF AGE; REPEALING SECTION 34-1814A, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-1807, Idaho Code, be, and the same is hereby amended to read as follows:

34-1807. CIRCULATION OF PETITIONS ~~BY QUALIFIED ELECTORS~~ -- VERIFICATION OF PETITION AND SIGNATURE SHEETS -- COMPARISON OF SIGNATURES WITH REGISTRATION OATHS AND RECORDS -- CERTAIN PETITIONS AND SIGNATURES VOID. Any person who circulates any petition for an initiative or referendum shall be a ~~qualified elector~~ resident of the state of Idaho and at least eighteen (18) years of age. Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

State of Idaho,
ss.
County of ....

I, ..., being first duly sworn, say: That I am a ~~qualified elector~~ resident of the State of Idaho and at least eighteen (18) years of age: 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, post-office address and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of the county of ....

Signed....
Post-office address ....

Subscribed and sworn to before me this .... day of .....
(Notary Seal) Notary Public....
Residing at ....

In addition to said affidavit the county clerk shall carefully examine said petitions and shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho
ss.
County of ....

To the honorable ...., Secretary of State for the State of Idaho: I, ..., County Clerk of .... County, hereby certify that .... signatures on this petition are those of qualified electors.

Signed ....
County Clerk or Deputy.

(Seal of office)

The county clerk shall deliver the petition or any part thereof to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

Any petition upon which signatures are obtained by a person not a ~~qualified elector~~ resident of the state of Idaho and at least eighteen (18) years of age, shall be void. The definition of resident in section 34-107, Idaho Code, shall apply to the circulators of initiative and referendum petitions. In addition to to being a resident, a petition circulator shall be at least eighteen (18) years of age.

SECTION 2. That Section 34-1814A, Idaho Code, be, and the same is hereby repealed.

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

Approved March 8, 1999.

CHAPTER 48
(S.B. No. 1107)

AN ACT

RELATING TO POWERS OF THE ENDOWMENT FUND INVESTMENT BOARD; AMENDING SECTION 63, CHAPTER 256, LAWS OF 1998, TO PROVIDE THAT THE REPEAL OF SECTION 57-722, IDAHO CODE, AND THE AMENDMENT TO SECTION 57-723, IDAHO CODE, SHALL BE IN FULL FORCE AND EFFECT ON AND AFTER FEBRUARY 15, 1999, TO DELETE REDUNDANT LANGUAGE AND TO PROVIDE DUTIES OF THE STATE CONTROLLER ON JULY 1, 2000; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63, Chapter 256, Laws of 1998, be, and the same is hereby amended to read as follows:

SECTION 63. Sections 38 and 39 of this act shall be in full force and effect on and after February 15, 1999, and the remaining sections of t~~T~~his act shall be in full force and effect on and after July 1, 2000.~~,--provided-the-United-States-Congress-has-approved-amendments--to Section--5--of--the--Idaho--Admission--Bill,-26-Stat.-L.-215,-ch.-656, regarding-sale-or-lease-of-school-lands;-and-the-state-board--of--canvassers--has--certified--that-amendments-to-Sections-3,-4,-8-and-11-of Article-IX-of-the-Constitution-of-the-State-of-Idaho-have-been-adopted at-the-general-election-of-1998-regarding-funds-related-to-the--public school-endowment,-disposition-of-school-lands,-and-investing-of-permanent-endowment-funds.~~

~~Following--the--successful-occurrence-of-the-foregoing-events,-the governor-shall-issue--a--proclamation--declaring--that--the--described~~

~~events--have--occurred-and-the-dates-of-the-events,-and-this-act-shall be-in-full-force-and-effect-on-and-after-the-date-described.~~

~~Upon-enactment,-t~~The state controller shall transfer all fund balances from the improvement funds to the respective earnings reserve funds on July 1, 2000.

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 February 15, 1999.

Approved March 9, 1999.

CHAPTER 49
(H.B. No. 81, As Amended in the Senate)

AN ACT

RELATING TO HAZARDOUS WASTE MANAGEMENT; AMENDING SECTION 39-4427B, IDAHO CODE, TO CLARIFY THAT DRY CLEANERS ARE NOT REQUIRED TO PAY A GENERATOR FEE, TO DEFINE DRY CLEANERS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 39-4427B, Idaho Code, be, and the same is hereby amended to read as follows:

39-4427B. GENERATOR FEES. (1) For any generator generating waste during calendar year 1998, there is imposed a generator fee to be remitted to the department of health and welfare no later than thirty (30) days after the end of calendar year 1998, as follows:

(a) A generator who generates two and two-tenths (2.2) pounds or more of acutely hazardous waste as defined by 40 CFR section 261, in any calendar month, or generates more than two thousand two hundred (2,200) pounds of hazardous waste at any time in a calendar month, shall be subject to an annual fee of two thousand dollars ($2,000);

(b) A generator who generates between two hundred twenty (220) and two thousand two hundred (2,200) pounds of hazardous waste in one (1) calendar month, shall be subject to an annual fee of seven hundred fifty dollars ($750).

(2) The fee set forth in subsection (1) of this section shall not apply to generators who:

(a) Are public or governmental entities; ~~or~~

(b) Are dry cleaners; or

(c) Demonstrate, to the satisfaction of the director of the department, an inability to pay all or a portion of the fee.

(d) For purposes of this section, "dry cleaners" means any generator who owns or operates a business the primary purpose of which is to dry clean apparel and fabrics for the general public, as described in standard industrial classification no. 7216.

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, 1998.

Approved March 9, 1999.

CHAPTER 50
(S.B. No. 1033)

AN ACT

RELATING TO THE EMPLOYMENT OF FIREFIGHTERS; AMENDING SECTION 44-1801, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 44-1812, IDAHO CODE, TO ADOPT MINIMUM MEDICAL AND HEALTH STANDARDS FOR PAID FIREFIGHTERS, TO LOWER THE AGE REQUIREMENT FOR EMPLOYMENT AS A PAID FIREFIGHTER, TO ALLOW LOCAL JURISDICTIONS TO ADOPT PHYSICAL PERFORMANCE STANDARDS, TO ALLOW LOCAL JURISDICTIONS TO ADMINISTER CERTAIN PROVISIONS OF THE SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1333, IDAHO CODE, TO CLARIFY THE ADMINISTRATIVE AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF LABOR REGARDING MEDICAL AND HEALTH STANDARDS FOR PAID FIREFIGHTERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 44-1801, Idaho Code, be, and the same is hereby amended to read as follows:

44-1801. DEFINITIONS. As used in this act the following terms shall have the following meanings:

(~~a~~1) "~~f~~Firefighter" shall mean the paid members, except supervisors, of any regularly constituted fire department in any city, county, fire district or political subdivision within the state. The term "supervisor" means any individual having authority in the interest of an employer to hire, direct, assign, promote, reward, transfer, lay off, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to effectively recommend such action if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; provided, the term "supervisor" shall include only those individuals who perform a preponderance of the above specified acts of authority on a day-to-day basis; and provided further, a supervisor's administrative responsibilities must include demonstrated involvement in policy and budget formulation for the department. Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this act shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either state or local, related to collective bargaining.

(~~b~~2) "~~corporation-authorities~~Corporate authority" shall mean the council, commission, trustees, or any other governing body of any

city, county, fire district or political subdivision whose duty ~~or duties~~ it is to establish wages, ~~salaries, rates of pay,~~ working conditions, and other conditions of employment of firefighters.

SECTION 2. That Section 44-1812, Idaho Code, be, and the same is hereby amended to read as follows:

44-1812. MINIMUM ~~MEDICAL AND HEALTH~~ STANDARDS FOR EMPLOYING PAID FIREFIGHTERS. (1) ~~The term "minimum medical and health standards" means minimum medical and health standards adopted by the director of the department of labor pursuant to this section.~~

~~(2)~~ No person may be employed as a paid firefighter as defined in sections 44-1801(~~a~~1) and 59-1391(f), Idaho Code, ~~may be employed~~ until ~~he~~ that person:

(a) Has met and has been certified by the examining physician selected by the corporate authority as having met the minimum medical and health standards set forth in subsection (4) of this section;

(b) ~~Has successfully passed a physical agility test conducted by an examining physician;~~

~~(c)~~ Is at least ~~nineteen (19)~~ eighteen (18) years of age at the time of appointment; and

(~~d~~c) Has met prescribed physical performance standards as ~~promulgated by the director of the department of labor~~ adopted by the corporate authority.

(~~3~~2) 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~~ be sent to the ~~director of the department of labor~~ corporate authority. Such records shall be furnished prior to the date of active employment of the applicant. If an applicant ~~has failed~~ fails to meet the ~~department's standards for employment as a paid firefighter~~ requirements of subsection (1) of this section, the applicant shall not be eligible for employment and the ~~department~~ corporate authority shall provide notice of ~~the applicant's~~ ineligibility to the ~~employer~~ applicant.

(~~4~~3) Physical examination records shall be a part of the permanent file of the ~~employer~~ corporate authority.

(4) For purposes of this section, the phrase "minimum medical and health standards" shall mean the preplacement medical evaluation provisions of chapter 2-3 of the 1997 edition of NFPA 1582, the standard on medical requirements for firefighters published by the national fire protection association. The cost of the medical examination contemplated by this section is to be paid by the corporate authority, which shall make copies of NFPA 1582 available upon request.

(5) ~~The director of the department of labor shall adopt minimum medical and health standards for employment as a paid firefighter, 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 firefighters 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~~ corporate authority; nor to the reemployment of a paid firefighter by the same or a different ~~employer~~ corporate authority within two (2) years after the termination of his employment; nor to the reinstatement of a paid firefighter 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.

SECTION 3. That Section 72-1333, Idaho Code, be, and the same is hereby amended to read as follows:

72-1333. DEPARTMENT OF LABOR -- AUTHORITY AND DUTIES OF THE DIRECTOR. (1) The director shall administer the employment security law, the minimum wage law, chapter 15, title 44, Idaho Code, the provisions of chapter 6, title 45, Idaho Code, relating to claims for wages, the provisions of section 44-1812, Idaho Code, relating to minimum medical and health standards for paid firefighters, and to perform such other duties relating to labor and workforce development as may be imposed upon him by law. The director shall be the successor in law to the office enumerated in section 1, article XIII, of the constitution of the state of Idaho. The director shall have the authority to employ individuals, make expenditures, require reports, make investigations, perform travel and take other actions deemed necessary. The director shall organize the "department of labor" which is hereby created, and which shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government. The director shall have an official seal which shall be judicially noticed.

(2) The director shall have the authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind rules as he deems necessary for the proper performance of all duties imposed upon him by law.

(3) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system for the department covering all persons, except the director, the division administrators, and two (2) exempt positions to serve at the pleasure of the director.

(4) The director shall make recommendations for amendments to the employment security law and other laws he is charged to implement as he deems proper.

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 11, 1999.

CHAPTER 51
(S.B. No. 1034, As Amended)

AN ACT

RELATING TO CLAIMS FOR WAGES; AMENDING SECTION 44-1508, IDAHO CODE, TO REVISE THE ENFORCEMENT PROVISIONS FOR MINIMUM WAGE CLAIMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-601, IDAHO CODE, TO ADD DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-602, IDAHO CODE, TO REVISE THE PREFERENCE FOR EMPLOYEES' WAGES AND TO CORRECT TERMINOLOGY; AMENDING SECTION 45-603, IDAHO CODE, TO REVISE THE PREFERENCE FOR WAGES UPON THE DEATH OF THE EMPLOYER AND TO CORRECT TERMINOLOGY; AMENDING SECTION 45-604, IDAHO CODE, TO CORRECT TERMINOLOGY; AMENDING SECTION 45-605, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-606, IDAHO CODE, TO REVISE REQUIREMENTS FOR THE PAYMENT OF WAGES UPON SEPARATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-607, IDAHO CODE, TO REVISE THE PENALTY PROVISIONS FOR FAILURE TO PAY WAGES; AMENDING SECTION 45-608, IDAHO CODE, TO REVISE REQUIREMENTS FOR PAY PERIODS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-609, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-610, IDAHO CODE, TO REVISE REQUIREMENTS FOR RECORDKEEPING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-611, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 45-612, IDAHO CODE, TO DELETE OBSOLETE REFERENCES; AMENDING SECTION 45-613, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS AND TO PROVIDE CORRECT REFERENCES; AMENDING SECTION 45-614, IDAHO CODE, TO PROVIDE THAT A WAGE CLAIM MAY BE FILED IN THE DEPARTMENT OR IN COURT AND TO DELETE CONFLICTING LANGUAGE; REPEALING SECTION 45-615, IDAHO CODE; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-615, IDAHO CODE, TO PROVIDE FOR THE COLLECTION OF WAGES BY SUIT AND TO PROVIDE FOR ATTORNEY'S FEES AND COSTS; AMENDING SECTION 45-616, IDAHO CODE, TO CORRECT TERMINOLOGY, TO PROVIDE FOR RETENTION IN THE DEPARTMENT'S ACCOUNT OF UNCLAIMED WAGES AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 45-617, IDAHO CODE; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-617, IDAHO CODE, TO PROVIDE ADMINISTRATIVE PROCEDURES FOR WAGE CLAIMS; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-618, IDAHO CODE, TO PROVIDE FOR ADMINISTRATIVE ENFORCEMENT AND COLLECTION OF WAGE CLAIMS; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-619, IDAHO CODE, TO PROVIDE FOR JUDICIAL REVIEW; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-620, IDAHO CODE, TO ALLOW THE DEPARTMENT TO FILE LIENS TO COLLECT WAGE CLAIMS; AMENDING CHAPTER 6, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 45-621, IDAHO CODE, TO PROVIDE PROCEDURES FOR THE COLLECTION OF AMOUNTS SECURED BY LIENS; AMENDING SECTION 45-1901, IDAHO CODE, TO INCLUDE LIENS OF THE DEPARTMENT IN THE LIST OF STATE LIENS; AMENDING SECTION 45-1902, IDAHO CODE, TO REVISE THE DEFINITION OF A DEBTOR; AMENDING SECTION 45-1903, IDAHO CODE, TO INCLUDE A CODE REFERENCE; AMENDING SECTION 45-1904, IDAHO CODE, TO PROVIDE FOR WAGE CLAIMS IN A NOTICE OF LIEN; AND AMENDING SECTION 45-1905, IDAHO CODE, TO INCLUDE WAGE CLAIMS WITHIN THE SCOPE OF THE SECTION.

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

SECTION 1. That Section 44-1508, Idaho Code, be, and the same is hereby amended to read as follows:

44-1508. ENFORCEMENT. (1) When the director of the department of labor has reason to believe that an employer is engaged in an act or practice which violates or will violate a provision of chapter 15, title 44, Idaho Code, he may bring an action in a court of competent jurisdiction to enjoin the act or practice, and to enforce compliance with the provisions of chapter 15, title 44, Idaho Code. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(2) A claim for unpaid minimum wages as set forth in section 44-1502, Idaho Code, may be treated as a claim for wages due and owing under chapter 6, title 45, Idaho Code. ~~Enforcement or suit under chapter 6, title 45, Idaho Code, for unpaid minimum wages may be commenced by the employee or employees affected, or by the department of labor whether a wage claim has been filed with the department or not.~~ Such claim shall not be subject to the limitation contained in section 45-61~~5~~7(1), Idaho Code~~, if brought by the department of labor~~. Any action for such wages must be commenced in a court of competent jurisdiction within two (2) years after the cause of action shall have accrued.

SECTION 2. That Section 45-601, Idaho Code, be, and the same is hereby amended to read as follows:

45-601. DEFINITIONS. Whenever used in this chapter:

(1~~.~~) "Claimant" means an employee who filed a wage claim with the department in accordance with this chapter and as the director may prescribe.

(2) "Department" means the department of labor.

(3) "Director" means the director of the department of labor. ~~of the state of Idaho.~~

~~2.~~(4) "Employee" means any person suffered or permitted to work by an employer.

~~3.~~(5) "Employer" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person.

(6) "Wage claim" means an employee's claim against an employer for compensation for the employee's own personal services, and includes any wages, penalties, or damages provided by law to employees with a claim for unpaid wages.

~~4.~~(7) "Wages" means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece or commission basis.

SECTION 3. That Section 45-602, Idaho Code, be, and the same is hereby amended to read as follows:

45-602. WAGES OF ~~SERVANTS AND LABORERS~~ EMPLOYEES PREFERRED. In

all assignments of property made by any person to trustees or assignees, or in proceedings in insolvency, ~~the~~ an employee's wages ~~of--the miners,-mechanics,-salesmen,-servants,-clerks-or-laborers~~ for services rendered within sixty (60) days ~~next~~ preceding such assignment, not exceeding ~~one~~ five hundred ~~fifty~~ dollars ($~~150~~0), ~~are~~ is a preferred claim~~s~~, and must be paid by such trustees or assignees before any creditor or creditors of the assignor or insolvent debtor~~:~~; provided, that whenever any such ~~miner,-mechanic,-salesman,-servant, clerk-or-laborer~~ employee has filed a notice of lien against any property of the assignor, ~~he~~ the employee may elect between the provisions of this section and ~~his~~ the employee's lien.

SECTION 4. That Section 45-603, Idaho Code, be, and the same is hereby amended to read as follows:

45-603. PREFERENCE OF WAGES -- DEATH OF EMPLOYER. In case of the death of any employer, the wages of each ~~miner,--mechanic,--salesman, clerk,--servant-and-laborer,~~ employee for services rendered within the sixty (60) days ~~next~~ preceding the death of the employer, not exceeding ~~one~~ five hundred ~~fifty~~ dollars ($~~150~~0), rank in priority next after the funeral expenses~~;~~, expenses of the last sickness~~;~~, the charges and expenses of administering ~~upon~~ the estate, and the allowance of the ~~widow~~ surviving spouse and ~~infant~~ minor children, and must be paid before any other claims against the estate of the deceased person.

SECTION 5. That Section 45-604, Idaho Code, be, and the same is hereby amended to read as follows:

45-604. PREFERENCE OF WAGES ON EXECUTION AND ATTACHMENT. In cases of executions, attachments and writs of similar nature, issued against any person or his property, except for claims for labor done, any ~~miners,-mechanics,-salesmen,-servants,-clerks-or-laborers,~~ employee who ~~have~~ has claims against the defendant for labor done upon the property levied on, may give notice of their claim and the amount thereof, sworn to by the person making the claim, to the creditor or ~~his~~ the creditor's agent or attorney and to the officer executing any of such writs, at any time before the actual sale of the property levied upon; and, unless such claim is disputed by the debtor or creditor, such officer must pay to such person out of the proceeds of the sale of any property on which such person has bestowed labor, the amount ~~he~~ such person is entitled to receive for his services rendered within the sixty (60) days ~~next~~ preceding the levy of the writ. If any or all other claims so presented and claiming preference under this section are disputed by either the debtor or a creditor, the person presenting the same must commence an action within ten (10) days for the recovery thereof, and must prosecute ~~his~~ the action with due diligence or be forever barred from any claim of priority of payment thereof, and the officer shall retain possession of so much of the proceeds of the sale as may be necessary to satisfy such claim until the determination of such action, and in case judgment be had for the claim or any part thereof, carrying costs, the costs taxable therein shall likewise be a preferred claim with the same rank as the original claim.

SECTION 6. That Section 45-605, Idaho Code, be, and the same is hereby amended to read as follows:

45-605. DEBTOR OR CREDITOR MAY DISPUTE CLAIM. The debtor or creditor intending to dispute a claim presented under the provisions of ~~the last~~ section 45-604, Idaho Code, shall, within ten (10) days after receiving notice of such claim, serve upon the claimant and the officer executing the writ, a statement in writing, verified by the oath of the debtor, or his agent or attorney, or the oath of the person disputing such claim, or his agent or attorney, setting forth that no part of said claim, or not exceeding a sum specified, is justly due from the debtor to the claimant for services rendered within the sixty (60) days ~~next~~ preceding the levy of the writ. If the claimant brings suit on a claim which is disputed in part only, and fails to recover a sum exceeding that which was admitted to be due, ~~he~~ the claimant shall not recover costs, but costs shall be adjudged against ~~him~~ the claimant.

SECTION 7. That Section 45-606, Idaho Code, be, and the same is hereby amended to read as follows:

45-606. PAYMENT OF WAGES UPON SEPARATION FROM EMPLOYMENT. (1~~.~~) Upon layoff, or upon termination of employment by either the employer or employee, the employer shall pay or make available at the usual place of payment all wages then due the employee by the earlier of the next regularly scheduled payday or within ten (10) days of such layoff or termination, weekends and holidays excluded. However, if the employee makes written request upon the employer for earlier payment of wages, all wages then due the employee shall be paid within forty-eight (48) hours of the receipt of such request, weekends and holidays excluded.

(2~~.~~) Unless exempt from the minimum wage requirements of chapter 15, title 44, Idaho Code, employees who are not being paid on an hourly or salary basis must be paid at least the applicable minimum wage for all hours worked in the pay period immediately preceding layoff or termination from employment. The minimum wage payment shall be made within the same time limitations provided for in subsection (1) of this section. Any additional wages owed to employees shall be paid by the next regularly schedule payday.

(3) The director ~~of the department of labor~~ may, upon application showing good and sufficient reasons, grant an employer a temporary extension to any time limitation provided in this section.

SECTION 8. That Section 45-607, Idaho Code, be, and the same is hereby amended to read as follows:

45-607. PENALTY FOR FAILURE TO PAY. Whenever an employer fails to pay all wages then due an employee at the times due under section 45-606, Idaho Code, then the employee's ~~regular~~ wages ~~he would have been entitled to had he rendered services in the manner as last employed,~~ shall continue at the same rate ~~from the day wages are due~~ as if services had been rendered in the manner as last employed until paid in full or for ~~thirty (30)~~ fifteen (15) days, whichever is less.

However, in no event can the maximum penalty exceed seven hundred fifty dollars ($750), and if the full amount of the wages are paid prior to the filing of a lien pursuant to section 45-620, Idaho Code, the maximum penalty shall not exceed five hundred dollars ($500).

~~No~~ Any employee who secretes or absents himself to avoid payment, or refuses to receive ~~the same~~ payment when made available as provided for in section 45-606, Idaho Code, shall not be entitled to any penalty under this chapter.

~~Every employee shall have such lien and all other rights and remedies--for the protection and enforcement of such unpaid wages and penalties as he would have been entitled--to--had--he--rendered--services therefor--in--the manner as last employed, including costs of suit and reasonable attorney's fees if a demand is made, in writing,--at--least five--(5)--days--before--suit--is brought, for a sum not to exceed the amount found due by decision of the court or verdict of the jury.~~

SECTION 9. That Section 45-608, Idaho Code, be, and the same is hereby amended to read as follows:

45-608. PAY PERIODS -- PENALTY. (1~~.~~) ~~Every e~~Employers shall pay all wages due to ~~his~~ their employees at least once during each calendar month, on regular paydays designated in advance by the employer, in lawful money of the United States or with checks on banks where suitable arrangements are made for the cashing of such checks without charge to the employee. Nothing contained herein shall prohibit an employer from depositing wages due or to become due or an advance ~~on~~ of wages to be earned in an account in a bank, savings and loan association or credit union of the employee's choice, ~~in the state,~~ provided that the employee has voluntarily authorized such deposit. If the employee revokes such authorization for deposit, it shall be deemed terminated and the provisions herein relating to the payment of wages shall apply.

(2~~.~~) The end of the pay period for which payment is made on a regular payday shall be not more than ~~ten (10)~~ fifteen (15) days before such regular payday; provided that if the regular payday falls on a nonworkday payment shall be made on a preceding workday.

(3~~.~~) The director may, upon application showing good and sufficient reasons, permit an employer to withhold payment of wages more than the ~~ten (10)~~ fifteen (15) day period as specified in subsection (2) of this section.

(4~~.~~) The director may, pursuant to his authority, levy a civil penalty upon any employer who has failed to obtain the exemption provided in subsection (3) of this section and who has been ~~duly~~ determined to have undertaken a consistent pattern of untimely payment of wages to his employees. Such penalty shall not exceed five hundred dollars ($500) for such employer per pay period.

SECTION 10. That Section 45-609, Idaho Code, be, and the same is hereby amended to read as follows:

45-609. WITHHOLDING OF WAGES. (1) No employer may withhold or divert any portion of an employee's wages unless:

~~1.~~(a) The employer is required or empowered to do so by state or

federal law~~,~~; or

~~2.~~(b) The employer has a written authorization ~~by~~ from the employee for deductions for a lawful purpose.

(2) An employer shall furnish each employee with a statement of deductions made from ~~his~~ the employee's wages for each pay period such deductions are made. The willful failure of any employer to comply with the provisions of this subsection shall constitute a misdemeanor.

SECTION 11. That Section 45-610, Idaho Code, be, and the same is hereby amended to read as follows:

45-610. RECORDS TO BE KEPT BY EMPLOYER -- NOTICE TO EMPLOYEES. (1~~.~~) Employment records must be maintained for a minimum period of ~~two (2)~~ three (3) years from the last date of the employee's service.

(2~~.~~) Every employer shall ~~notify his~~ give notice to its employees at the time of hiring of the rate of pay and the usual day of payment, and shall provide such information in writing to the employee upon the employee's request.

(3~~.~~) Every employer shall ~~notify his~~ give notice to its employees of any reduction in wages~~,~~ prior to the work being performed and shall provide such information in writing to the employee upon the employee's request.

SECTION 12. That Section 45-611, Idaho Code, be, and the same is hereby amended to read as follows:

45-611. WAGES THAT ARE IN DISPUTE. (1~~.~~) In case of a dispute as to the amount of wages due an employee, the employer shall pay, without condition and within the time set by this chapter, all wages, or parts thereof, conceded by the employer to be due, leaving to the employee all remedies ~~he~~ the employee might otherwise be entitled to, including those provided under this chapter, as to any balance claimed. Whenever an employer ~~shall~~ pays all wages not in dispute within the time limits set forth in section 45-606, Idaho Code, ~~then~~ no penalties may be assessed under this chapter, unless it can be shown that the remaining balance of wages due were withheld willfully, arbitrarily and without just cause.

(2~~.~~) The acceptance by an employee of a check with any restrictive endorsement as payment under this section shall not constitute a release or accord and satisfaction with respect to the disputed amount.

SECTION 13. That Section 45-612, Idaho Code, be, and the same is hereby amended to read as follows:

45-612. FILING FALSE CLAIM -- PENALTY. (1) Any person making a false claim for wages or other compensation under this chapter, knowing the same to be false, shall be guilty of a misdemeanor and shall be punishable by confinement in the county jail for a period not to exceed six (6) months, or by a fine, not to exceed one thousand dollars ($1,000), or both.

(2) Any employee initiating a civil proceeding to collect unpaid wages or other compensation, ~~either on his own behalf or through the~~

~~director,~~ which is based in whole or in part on a false claim which the employee knew to be false at the time the employee brought the action, ~~or filed a claim with the director,~~ shall be liable for attorney's fees and costs incurred by the employer in defending against the false claim~~, as well as any attorney's fees and costs, or other administrative costs incurred by the director in any investigation of or proceeding to collect the wages or other compensation falsely claimed by the employee~~. Proof of a criminal conviction under subsection (1) of this section shall not be required for recovery of the fees and costs provided for in this subsection.

SECTION 14. That Section 45-613, Idaho Code, be, and the same is hereby amended to read as follows:

45-613. DISCHARGING OR RETALIATING AGAINST EMPLOYEES ASSERTING RIGHTS UNDER THIS CHAPTER. No employer shall discharge or in any other manner retaliate against any employee because that employee has made a complaint to ~~his~~ the employer, or to the ~~director or his authorized representative,~~ department, or filed suit alleging that ~~he~~ the employee has not been paid in accordance with the provisions of this chapter, or because the employee has testified or may be about to testify in an investigation or hearing undertaken by the department. ~~of labor.~~ The provisions of this section shall not be construed to otherwise restrict the discipline or termination of an employee.

SECTION 15. That Section 45-614, Idaho Code, be, and the same is hereby amended to read as follows:

45-614. COLLECTION OF WAGES -- LIMITATIONS. Any person shall have the right to collect ~~salary,~~ wages, ~~overtime compensation,~~ penalties and liquidated damages provided by any law or pursuant to a contract of employment, but any action thereon shall be filed either with the department or commenced in a court of competent jurisdiction within two (2) years after the cause of action ~~shall have~~ accrued, provided, however, that in the event salary or wages have been paid to any employee and such employee claims additional salary, wages, ~~overtime compensation,~~ penalties or liquidated damages, because of work done or services performed during his employment for the pay period covered by said payment, any action therefor shall be commenced within six (6) months from the accrual of the cause of action. It is further provided that if any such cause of action has accrued prior to the effective date of this act, and is not barred by existing law, action thereon may be commenced within six (6) months from the effective date of this act. In the event an action is not commenced as herein provided, any remedy on the cause of action shall be forever barred. ~~The limitation periods provided herein shall be tolled during the time a claim is pending before the director pursuant to section 45-616, Idaho Code, for a period not to exceed six (6) months.~~

SECTION 16. That Section 45-615, Idaho Code, be, and the same is hereby repealed.

SECTION 17. That Chapter 6, Title 45, Idaho Code, be, and the

same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-615, Idaho Code, and to read as follows:

45-615. COLLECTION OF WAGE CLAIMS BY SUIT -- ATTORNEY'S FEES AND COSTS. (1) As an alternative to filing a wage claim with the department, any person may assert a wage claim arising under this chapter in any court of competent jurisdiction or pursue any other remedy provided by law.

(2) Any judgment rendered by a court of competent jurisdiction for the plaintiff in a suit filed pursuant to this section may include all costs and attorney's fees reasonably incurred in connection with the proceedings and the plaintiff shall be entitled to recover from the defendant either the unpaid wages plus the penalties provided for in section 45-607, Idaho Code; or damages in the amount of three (3) times the unpaid wages found due and owing, whichever is greater.

SECTION 18. That Section 45-616, Idaho Code, be, and the same is hereby amended to read as follows:

45-616. ENFORCEMENT. (1~~.~~) The director shall enforce and administer the provisions of this chapter. ~~and t~~The director ~~or his authorized representatives are~~ is empowered to hold hearings and otherwise ~~to~~ investigate violations or alleged violations of this chapter and any rules ~~and regulations in force~~ promulgated pursuant thereto, and ~~further,~~ to issue orders for administrative remedies as authorized.

(2~~.~~) The director ~~or his authorized representatives are~~ is empowered to enter and inspect ~~such~~ places, question ~~such~~ employees, and investigate ~~such~~ facts, conditions, or matters as ~~they~~ the director may deem appropriate to determine whether any person has violated any provision of this chapter or any rule ~~or regulation issued~~ promulgated thereunder or which may aid in the enforcement of the provisions of this chapter.

(3~~.~~) The director ~~or his authorized representative~~ shall have the power to administer oaths and examine witnesses under oath or otherwise, and issue ~~compulsory process~~ subpoenas to compel the attendance of witnesses~~,~~ and the production of ~~papers, books, accounts, records, payrolls, documents, and testimony, and to take depositions and affidavits~~ any evidence deemed necessary in the administration of this chapter.

(4~~.~~) ~~In case of failure of~~ If any person fails to comply with any ~~compulsory process~~ subpoena lawfully issued, it shall be the duty of the district court, on application by the director, to compel compliance by citation for contempt.

(5~~.~~) An employer shall furnish to the department the information ~~it~~ the department is authorized to acquire under this section when the request is submitted in writing.

(6) The department shall attempt for a period of not less than two (2) years from the date of collection, to make payment of wages collected under this chapter to the person entitled thereto. Wage claims collected by the department that remain unclaimed for a period of more than two (2) years from the date collected shall on June 30th

of each year be forfeited and retained in the department's account and used for the administration of this chapter.

SECTION 19. That Section 45-617, Idaho Code, be, and the same is hereby repealed.

SECTION 20. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-617, Idaho Code, and to read as follows:

45-617. ADMINISTRATIVE PROCEEDINGS FOR WAGE CLAIMS. (1) Wage claims filed with the department, excluding potential penalties, are limited by the same dollar amount that limits actions before the small claims department of the magistrate's division of the district court.

(2) The contested case provisions of the Idaho administrative procedures act, chapter 52, title 67, Idaho Code, are inapplicable to proceedings involving wage claims under this chapter.

(3) Once a wage claim has been properly filed with the department, the provisions of this section shall provide the exclusive remedy for resolving the wage claim. If at any time after the filing of the wage claim the department determines that it lacks jurisdiction over the wage claim, the department shall provide written notification of its determination to the claimant and the employer. The claimant may then assert the wage claim in any court of competent jurisdiction. In the event the department determines that it lacks jurisdiction over the wage claim, the limitation periods provided for in section 45-614, Idaho Code, shall be tolled from the date the wage claim was filed with the department until the date notice that the department lacks jurisdiction is mailed to the claimant, as provided in subsection (5) of this section.

(4) A department compliance officer shall examine wage claims filed with the department and, on the basis of the facts found, shall determine whether the wage claimant is entitled to an award for unpaid wages and penalties. If the compliance officer is unable to determine whether wages and penalties are owed, the claim may be referred to a hearing officer for a determination. The department may adjust the amount of penalties awarded for an employer's failure to comply with the requirements of section 45-606, Idaho Code. The department may award no penalty, or may award a penalty in any amount up to the maximum amount allowed under section 45-607, Idaho Code. No penalty shall be awarded by the department unless a specific finding is made that wages were withheld willfully, arbitrarily and without just cause. The department's determination shall include findings of fact and conclusions of law. Before the determination becomes final or an appeal is filed, the compliance or hearing officer that issued the determination may, on their own motion, issue a revised determination. The determination or revised determination shall become a final determination unless, within fourteen (14) days after notice, as provided in subsection (5) of this section, an appeal is filed by the claimant or the employer with the department. If an appeal is not timely filed, the amount awarded by a final determination shall become immediately due and payable to the department. A final determination may be enforced

by the department in accordance with section 45-618, Idaho Code.

(5) The claimant and the employer shall be entitled to prompt service of notice of determinations and decisions. A notice shall be deemed served if delivered to the person being served or if mailed to his last known address. Service by mail shall be deemed complete on the date of mailing. The date indicated on department determinations or decisions as the "date of mailing" shall be presumed to be the date the document was deposited in the United States mail, unless otherwise shown by a preponderance of competent evidence.

(6) An appeal from a wage claim determination shall be in writing, signed by the appellant or the appellant's representative and shall contain words that, by fair interpretation, request the appeal process for a specific determination of the department. The appeal may be filed by personal delivery, by mail, or by fax to the wage and hour section of the department at the address indicated on the wage claim determination. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark. A faxed appeal that is received by the wage and hour section by 5:00 p.m. on a business day shall be deemed filed on that date. A faxed appeal that is received by the wage and hour section on a weekend, holiday or after 5:00 p.m. on a business day shall be deemed filed on the next business day.

(7) To hear and decide appeals from determinations, the director shall appoint appeals examiners who have been specifically trained to hear wage claims. Unless the appeal is withdrawn, the appeals examiner shall affirm, modify, set aside or reverse the determination involved, after affording the claimant and the employer reasonable opportunity for a fair hearing, or may refer a matter back to the compliance or hearing officer for further action. The appeals examiner shall notify the claimant and the employer of his decision by serving notice in the same manner as provided in subsection (5) of this section. The decision shall set forth findings of fact and conclusions of law. The appeals examiner may, either upon application for rehearing by the claimant, the employer, or on his own motion, rehear, affirm, modify, set aside or reverse any prior decision on the basis of the evidence previously submitted or on the basis of additional evidence; provided, that such application or motion be made within ten (10) days after the date of service of the decision. A complete record shall be kept of all proceedings in connection with an appealed wage claim. All testimony at any hearing shall be recorded. Witnesses subpoenaed by the appeals examiner shall be allowed fees at a rate prescribed by the director. If the claimant or the employer formally requests the appeals examiner to issue a subpoena for a witness whose evidence is deemed necessary, the appeals examiner shall promptly issue the subpoena, unless such request is determined to be unreasonable. Unless the claimant or the employer, within fourteen (14) days after service of the decision of the appeals examiner, seeks judicial review pursuant to section 45-619, Idaho Code, or unless an application or motion is made for a rehearing of such decision, the decision of the appeals examiner shall become final and the amount awarded by the decision shall become immediately due and payable to the department. A decision that has become final may be enforced by the department according to

section 45-618, Idaho Code.

(8) No person acting on behalf of the director shall participate in any case in which he has a direct or indirect personal interest.

(9) (a) Any right, fact, or matter in issue, directly based upon or necessarily involved in a determination or decision of the appeals examiner which has become final, shall be conclusive for all the purposes of this chapter as between the claimant and the employer who had notice of such determination or decision. Subject to judicial review as set forth in this chapter, any determination or decision shall be conclusive for all purposes of this chapter and shall not be subject to collateral attack irrespective of notice.

(b) No finding of fact or conclusion of law contained in a determination or decision rendered pursuant to this chapter by an appeals examiner, a court, or any other person authorized to make such determinations shall have preclusive effect in any other action or proceeding, except proceedings that are brought:

(i) Pursuant to this chapter;

(ii) To collect wage claims; or

(iii) To challenge the constitutionality of provisions of this chapter or administrative proceedings under this chapter.

SECTION 21. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-618, Idaho Code, and to read as follows:

45-618. ADMINISTRATIVE ENFORCEMENT AND COLLECTION OF WAGE CLAIMS. (1) A department determination, if not appealed to an appeals examiner; or a decision of the appeals examiner, if judicial review is not sought; or a court order following judicial review, may be enforced by the department according to section 45-620, Idaho Code.

(2) If at any time the department determines, in its sole discretion, that a wage claim upon which a lien was filed pursuant to section 45-620, Idaho Code, is no longer collectable, the department shall:

(a) Transfer the state lien from the central lien filing system of the secretary of state to the district court in the county of the debtor's last known address. A lien transferred pursuant to this subsection shall be entered in the judgment docket of the district court and recorded as a transferred lien with the effective date of the lien being the date it was initially filed with the secretary of state.

(b) Notify the claimant in writing, at the claimant's last known address, that the lien has been transferred and advise the claimant that no further action will be maintained by the department on the wage claim, and that from the date of the transfer, it shall be the claimant's sole responsibility to maintain and enforce the lien.

(3) A lien transferred pursuant to this section shall be enforceable by the claimant in the same manner and with the same effect as if the lien had been a judgment of the district court.

SECTION 22. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-619, Idaho Code, and to read as follows:

45-619. JUDICIAL REVIEW. (1) A claimant or employer aggrieved by a final decision of the appeals examiner may obtain judicial review of the decision pursuant to the provisions of chapter 52, title 67, Idaho Code, and the provisions of this section.

(2) If the employer files a petition for judicial review in a court of competent jurisdiction contesting the appeals examiner's decision, the employer, not later than the twenty-eighth day after the date the appeals examiner's decision became final, shall either:

(a) Deposit the full amount awarded to the claimant with the department, to be placed by the department in an interest-bearing escrow account of a fully insured financial institution; or

(b) Post a bond, written by a fidelity, surety, guaranty, title or trust company authorized to do business in the state of Idaho. The bond must be in the full amount of the appeals examiner's decision and shall state that the company issuing or executing the bond agrees to pay to the department on behalf of the employer all sums found to be due and owing by the employer by reason of the outcome of the appeal, within thirty (30) days of the filing of the court's decision. A copy of the bond shall be served upon the department and the claimant; or

(c) File an affidavit of inability to either post a bond or send to the department the amount awarded to the claimant.

(3) The employer's failure to timely post a bond or send the amount required by subsection (2) of this section shall constitute a waiver of the right to judicial review.

(4) If, after judicial review, it is determined that some or all of the wages are not owed or the penalty is reduced or is not assessed, the department shall remit the appropriate amount to the employer, plus the interest accrued on the escrowed amount, or collect from the bond only the amount awarded by the court on appeal, up to the maximum amount of the bond.

SECTION 23. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-620, Idaho Code, and to read as follows:

45-620. LIENS. (1) Upon the failure of any person to pay any amount when due pursuant to section 45-617, Idaho Code, the department may file with the office of the secretary of state, as provided in chapter 19, title 45, Idaho Code, a notice of lien.

(2) Upon delivery to the secretary of state, the notice of lien shall be filed and maintained in accordance with chapter 19, title 45, Idaho Code. When such notice is duly filed, all amounts due shall constitute a lien upon the entire interest, legal or equitable, in any property of such person, real or personal, tangible or intangible, not exempt from execution, situated in the state. Such lien may be enforced by the director or by any sheriff of the various counties in

the same manner as a judgment of the district court duly docketed and the amount secured by the lien shall bear interest at the rate of the state statutory legal limit on judgments. The foregoing remedy shall be in addition to all other remedies provided by law.

(3) In any suit or action involving the title to real or personal property against which the state has a perfected lien, the state shall be made a party to such suit or action.

SECTION 24. That Chapter 6, Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 45-621, Idaho Code, and to read as follows:

45-621. COLLECTION OF LIEN AMOUNTS. (1) In addition to all other remedies or actions provided by this chapter, it shall be lawful for the director or his agent to collect any amounts secured by liens created pursuant to this chapter by seizure and sale of the property of any person liable for such amounts who fails to pay the same within thirty (30) days from the mailing of notice and demand for payment thereof.

(2) Property exempt from seizure shall be the same property that is exempt from execution as otherwise allowed by law.

(3) In exercising his authority under subsection (1) of this section, the director may levy, or by his warrant, authorize any of his representatives, a sheriff or deputy to levy upon, seize and sell any nonexempt property belonging to any person liable for the amounts secured by the lien.

(4) When a warrant is issued by the department for the collection of any amount due pursuant to a lien authorized by this chapter, it shall be directed to any authorized representative of the department, or to any sheriff or deputy, and any such warrant shall have the same force and effect as a writ of execution. It may be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy and sale pursuant to a writ of execution. Upon the completion of his services pursuant to said warrant, the sheriff or deputy shall receive the same fees and expenses as are provided by law for services related to a writ of execution. All such fees and expenses shall be an obligation of the person liable for the amounts due and shall be collected from such person by virtue of the warrant. Any warrant issued by the director shall contain, at a minimum, the name and address of the liable person; the nature of the underlying liability; the date the liability was incurred; the amount of the liability secured by the lien; the amount of any penalty, interest or other amount due under the lien; and the interest rate on the lien.

(5) Whenever any property that is seized and sold by virtue of the foregoing provisions is not sufficient to satisfy the claim of the state for which seizure is made, any other property subject to seizure shall be seized and sold until the amount due from such person, together with all expenses, is fully paid.

(6) All persons are required, on demand of a representative of the department, a sheriff or deputy acting pursuant to this chapter, to produce all documentary evidence and statements relating to the property or rights in the property subject to seizure.

(7) Upon the filing of a state lien pursuant to section 45-620, Idaho Code, the department may collect on the lien in the same manner and to the same extent as the department collects tax liabilities and overpayment of benefits as provided by section 63-3077A, Idaho Code.

SECTION 25. That Section 45-1901, Idaho Code, be, and the same is hereby amended to read as follows:

45-1901. PURPOSE AND SCOPE. (1) The purpose of this chapter is to provide a system for filing notices of liens in favor of or enforced by the state of Idaho with the office of the secretary of state.

(2) The scope of this chapter is limited to liens in the real and personal property of:

(a) Taxpayers or other persons against whom the state tax commission has liens pursuant to title 63, Idaho Code, for unpaid personal or corporation income tax, sales tax, employee withholding taxes, fuel tax, or any other amounts due under statutes administered by the commission, plus interest, penalties and additional amounts;

(b) Persons against whom the department of labor has liens pursuant to chapter 13, title 72, Idaho Code, for unpaid employment security contributions, plus interest and penalties;

(c) Persons liable for overpayment of benefits against whom the department of labor has liens pursuant to chapter 13, title 72, Idaho Code, for overpayment of benefits, plus interest;

(d) Persons against whom the department of labor has liens for wage claims pursuant to chapter 6, title 45, Idaho Code;

(e) Individuals who are subject to liens for child support delinquency pursuant to chapter 12, title 7, Idaho Code; and

(~~e~~f) Individuals who are subject to liens pursuant to chapter 2, title 56, Idaho Code, for medical assistance, or the estates of such individuals.

SECTION 26. That Section 45-1902, Idaho Code, be, and the same is hereby amended to read as follows:

45-1902. DEFINITIONS. (1) "Debtor" means a taxpayer or other person against whom there is a final unpaid tax assessment collectible by the state tax commission, a person against whom the department of labor has a lien for a wage claim, unpaid contributions or overpayment of benefits, an individual who is subject to a lien for child support delinquency, or an individual who is subject to a lien for medical assistance.

(2) "Delivered" means transmission to and receipt by the secretary of state of a notice of lien or other notice in any medium to which the filing agency and the secretary of state have agreed.

(3) "Filing agency" means the state tax commission, the department of labor or the department of health and welfare.

(4) "Person" means an individual, organization or legal entity.

SECTION 27. That Section 45-1903, Idaho Code, be, and the same is hereby amended to read as follows:

45-1903. CREATION OF LIEN -- ATTACHMENT. Creation and attachment of liens for which notices are filed pursuant to this chapter are governed by the provisions of chapter 6 of title 45, title 63, chapter 13 of title 72, chapter 12 of title 7, and chapter 2 of title 56, Idaho Code.

SECTION 28. That Section 45-1904, Idaho Code, be, and the same is hereby amended to read as follows:

45-1904. NOTICE OF LIEN -- CONTENT -- DELIVERY. (1) The notice of lien shall include:

(a) The name and last known address of the debtor;

(b) The name and address of the filing agency;

(c) The basis for the lien, including, but not limited to, income tax, sales tax, employment security contributions, payments in lieu of contributions, overpayment of benefits, wage claims, a child support delinquency or medical assistance;

(d) Such other information as may be required by the relevant provisions under which the lien was created and attached, or as may be agreed by the filing agency and the secretary of state.

(2) The notice of lien will be delivered to and receipt will be acknowledged by the secretary of state in a medium and format to which the filing agency and the secretary of state have agreed.

(3) Each notice of lien shall be authenticated by the filing agency in a manner to which the filing agency and the secretary of state have agreed.

(4) A notice of lien is filed when it complies with subsection (1) of this section and has been delivered to and receipt acknowledged by the secretary of state.

SECTION 29. That Section 45-1905, Idaho Code, be, and the same is hereby amended to read as follows:

45-1905. EFFECT OF NOTICE -- PRIORITY. (1) When a notice of lien is filed, the state lien is perfected in all of the existing and after-acquired property of the debtor, both real and personal, tangible and intangible, to which the lien attaches pursuant to the relevant provisions of chapter 6 of title 45, title 63, chapter 13 of title 72, chapter 12 of title 7, or chapter 2 of title 56, Idaho Code.

(2) As to personal property, the perfected lien shall have the same priority as a security interest which becomes perfected under chapter 9, title 28, Idaho Code, at the same time the notice of lien is filed.

(3) As to real property, the perfected lien shall have the same priority as a mortgage which is recorded at the same time the notice of lien is filed.

(4) Nothing herein limits the authority of the state tax commission to subordinate its lien to another lien in the manner provided by section 63-3055, Idaho Code.

Approved March 11, 1999.

CHAPTER 52
(S.B. No. 1035)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-223, IDAHO CODE, TO PROVIDE THAT AN EMPLOYER SHALL RECEIVE A CREDIT AGAINST ITS FUTURE LIABILITY FOR COMPENSATION BENEFITS IF THE AMOUNT RECOVERED FROM A THIRD PARTY EXCEEDS THE AMOUNT OF THE SUBROGATED PORTION PAYABLE TO THE EMPLOYER FOR PAST COMPENSATION BENEFITS PAID AND TO PROVIDE FOR THE EMPLOYER'S REIMBURSEMENT TO THE EMPLOYEE OF ATTORNEY'S FEES AND COSTS PAID BY THE EMPLOYEE IN OBTAINING THAT PORTION OF THE THIRD PARTY RECOVERY CORRESPONDING TO THE CREDIT CLAIMED.

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

SECTION 1. That Section 72-223, Idaho Code, be, and the same is hereby amended to read as follows:

72-223. THIRD PARTY LIABILITY. (1) The right to compensation under this law shall not be affected by the fact that the injury, occupational disease or death is caused under circumstances creating in some person other than the employer a legal liability to pay damages therefor, such person so liable being referred to as the third party. Such third party shall not include those employers described in section 72-216, Idaho Code, having under them contractors or subcontractors who have in fact complied with the provisions of section 72-301, Idaho Code; nor include the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workmen there employed.

(2) Action may be instituted against such third party by the employee, or in event compensation has been claimed and awarded, by the employee and employer jointly, in the employee's name, or, if the employee refuses to participate in such action, by the employer in the employee's name.

(3) If compensation has been claimed and awarded, the employer having paid such compensation or having become liable therefor, shall be subrogated to the rights of the employee, to recover against such third party to the extent of the employer's compensation liability.

(4) On any recovery by the employee against a third party, the employer shall pay or have deducted from his subrogated portion thereof, a proportionate share of the costs and attorney's fees incurred by the employee in obtaining such recovery.

(5) <u>If the amount recovered from the third party exceeds the amount of the subrogated portion payable to the employer for past compensation benefits paid, then to the extent the employer has a future subrogated interest in that portion of the third party recovery paid to the employee, the employer shall receive a credit against its future liability for compensation benefits. Such credit shall apply as future compensation benefits become payable, and the employer shall</u>

reimburse the employee for the proportionate share of attorney's fees and costs paid by the employee in obtaining that portion of the third party recovery corresponding to the credit claimed. The employer shall not be required to pay such attorney's fees and costs related to the future credit prior to the time the credit is claimed. However, the employer and employee may agree to different terms if approved by the industrial commission.

(6) If death results from the injury or occupational disease and if the employee leaves no dependents entitled to benefits under this law, the surety shall have a right of action against the third party for recovery of income benefits, reasonable expenses of medical and related services and burial expense actually paid by the surety and for recovery of amounts paid into the industrial special indemnity account pursuant to section 72-420, Idaho Code, and such right of action shall be in addition to any cause of action of the heirs or personal representatives of the deceased.

(67) All rights and restrictions herein granted to the employer have previously been intended to be, and are hereby expressly granted to the industrial special indemnity account.

Approved March 11, 1999.

CHAPTER 53
(S.B. No. 1036)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1366, IDAHO CODE, TO PROVIDE ELIGIBILITY CONDITIONS FOR A CLAIMANT EMPLOYED BY A STAFFING SERVICE AND TO PROVIDE A DEFINITION.

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

SECTION 1. 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:

(1) The claimant shall have made a claim for benefits and provided all necessary information pertinent to eligibility.

(2) The claimant shall have registered for work and thereafter reported to a job service office or other agency in a manner prescribed by the director.

(3) The claimant shall have met the minimum wage requirements in his base period as provided in section 72-1367, Idaho Code.

(4) During the whole of any week with respect to which he claims benefits or credit to his waiting period, the claimant was able to work, available for suitable work, and seeking work; provided, however, that no claimant shall be considered ineligible for failure to comply with the provisions of this subsection if: (i) such failure is due to an illness or disability which occurs after he has filed a claim and during such illness or disability, the claimant does not

refuse or miss suitable work that would have provided wages greater than one-half (1/2) of the claimant's weekly benefit amount; or (ii) the claimant, because of compelling personal circumstance, is required to be absent from his normal labor market area, provided that such absence does not exceed a minor portion of the workweek.

(5) The claimant's 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.

(6) The claimant's 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 other types of work and accept work at a lower rate of pay.

(7) In determining whether or not work is suitable for an individual, the degree of risk involved to his health, safety, morals, 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 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:

(a) If the vacancy of the position offered is due directly to a strike, lockout, or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are below those prevailing for similar work in the locality of the work offered;

(c) 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.

(8) 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 (4) and (6) of this section, if:

(a) 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

(b) The claimant attends a job training course authorized pursuant to the provisions of section 236(a)(1) of the trade act of 1974 or the North American free trade agreement implementation act.

(c) 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:

(i) The purpose of the job training is to teach the claimant skills that will enhance the claimant's opportunities for employment; and

(ii) The job training can be completed within one (1) year, except that this requirement may be waived pursuant to rules that the director may 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.

(9) No claimant who is otherwise eligible shall be denied benefits under subsection (5) of this section for leaving employment to attend job training pursuant to subsection (8) 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.

(10) A 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:

(a) The claimant is not participating, financing, aiding, abetting, or directly interested in the labor dispute; and

(b) The claimant does not belong to a grade or class of workers with members employed at the premises at which the labor dispute occurs, who are participating in or directly interested in the dispute.

(11) A 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 benefits under an unemployment 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 the 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 insurance law of the United States.

(12) A claimant shall not be entitled to benefits for a period of fifty-two (52) weeks if it is determined that he has wilfully made a false statement or wilfully failed to report a material fact in order to obtain benefits. The period of disqualification shall commence the week the determination is issued. The claimant shall also be ineligible for waiting week credit and shall repay any sums received for a week in which the claimant made a false statement or failed to report a material fact.

(13) A claimant shall not be entitled to benefits if his principal occupation is self-employment.

(14) A claimant who has been found ineligible for benefits under the provisions of subsection (5), (6), (7) or (9) of this section shall reestablish his eligibility by having obtained bona fide work and received wages therefor in an amount of at least twelve (12) times his weekly benefit amount.

(15) Benefits based on service in employment defined in sections 72-1349A and 72-1352(3), Idaho Code, shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this act.

(a) 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 services shall be deemed to be in such capacity.

(b) If the services performed during less than one-half (1/2) of any contract period by an individual for an educational institution are in an instructional, research, or principal administrative capacity, none of the service shall be deemed to be in such capacity.

(c) 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.

(16) No claimant is eligible to receive benefits in two (2) successive benefit years unless, after the beginning of the first benefit year during which he received benefits, he performed service and earned an amount equal to not less than six (6) times the weekly benefit amount established during the first benefit year.

(17) (a) 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 who performs such services in the first academic year (or term) and has a contract to perform services in any such capacity for any educational institution in the second academic year or term, or has been given reasonable assurance that such a contract will be offered.

(b) 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 the individual performs such services in the first school year or term, and there is a contract or reasonable assurance that the individual will perform such services in the second school year or term. If benefits are denied to any individual under this subparagraph and the individual was not offered an opportunity to perform such services for the educational institution for the second academic year or term, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause.

(c) With respect to any services described in paragraphs (a) and (b) 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 the individual performed the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance the individual will perform such services in the period immediately following such vacation period or holiday recess.

(d) With respect to any services described in paragraphs (a) and (b) of this subsection, benefits shall not be payable on the basis of services in any capacities specified in paragraphs (a), (b) and (c) 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 entity which is established and operated exclusively for the purpose of providing such services to one (1) or more educational institutions.

(18) Benefits shall not be payable on the basis of services which substantially consist of participating in sports or athletic events or training or preparing to participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if the individual performed services in the first season (or similar period) and there is a reasonable assurance that the individual will perform such services in the later of such season (or similar period).

(19) (a) Benefits shall not be payable on the basis of services performed by an alien unless the alien 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 the 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).

(b) Any data or information required of individuals applying for benefits to determine eligibility under this subsection shall be uniformly required from all applicants for benefits.

(c) A decision to deny benefits under this subsection must be based on a preponderance of the evidence.

(20) An individual who has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the director must participate in those reemployment services unless:

(a) The individual has completed such services; or

(b) There is justifiable cause, as determined by the director, for the claimant's failure to participate in such services.

(21) (a) A claimant:

(i) Who has been assigned to work for one (1) or more customers of a staffing service; and

(ii) Who, at the time of hire by the staffing service, signed a written notice informing him that completion or termination of an assignment for a customer would not, of itself, terminate the employment relationship with the staffing service;

will not be considered unemployed upon completion or termination of an assignment until such time as he contacts the staffing service to determine if further suitable work is available. If the claimant:

(A) Contacts the staffing service and refuses a suitable work assignment that is offered to him at that time, he will be considered to have voluntarily quit

that employment; or

(B) Contacts the staffing service and the service does not have a suitable work assignment for him, he will be considered unemployed due to a lack of work; or

(C) Accepts new employment without first contacting the staffing service for additional work, he will be considered to have voluntarily quit employment with the staffing service.

(b) For the purposes of this subsection, the term "staffing service" means any person who assigns individuals to work for its customers and includes, but is not limited to, professional employers, as defined in chapter 24, title 44, Idaho Code, and the employers of temporary employees as defined in section 44-2403(7), Idaho Code.

Approved March 11, 1999.

CHAPTER 54
(S.B. No. 1059)

AN ACT

RELATING TO REAL ESTATE APPRAISERS; AMENDING SECTION 54-4103, IDAHO CODE, TO PROVIDE FOR THE UNLAWFUL PRACTICE OF APPRAISAL; AMENDING SECTION 54-4104, IDAHO CODE, TO ADD DEFINITIONS; AMENDING SECTION 54-4105, IDAHO CODE, TO ADD EXCEPTIONS TO THE APPLICATION OF THE CHAPTER FOR A BROKER'S PRICE OPINION, A PROPERTY OWNER'S PERSONAL OPINION OF VALUE, A LENDER'S OPINION OF COLLATERAL VALUE OR AN ATTORNEY'S OR ACCOUNTANT'S RENDERING OF PROFESSIONAL ADVICE; AND AMENDING SECTION 54-2040, IDAHO CODE, TO PROVIDE FOR SUSPENSION OR REVOCATION OF A REAL ESTATE BROKER'S OR SALESMAN'S LICENSE UPON ENTRY OF A JUDGMENT FOR FRAUD IN ANY REAL ESTATE RELATED TRANSACTION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-4103, Idaho Code, be, and the same is hereby amended to read as follows:

54-4103. USE OF TERM "LICENSED" OR "CERTIFIED" APPRAISER -- UNLAWFUL PRACTICE OF APPRAISAL. ~~From and after July 1, 1992, i~~It shall be unlawful for any person in this state to assume or use the title "state licensed" or "state certified real estate appraiser" or any title, designation or abbreviation likely to create the impression of licensure or certification by the state of Idaho for any real estate appraisal, unless the person has first been licensed or certified by the real estate appraiser board under the provisions of this chapter. The board may adopt for the exclusive use of persons licensed or certified under the provisions of this chapter, a seal, symbol or other mark identifying the user as a state licensed or certified real estate appraiser.

~~From and after July 1, 1992, i~~It shall be unlawful for any ~~real~~

~~estate appraiser~~ person to appraise, practice appraisal, assume to act as, or hold themselves out to the public as an appraiser, or carry on the calling of an appraiser within the state, or to perform an appraisal of real estate located in this state unless the person has first been licensed or certified by the board under the provisions of this chapter.

SECTION 2. That Section 54-4104, Idaho Code, be, and the same is hereby amended to read as follows:

54-4104. DEFINITIONS. As used in this chapter:

(1) "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the value, nature, quality, or utility of specified interests in, or aspects of, identified real estate.

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased opinion or conclusion relating to the value, nature, quality or utility of specified interests in, or aspects of, identified real estate.

(3) "Appraisal foundation" or "foundation" means the appraisal foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(4) "Board" means the real estate appraiser board.

(5) "Broker's price opinion" means a written price opinion of the estimated price for identified real property that is prepared by a real estate broker or associate broker licensed under chapter 20, title 54, Idaho Code, pursuant to the requirements and content provisions for the broker's price opinions contained in this chapter.

(6) "Federally related transaction" means any real estate related financial transaction that a federally regulated institution, regulatory agency, or the resolution trust corporation engages in, funds, contracts for, or regulates.

(~~5~~7) "License" or "certificate" means that document issued by the real estate appraiser board certifying that the person named thereon has satisfied the requirements for licensure or certification as a state licensed or certified real estate appraiser and bearing a license or certificate number assigned by the board.

(~~6~~8) "Noncomplex appraisal" is one in which the subject property has an active market of essentially identical properties, there is adequate market data available, adjustments do not exceed the typical range found in the market for essentially identical properties, and in the instance of residential property, the contract sales price would fall within the market norm for homes or lots within the same area.

(~~7~~9) "Real estate appraiser" or "appraiser" means a person who for a fee or other valuable consideration or the expectation thereof, develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.

(10) "Real estate related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in or exchange of real property, including interest in property or the financing thereof;

(b) The financing or refinancing of real property, or any inter-

est in real property;

(c) The use of real property or an interest in real property as security for a loan or investment, including a mortgage backed security.

(~~8~~11) "Real property" or "real estate" means and includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold and whether situated in this state or elsewhere.

(~~9~~12) "State certified general real estate appraiser" means a person who is certified to appraise all types of real property.

(~~10~~3) "State certified residential real estate appraiser" means a person who holds a current, valid certificate as a state certified residential appraiser issued under the provisions of this chapter whose practice is limited to appraisal of residential properties of four (4) or less units without regard to transaction value or complexity.

(~~11~~4) "State licensed residential real estate appraiser" means a person who is licensed to appraise residential real property consisting of one (1) to four (4) noncomplex residential units having a transaction value less than one million dollars ($1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars ($250,000).

SECTION 3. That Section 54-4105, Idaho Code, be, and the same is hereby amended to read as follows:

54-4105. EXCEPTIONS. (1) ~~The provisions of this chapter do not apply to any person who does not hold himself out as, or offer to perform services as, a real estate appraiser.~~

~~(2)~~ The provisions of this chapter do not restrict the right to use the term "appraiser," provided that such term is not used in a manner that creates the impression of certification by the state of Idaho to perform real estate appraisals other than ad valorem tax appraisals. However, nothing in this chapter shall entitle a state licensed or state certified real estate appraiser to appraise real estate for ad valorem tax purposes unless he has first been certified by the Idaho state tax commission pursuant to section 63-105A(17), Idaho Code.

(~~3~~2) The provisions of this chapter shall not apply to a licensed real estate broker, associate broker or salesperson who, in the ordinary course of his business gives an opinion of the price of real estate for the purpose of a prospective listing or sale, provided that such person does not represent himself as being a state licensed or certified real estate appraiser.

(3) The provisions of this chapter shall not prohibit a real estate broker or associate broker licensed under chapter 20, title 54, Idaho Code, whose license is active and in good standing, from rendering a broker's price opinion, for which the broker may charge a fee, provided the broker's price opinion complies with the following requirements:

(a) The broker's price opinion shall be in writing and contain the following:

(i) A statement of the intended purpose of the price opin-

ion;

(ii) A brief description of the subject property and property interest to be priced;

(iii) The basis of reasoning used to reach the conclusion of the price, including the applicable market data and/or capitalization computation;

(iv) Any assumptions or limiting conditions;

(v) A disclosure of any existing or contemplated interest of the broker(s) issuing the opinion;

(vi) The name and signature of the broker(s) issuing the price opinion and the date of its issuance;

(vii) A disclaimer that, unless the broker is licensed under the Idaho real estate appraisers act, chapter 41, title 54, Idaho Code, the report is not intended to meet the uniform standards of professional appraisal practice.

(viii) A disclaimer that the broker's price opinion is not intended to be an appraisal of the market value of the property, and that if an appraisal is desired, the services of a licensed or certified appraiser should be obtained.

The broker's price opinion permitted under this chapter may not be used as an appraisal, or in lieu of an appraisal, in a federally related transaction.

(4) Any person who is not licensed or certified under the provisions of this chapter may assist a state licensed or certified real estate appraiser in the performance of an appraisal, provided that he is actively and personally supervised by the state licensed or certified appraiser and provided further that any appraisal report rendered in connection with the appraisal is reviewed and signed by the state licensed or certified real estate appraiser.

(5) The provisions of this chapter requiring mandatory licensure or certification shall not apply to employees or agents of the Idaho transportation department when appraising transportation department property with a fair market value of ten thousand dollars ($10,000) or less.

(6) This chapter shall not prohibit a property owner from expressing his personal opinion of the value of his own property, nor shall the provisions of this chapter prohibit a lender, or employee of a lending institution, from forming and expressing an opinion of collateral value in the ordinary course of business including, but not limited to, mortgaging property, underwriting a loan, or foreclosing a loan, so long as such opinion of collateral value is not represented as being an appraisal of the market value of the property, or prepared under the provisions of this chapter.

(7) This chapter shall not prohibit an attorney or accountant from rendering professional advice within the ordinary course of his profession, so long as such advice is not represented to be an appraisal of the market value of the property.

SECTION 4. 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's 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 through 54-2053, Idaho Code, or any of the rules 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; or, (k) gross negligence or reckless conduct in a regulated real estate transaction. Conduct is grossly negligent or reckless when, taken as a whole, the conduct substantially fails to meet the generally accepted standard of care in the practice of real estate in Idaho.

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 a 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 real estate related 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.

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 11, 1999.

CHAPTER 55
(H.B. No. 7)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-409, IDAHO CODE, TO DELETE REFERENCES TO LICENSE ENDORSEMENTS.

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 resi-

dent 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 any person seventy (70) years of age or older who holds a senior resident combination license, 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 (s) 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	21.00	331.00
Deer	15.00	231.00
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"	41.00	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 Bird Stamp. The commission may, under rules as it

may prescribe, issue an upland game bird stamp that must be purchased by all persons over sixteen (16) years of age prior to hunting upland game birds, provided that a stamp shall not be required to hunt forest grouse (blue, ruffed or spruce), sharp-tailed grouse, sage grouse, or turkey. The fee for such a stamp shall be five dollars ($5.00) and the proceeds from the sale of such 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, 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.

(k) Wildlife Management Area (WMA) Pheasant Permit. The commission may, under rules as it may prescribe, issue a wildlife management area pheasant permit that must be purchased by all persons over sixteen (16) years of age prior to hunting pheasants on state wildlife management areas designated by the commission. The fee for the permit shall be ten dollars ($10.00).

Approved March 11, 1999.

CHAPTER 56
(H.B. No. 29)

AN ACT

RELATING TO THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-101, IDAHO CODE, TO STRIKE REFERENCES TO COUNCILS FOR HIGHER EDUCATION AND FOR THE PUBLIC SCHOOL SYSTEM; AMENDING SECTION 33-102, IDAHO CODE, TO STRIKE REFERENCES TO MEMBERSHIP ON COUNCILS FOR HIGHER EDUCATION AND FOR THE PUBLIC SCHOOL SYSTEM AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 33-2802, IDAHO CODE, TO STRIKE REFERENCE TO THE COUNCIL FOR HIGHER EDUCATION.

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

SECTION 1. That Section 33-101, Idaho Code, be, and the same is hereby amended to read as follows:

33-101. CREATION OF BOARD. For the general supervision, governance and control of all state educational institutions, ~~a state board of education is created. The board shall comprise two (2) separate councils, distinguished as follows:~~

~~(1) For general supervision of all state institutions of higher education, and such institutions as may be designated by law,~~ to wit: University of Idaho, Idaho State University, Boise State University, Lewis-Clark State College, ~~the College of Southern Idaho, North Idaho College, and for any other state higher educational institutions which may hereafter be founded, a council for higher education and board of regents of the University of Idaho is hereby created.~~

~~(2) For general supervision, government and control of the public school system of the state, including~~ the School for the Deaf and the Blind and any other state educational institution ~~not connected with higher education~~ which may hereafter be founded, ~~a council for public schools is created.~~

~~(3) For~~ and for the general supervision, governance and control of ~~general educational institutions and programs of common access to both higher education and~~ the public school systems, including ~~Eastern Idaho Technical College, vocational education, the State Library Board, Idaho work study program, public broadcasting system, Idaho state historical society, and other matters where required by law, the state board of education shall regularly convene as a whole~~ public community colleges, a state board of education is created. The said board shall be known as the state board of education and board of regents of the University of Idaho.

For the purposes of section 20, article IV, of the constitution of the state of Idaho, the state board of education and all of its offices, agencies, divisions and departments shall be an executive department of state government.

Where the term "state board" shall hereafter appear, it shall mean the state board of education and~~, notwithstanding any other provision of law to the contrary, where appropriate, pursuant to the assignment of duties provided in this section, where such reference is relative to postsecondary institutions and programs or associated arrangements such reference shall mean the council for higher education and~~ board of regents of the University of Idaho.~~, and, where such reference is relative solely to public schools, elementary through secondary levels, and associated programs, such reference shall mean the council for public schools.~~

SECTION 2. That Section 33-102, Idaho Code, be, and the same is hereby amended to read as follows:

33-102. MEMBERSHIP -- APPOINTMENT -- TERM OF OFFICE -- QUALIFICATIONS -- PLACE OF OFFICE. The state board of education shall consist of the state superintendent of public instruction, who shall be an ~~ex officio~~ ex officio voting member and who shall serve as executive secretary of the board for all elementary and secondary school matters, and ~~eight~~ seven (~~8~~7) members appointed by the governor, each for a term of five (5) years. ~~of whom four (4) members shall be selected for the council for public schools and four (4) members shall be selected for the council for higher education and board of regents. The addi-~~

~~tional--member--appointed--pursuant-to-this-act-shall-serve-an-initial term-of-four-(4)-years,-and-thereafter-the-term-shall-be-for-five--(5) years.--The-state-superintendent-of-public-instruction-shall-be-an-ex-officio-voting-member-of-both-councils.~~ Annually on the first day of March the governor shall appoint members to fill the board positions for which the terms of office have expired. The governor shall, by appointment, fill any vacancy on the board, such appointment to be for the unexpired term of the retiring member. Appointment to the board shall be made solely upon consideration of the ability of such appointees efficiently to serve the interests of the people, and education, without reference to locality, occupation, party affiliation or religion. Any person appointed to said board shall have been a resident of the state for not less than three (3) years prior to the date of appointment; and shall qualify and assume the duties in accordance with laws governing similar appointments to, and qualifications for, office on other state boards. All appointments of members to the state board of education made after the effective date of this act must be confirmed by the senate.

Members of the state board of education holding office on the effective date of this act shall continue in office for the balance of the term to which they were appointed. ~~and-shall-be-designated,-by-the governor,-to-the-respective-council-of-which-they-shall-be-a-member-in such--a--manner-as-to-assure-that-no-two-(2)-members-of-either-council are-serving-terms-which-expire-in-the-same-year.~~

The state board shall have and maintain its office at the state capitol.

SECTION 3. That Section 33-2802, Idaho Code, be, and the same is hereby amended to read as follows:

33-2802. BOARD OF REGENTS. ~~COUNCIL-FOR-HIGHER-EDUCATION.~~ The general supervision, government and control of the University of Idaho is vested in the ~~council-for-higher~~ state board of education which also constitutes the board of regents of the university and is known as the ~~council--for--higher~~ state board of education and board of regents of the University of Idaho.

Approved March 11, 1999.

CHAPTER 57
(H.B. No. 89)

AN ACT
RELATING TO OILS; REPEALING SECTIONS 37-2518 AND 37-2519, IDAHO CODE.

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

SECTION 1. That Sections 37-2518 and 37-2519, Idaho Code, be, and the same are hereby repealed.

Approved March 11, 1999.

CHAPTER 58
(S.B. No. 1119)

AN ACT

RELATING TO LIQUOR CATERING PERMITS; AMENDING SECTION 23-902, IDAHO CODE, TO DEFINE ADDITIONAL TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-934A, IDAHO CODE, TO AUTHORIZE ISSUANCE OF AN ALCOHOL BEVERAGE CATERING PERMIT TO ALCOHOL, BEER AND WINE LICENSEES TO SERVE THE BEVERAGE FOR WHICH THEY ARE LICENSED AT CATERED EVENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-934B, IDAHO CODE, TO ELIMINATE THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT FROM THE APPROVAL PROCESS IN ISSUANCE OF LIQUOR CATERING PERMITS; AMENDING SECTION 23-934C, IDAHO CODE, TO APPLY REGULATORY AND PENAL PROVISIONS TO ALCOHOL BEVERAGE CATERING PERMITTEES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-944, IDAHO CODE, TO AUTHORIZE MINORS ON THE PREMISES OF AN EVENT WHERE BEVERAGES ARE SERVED BY AN ALCOHOL BEVERAGE CATERING PERMITTEE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 23-1337, IDAHO CODE, TO AUTHORIZE A LICENSED WINERY TO OBTAIN AN ALCOHOL BEVERAGE CATERING PERMIT.

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

SECTION 1. That Section 23-902, Idaho Code, be, and the same is hereby amended to read as follows:

23-902. DEFINITIONS. The following words and phrases used in this chapter shall be given the following interpretation~~:~~:

~~a.--"Director"--means--the--director--of--the--department--of--law enforcement-of-the-state-of-Idaho.~~

~~b.--"State--liquor--store"--means--a--liquor--store-or-distributor established-under-and-pursuant-to-the-laws-of-the-state-of--Idaho--for the-package-sale-of-liquor-at-retail.~~

~~c.--"License"--means--a-license-issued-by-the-director-to-a-qualified-person,-under-which-it-shall-be-lawful-for-the-licensee--to--sell and-dispense-liquor-by-the-drink-at-retail,-as-provided-by-law.~~

~~d.--"Municipal--license"--means-a-license-issued-by-a-municipality of-the-state-of-Idaho-under-the-provisions-of-law.~~

~~e.--"Licensee"-means-the-person-to-whom-a-license-is-issued--under the-provisions-of-law.~~

~~f.--"Person"--means--every--individual,--partnership,-corporation, organization,-or-association-holding-a-retail-liquor-license,--whether conducting-the-business-singularly-or-collectively.~~

~~g.--"Liquor"--means--all--kinds--of--liquor-sold-by-and-in-a-state liquor-store-of-the-state-of-Idaho.~~

~~h.--"Interdicted-person"-means-a-person-to-whom-the-sale-of-liquor is-prohibited-under-law.~~

~~i.--"Rules-and-regulations"-means-rules--and--regulations--promulgated-by-the-director-in-accordance-with-the-provisions-of-law.~~

~~j.--"Gaming"-means-any-and-all-gambling-or-games-of-chance-defined in--chapters--38--and-49,-title-18,-Idaho-Code,-or-any-section-or-sections-thereof,-whether-those-games-are-licensed-or-unlicensed.~~

~~k.--"Premises"-means-the-building-and-contiguous--property--owned, or--leased--or-used-under-a-government-permit-by-a-licensee-as-part-of the-business-establishment-in-the-business-of-sale-of--liquor--by--the drink--at--retail,-which-property-is-improved-to-include-decks,-docks, boardwalks,-lawns,-gardens,-golf--courses,--ski--resorts,--courtyards, patios,--poolside-areas-or-similar-improved-appurtenances-in-which-the sale-of-liquor-by-the-drink-at-retail-is-authorized-under--the--provisions-of-law.~~

~~l.~~ (1) "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members and to bona fide guests of members only~~;~~:

(~~1~~a) A post, chapter, camp or other local unit composed solely of veterans and their duly recognized auxiliary, and which is a post, chapter, camp or other local unit composed solely of veterans which has been chartered by the ~~C~~congress of the United States for patriotic, fraternal or benevolent purposes, and which has, as the owner, lessee or occupant, operated an establishment for that purpose in this state; or

(~~2~~b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization, which has as the owner, lessee or occupant, operated an establishment for fraternal purposes in this state and actively operates in not less than thirty-six (36) states or has been in continuous existence for not less than twenty (20) years; and which has not less than fifty (50) bona fide members in each unit, and which owns, maintains or operates club quarters, and is authorized and incorporated to operate as a nonprofit club under the laws of this state, and which has recognized tax exempt status under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code, and has been continuously incorporated and operating for a period of not less than one (1) year. The club shall have had during that period of one (1) year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club membership shall consist of bona fide dues paying members, recorded by the secretary of the club, paying at least six dollars ($6.00) per year in dues, payable monthly, quarterly or annually; and the members at the time of application for a club license shall be in good standing, having paid dues for at least one (1) full year.

(2) "Convention" means a formal meeting of members, representatives, or delegates, as of a political party, fraternal society, profession or industry.

(3) "Director" means the director of the department of law enforcement of the state of Idaho.

(4) "Gaming" means any and all gambling or games of chance defined in chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof, whether those games are licensed or unlicensed.

(5) "Interdicted person" means a person to whom the sale of liquor is prohibited under law.

(6) "License" means a license issued by the director to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor by the drink at retail, as provided by law.

(7) "Licensee" means the person to whom a license is issued under

the provisions of law.

(8) "Liquor" means all kinds of liquor sold by and in a state liquor store of the state of Idaho.

(9) "Municipal license" means a license issued by a municipality of the state of Idaho under the provisions of law.

(10) "Party" means a social gathering especially for pleasure or amusement and includes, but is not limited to, such social events as weddings, birthdays, and special holiday celebrations to include, but not be limited to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the Fourth of July and Labor Day.

(11) "Person" means every individual, partnership, corporation, organization, or association holding a retail liquor license, whether conducting the business singularly or collectively.

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

(13) "Rules" means rules promulgated by the director in accordance with the provisions of law.

(14) "State liquor store" means a liquor store or distributor established under and pursuant to the laws of the state of Idaho for the package sale of liquor at retail.

SECTION 2. That Section 23-934A, Idaho Code, be, and the same is hereby amended to read as follows:

23-934A. ~~LIQUOR~~ ALCOHOL BEVERAGE CATERING PERMIT -- APPLICATION. ~~Any person holding an Idaho retail liquor license may serve--and--sell liquor retail by the drink at a party or convention, and not to exceed three--(3) consecutive days, upon obtaining a liquor~~ An alcohol beverage catering permit is a permit issued pursuant to this section which authorizes the permittee to serve and sell liquor by the drink, beer and wine, or beer, or wine, at a party or convention, and not to exceed three (3) consecutive days. An alcohol beverage catering permit shall be limited to authorization to sell liquor or beer or wine, or any combination thereof, based upon the type of license which the applicant possesses. Applications for such permit shall be made to the city within which the liquor, beer or wine is to be served, or if not within a city then to the county, on such form as prescribed by the ~~director~~ city or county which shall contain at a minimum, but not limited to, the following information:

(1)~~.~~ The name and address of the applicant and the number of his state liquor, beer or wine license.

(2)~~.~~ The dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days.

(3)~~.~~ The names of the organizations, groups, or persons sponsoring the event.

(4)~~.~~ The address at which the liquor, beer or wine is to be served, and if a public building, the rooms in which the liquor, beer

or wine is to be served.

The application shall be verified by the applicant and filed with the appropriate governing body or its designee. A filing fee in the amount of twenty dollars ($20.00) for each day the permit is to be effective shall be paid to the treasury of the governing body which shall not be refunded in any event. Any alcohol beverage catering permit shall be valid only within the issuing jurisdiction.

SECTION 3. That Section 23-934B, Idaho Code, be, and the same is hereby amended to read as follows:

23-934B. FILING OF APPLICATION -- APPROVAL ~~---DISAPPROVAL BY DIRECTOR~~. Upon the filing of an application for ~~a--liquor~~ an alcohol beverage catering permit, the city council or its designee, or county commissioners receiving the application shall upon the advice and recommendation of the chief of police or sheriff, approve or disapprove the application and indicate the determination on the face of the application by indorsement signed by the clerk of the city or county. Copies of the application with signed indorsements thereon shall be mailed or delivered immediately to the chief of police or sheriff~~,-the director~~ and the applicant, and a signed copy retained by the clerk. An application approved in this manner shall constitute an alcohol beverage catering permit~~,-unless-disapproved-by-the-director-by-notice served-upon-the-applicant-for-the-retail-sale-of-liquor-by-the--drink, beer-and-wine-for-the-period-authorized-by-the-permit.~~

SECTION 4. That Section 23-934C, Idaho Code, be, and the same is hereby amended to read as follows:

23-934C. REGULATORY AND PENALTY PROVISIONS APPLICABLE. All of the regulatory and penal provisions of ~~chapter-9-of~~ title 23, Idaho Code, shall apply to the exercise of ~~liquor~~ alcohol beverage catering permits, including the penalties for violations thereof, except such provisions declared to be inapplicable to ~~liquor~~ alcohol beverage catering permits by ~~regulations~~ rules prescribed by the director of law enforcement; provided, however, the director shall have no power to declare inapplicable any of the provisions of section 23-927, Idaho Code.

SECTION 5. That Section 23-944, Idaho Code, be, and the same is hereby amended to read as follows:

23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed to restrict, any person under the age of twenty-one (21) years from entering or being:

(~~a~~l) upon the premises of any restaurant, as herein defined, or in any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the sale of beer for consumption on the premises or that alcoholic beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein.

(~~b~~2) in any building, a part or portions of which is used as a place, as herein defined, provided such place is separated or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under the ages specified with respect thereto in section 23-943, Idaho Code, from entering therein.

(~~c~~3) in any baseball park, sports arena or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of beer for consumption on the premises or that beer is dispensed and served and consumed therein.

(~~d~~4) upon the premises of any licensed winery notwithstanding that such premises or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premises or that wine is dispensed and served and consumed therein.

(~~e~~5) upon the licensed premises of a wine retailer, wholly owned and operated by a licensed winery which retails exclusively the products of that winery.

(6) at a location, other than a liquor, beer, or wine licensed premises, authorized to serve alcohol beverages under a valid alcohol beverage catering permit.

SECTION 6. That Section 23-1337, Idaho Code, be, and the same is hereby amended to read as follows:

23-1337. ~~SPECIAL-EVENT-WINERY~~ ALCOHOL BEVERAGE CATERING PERMIT ~~--FEE----SUSPENSION-OR-DENIAL. (1)~~ Any person who is the holder of an Idaho winery license shall be eligible to obtain ~~a-special-event-winery~~ an alcohol beverage catering permit.

~~(2)--A-special-event-winery-permit-shall--entitle--the--holder--to sell-wines-by-the-drink-or-by-the-bottle-directly-to-the-consumer-at-a designated-location-other-than-the-one-set-forth-in-the-winery-license for--a--period--not-to-exceed-seven-(7)-consecutive-days.-The-director shall-prescribe-the-form-of-the-application--for--such--permit,--which application--may--require--disclosure--of-the-name-and-location-of-the special-event;-the-dates-and-hours-during-which-the-permit--is--to--be effective;-and-such-other-information-as-the-director-may-require.-The director--shall--collect-a-fee-of-twenty-dollars-($20.00)-for-the-special-event-permit.~~

~~(3)--Should-the-director--determine--that--the--applicant--or--its agents--or--representatives-is-violating,-or-has-in-the-past-violated, any-law-pertaining-to-the-dispensing-or-sale-of-wine-relating-to-hours of-sale-or-the-dispensing-of-wine-to-underaged-persons,-or-has--failed in--the--past-to-submit-such-information-as-may-have-been-requested-by the-director,-any-issued-special-event-permit-may--be--summarily--suspended--by-the-director,-prior-to-hearing,-or-may-be-denied,-pending-a hearing.~~

Approved March 15, 1999.

CHAPTER 59
(S.B. No. 1123)

AN ACT

RELATING TO VIOLATIONS OF LAWS GOVERNING ALCOHOL BEVERAGES; AMENDING THE CHAPTER HEADING OF CHAPTER 6, TITLE 23, IDAHO CODE; AMENDING SECTION 23-602, IDAHO CODE, TO PROVIDE APPLICATION OF THE SECTION TO ALL ALCOHOL BEVERAGES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-603, IDAHO CODE, TO PROVIDE APPLICATION OF THE SECTION TO ALL ALCOHOL BEVERAGES AND ANY LICENSEE PURSUANT TO TITLE 23, IDAHO CODE; AMENDING SECTION 23-605, IDAHO CODE, TO PROVIDE APPLICATION TO ALL ALCOHOL BEVERAGES AND ANY LICENSEE PURSUANT TO TITLE 23, IDAHO CODE; AMENDING SECTION 23-606, IDAHO CODE, TO PROVIDE APPLICATION TO ANY LICENSEE PURSUANT TO TITLE 23, IDAHO CODE; AMENDING SECTION 23-608, IDAHO CODE, TO PROVIDE APPLICATION TO ANY LICENSEE PURSUANT TO TITLE 23, IDAHO CODE; AMENDING CHAPTER 6, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-614, IDAHO CODE, TO AUTHORIZE ADMINISTRATIVE ACTION AGAINST ANY LICENSEE FOR CONVICTION OF CERTAIN PROHIBITED ACTS RELATING TO SEXUAL DISPLAY IN LICENSED PREMISES; AMENDING CHAPTER 6, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-615, IDAHO CODE, TO PROVIDE RESTRICTIONS ON SALE BY ANY LICENSEE PURSUANT TO TITLE 23, IDAHO CODE; REPEALING SECTIONS 23-613, 23-929 AND 23-1010A, IDAHO CODE; AMENDING SECTION 23-1023, IDAHO CODE, TO REMOVE PENALTY PROVISIONS AND TO AUTHORIZE POSSESSION OF BEER BY A MINOR UNDER SPECIFIED CIRCUMSTANCES; AMENDING SECTION 23-1334, IDAHO CODE TO REMOVE PENALTY PROVISIONS AND TO AUTHORIZE POSSESSION OF WINE BY A MINOR UNDER SPECIFIED CIRCUMSTANCES; AND AMENDING SECTION 23-1401, IDAHO CODE, TO PROVIDE A CORRECT CITATION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That the Heading of Chapter 6, Title 23, Idaho Code, be, and the same is hereby amended to read as follows:

PENAL PROVISIONS ~~OF IDAHO LIQUOR ACT~~

SECTION 2. That Section 23-602, Idaho Code, be, and the same is hereby amended to read as follows:

23-602. UNLAWFUL MANUFACTURE, TRAFFIC IN, TRANSPORTATION, AND POSSESSION OF ~~LIQUOR~~ ALCOHOL BEVERAGE. Except as authorized by ~~this act~~ title 23, Idaho Code, any person who shall have in possession, manufacture, transport, purchase, sell, or dispose of any alcoholic ~~liquor~~ beverage, including any distilled spirits, beer or wine, shall be guilty of a misdemeanor, and upon conviction shall be punished as otherwise provided by law. Upon conviction of a second or subsequent violation of this section, the defendant shall be punished by a fine of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not less than three (3) months, nor more than one (1) year, or by both

such fine and imprisonment.

SECTION 3. That Section 23-603, Idaho Code, be, and the same is hereby amended to read as follows:

23-603. ~~DISPOSAL~~ DISPENSING TO MINOR. Any person who shall sell, give, or furnish, or cause to be sold, given, or furnished, alcohol~~ic or intoxicating liquor~~ beverage, including any distilled spirits, beer or wine, to a person under the age of twenty-one (21) years~~, except for medicinal purposes,~~ shall be guilty of a misdemeanor. ~~A second or subsequent violation of this section by the same defendant shall constitute a felony.~~ Upon conviction of any person for a violation of the provisions of this section, the court shall notify the director of the department of law enforcement. The director shall review the circumstances of the conviction, and if the dispensing took place at a licensed establishment or other retailer or distributor, the director may take administrative action he considers appropriate against the licensee or business including suspension of the license for not to exceed six (6) months, a fine, or both such suspension and fine.

SECTION 4. That Section 23-605, Idaho Code, be, and the same is hereby amended to read as follows:

23-605. DISPENSING TO DRUNK. Any person who sells, gives, or dispenses any alcohol~~ic or intoxicating liquor~~ beverage, including any distilled spirits, beer or wine, to another person who is intoxicated or apparently intoxicated shall be guilty of a misdemeanor.

SECTION 5. That Section 23-606, Idaho Code, be, and the same is hereby amended to read as follows:

23-606. FALSE PROCUREMENT OF PERMIT OR LICENSE. Any person who procures, or attempts to procure, a permit or license under the provisions of ~~this act~~ title 23, Idaho Code, by false or fraudulent representations, or under a false or fictitious name, shall be guilty of a misdemeanor.

SECTION 6. That Section 23-608, Idaho Code, be, and the same is hereby amended to read as follows:

23-608. ADDED PENALTY -- FORFEITURE OF LICENSE OR PERMIT -- TRANSMISSION OF RECORD. ~~TO DISPENSARY.~~ Whenever, in any court in this state, a defendant is convicted of a violation of ~~this act~~ title 23, Idaho Code, or of any law of this state relating to alcohol~~ic or intoxicating liquor~~ beverages including distilled spirits, beer or wine, or in any case in which it appears that the crime was committed while the defendant was under the influence of alcohol~~ic or intoxicating liquor~~ beverages, it shall be the duty of the court to include in its judgment the forfeiture of any license or permit issued to the defendant by the state liquor dispensary or the department of law enforcement pursuant to title 23, Idaho Code, and the court shall forthwith transmit to the ~~dispensary~~ issuing authority a certified copy of its judgment.

SECTION 7. That Chapter 6, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-614, Idaho Code, and to read as follows:

23-614. PROHIBITED ACTS -- MISDEMEANORS -- PENALTIES. (1) No person, partnership, association or corporation shall conduct, permit, or encourage any of the following acts or activities in or upon premises licensed pursuant to title 23, Idaho Code:

(a) Employment or use of any person while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(b) Employment or use of any person who touches, caresses or fondles the breast, buttocks, anus or genitals of any other person, or who is so touched, caressed or fondled by another person.

(c) Employment or use of any person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(d) Employment or use of any person to perform acts of or acts which simulate sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(e) The showing of films, still pictures, electronic reproductions, or other visual reproductions depicting:

(i) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(ii) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

(iii) Scenes wherein a person displays the vulva or the anus or the genitals.

(iv) Scenes wherein artificial devices or inanimate objects are employed to portray any of the prohibited activities described in this section.

(2) A violation of any of the provisions of this section by any agent, employee, or other person in any way acting on behalf of a licensee shall constitute a misdemeanor, and upon conviction such person shall be fined not less than the sum of one hundred dollars ($100) nor more than the sum of three hundred dollars ($300), or be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment. Any court in which a judgment of conviction is entered shall certify a copy thereof to the director, and the director shall thereupon commence administrative proceedings. The director shall review the circumstances and may take action he considers appropriate against the licensee including suspension of the license for not to exceed six (6) months, a fine, or both such suspension and fine or may revoke the license.

(3) In addition to misdemeanor violations or other criminal proceedings instituted under this section, upon sufficient proof to the director, the director shall take administrative action as provided in subsection (2) of this section against any licensee in the event any

person is found to have committed any of the above proscribed acts. The proceedings shall be in accordance with provisions of the administrative procedure act.

SECTION 8. That Chapter 6, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-615, Idaho Code, and to read as follows:

23-615. RESTRICTIONS ON SALE. No person licensed pursuant to title 23, Idaho Code, or his or its employed agents, servants or bartenders shall sell, deliver or give away, or cause or permit to be sold, delivered, or given away, or allowed to be consumed, any alcohol beverage, including any distilled spirits, beer or wine, to:

(1) Any person under the age of twenty-one (21) years, proof of which shall be a validly issued state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military identification card bearing a photograph and date of birth, or a valid passport.

(2) Any person actually, apparently or obviously intoxicated.

(3) An habitual drunkard.

(4) An interdicted person.

Any person under the age of twenty-one (21) years, or other person, who knowingly misrepresents his or her qualifications for the purpose of entering licensed premises or for obtaining alcohol beverages from such licensee shall be equally guilty with such licensee and shall, upon conviction thereof, be guilty of a misdemeanor.

SECTION 9. That Sections 23-613, 23-929 and 23-1010A, Idaho Code, be, and the same are hereby repealed.

SECTION 10. That Section 23-1023, Idaho Code, be, and the same is hereby amended to read as follows:

23-1023. BEER -- ~~PROCURING-FOR-OR-SELLING-TO-PERSON-UNDER-TWENTY-ONE--YEARS--OF--AGE-A-MISDEMEANOR~~ AUTHORIZATION TO DELIVER. ~~Any-person who-shall-procure-beer-for-any-person-under-twenty-one-(21)--years--of age--or--any--person-under-twenty-one-(21)-years-of-age-who-shall-purchase,-attempt-to-purchase-or-otherwise-consume-or-possess-beer,-shall be-guilty-of-a-misdemeanor.-Any-person-who-shall-procure-beer-for--any person--under-twenty-one-(21)-years-of-age-shall-be-punished-according to-the-provisions-of-section-18-113,--Idaho--Code.--Any--person--under twenty-one--(21)-years-of-age-who-shall-purchase,-attempt-to-purchase, or-otherwise-consume-or-possess-beer-shall-be--punished--according--to the--schedule-set-out-in-section-18-1502,-Idaho-Code.-This-section~~ The prohibition upon possession of beer by any person under twenty-one (21) years of age does not apply to possession by a person under the age of twenty-one (21) years making a delivery of beer in pursuance of the order of his parent or in pursuance of his employment, or when such person under the age of twenty-one (21) years is in a private residence accompanied by his parent or guardian and with such parent's or guardian's consent.

SECTION 11. That Section 23-1334, Idaho Code, be, and the same is hereby amended to read as follows:

23-1334. MINORS -- ~~PURCHASE,--CONSUMPTION,--POSSESSION,--SALE--OR SERVICE-BY-PROHIBITED----SALE,-GIFT,-OR-DELIVERY-TO-PROHIBITED----MIS-REPRESENTATION--OF-AGE-PROHIBITED----PENALTY~~ AUTHORIZATION TO DELIVER. (a) ~~No-person-under-the-age-of-twenty-one-(21)-years-may-sell,--serve, dispense,--purchase,--consume-or-possess-wine-provided-that-any-person who-is-nineteen-(19)-years-of-age-or-older-may-sell,-serve,-possess-or dispense-wine-in-the-course-of-his-employment.-The-provisions-of--this section~~ The prohibitions on possession of wine by any person under the age of twenty-one (21) years do not apply to possession by a person under the age of twenty-one (21) years making a delivery in pursuance of the order of his parent or in pursuance of his employment, or when such person under the age of twenty-one (21) years is in a private residence accompanied by his parent or guardian and with such parent's or guardian's consent.

(b) ~~No--person--shall--give,--sell,-or-deliver-wine-to-any-person under-the-age-of-twenty-one-(21)-years.~~

~~(c)--Any-person-under-the-age-of-twenty-one-(21)-years--who--shall by--any-means-represent-to-any-retailer-or-distributor-or-to-any-agent or-employee-of-such-retailer-or-distributor-that-he-or-she-is--twenty-one--(21)--years--or--more-of-age-for-the-purpose-of-entering-licensed premises-or-inducing-such-retailer-or-distributor,--or--his--agent--or employee,--to--sell,--serve--or--dispense-wine-to-such-person-shall-be guilty-of-a-misdemeanor.~~

~~(d)~~ Any person who shall, by any means, represent to any retailer or distributor or the agent or employee of such retailer or distributor, that any other person is twenty-one (21) years or more of age, when in fact such other person is under the age of twenty-one (21) years, for the purpose of entering licensed premises or inducing such retailer or distributor, or the agent or employee of such retailer or distributor, to sell, serve, or dispense wine to such other person shall be guilty of a misdemeanor.

SECTION 12. That Section 23-1401, Idaho Code, be, and the same is hereby amended to read as follows:

23-1401. DEFINITIONS. As used in this chapter:

(1) "Alcoholic beverages" means such beverages as defined in section 23-105, Idaho Code, as alcoholic liquor, including alcohol, spirits, wine or any combination thereof, and beverages defined in section 23-1001, Idaho Code, as beer.

(2) "Legal drinking age" means the age when a person is legally allowed to purchase or consume any alcoholic beverage, as provided in section ~~23-929~~ 23-615, Idaho Code.

(3) "Hospitality cabinet" means a closed container, either refrigerated in whole or in part or nonrefrigerated, where access to the interior portion containing alcoholic beverages are contained is restricted by means of a locking device which requires the use of a key, magnetic card, or similar device.

(4) "Qualified facility" means a hotel, inn or motel which is licensed to sell alcoholic beverages for on-premises consumption and

which contains guest room accommodations. It shall also include condominiums owned or managed by an otherwise qualified facility.

(5) "Qualified registered guest" means each person of legal drinking age who signs the guest register of a qualified facility or takes some other equivalent action for the purpose of registering as a guest of such qualified facility.

Approved March 15, 1999.

CHAPTER 60
(H.B. No. 86)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3006, IDAHO CODE, TO PROVIDE AN ADDITIONAL REFERENCE TO THE INTERNAL REVENUE CODE; AMENDING SECTION 63-3006B, IDAHO CODE, TO EXTEND THE DEFINITION OF "PARTNERSHIP" TO PROVIDE THAT IT SHALL NOT INCLUDE PUBLICLY TRADED PARTNERSHIPS WHICH ARE TAXED AS A CORPORATION UNDER IDAHO LAW; AMENDING SECTION 63-3022L, IDAHO CODE, TO PROVIDE THAT RESIDENT INDIVIDUALS WHO ARE OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS OF A CORPORATION OR PARTNERSHIP TRANSACTING BUSINESS IN IDAHO MAY ELECT TO PAY IDAHO INCOME TAXES THROUGH THE BUSINESS ENTITY WITH WHICH THEY ARE ASSOCIATED AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-3082, IDAHO CODE, TO REQUIRE CORPORATIONS AND PARTNERSHIPS PAYING INCOME TAX FOR RESIDENT OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS THEREOF TO PAY THE ADDITIONAL TAX DUE UNDER THE PROVISIONS OF THIS SECTION FOR EACH SUCH PERSON; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-3006, Idaho Code, be, and the same is hereby amended to read as follows:

63-3006. CORPORATION. The term "corporation" includes any corporation formed under the laws of any government, any common law trust and any association of whatever kind other than a partnership. "Corporation" also includes any entity classified or taxed as a corporation pursuant to section 7701 <u>or 7704</u> of the Internal Revenue Code and the regulations of the U.S. department of the treasury issued thereunder.

SECTION 2. That Section 63-3006B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3006B. PARTNERSHIP. "Partnership" shall be as defined in section 7701 of the Internal Revenue Code and shall include any entity classified as a partnership pursuant to regulations of the U.S. department of the treasury issued under section 7701 of the Internal Revenue <u>Code, but shall not include a publicly traded partnership</u>

taxed as a corporation under section 63-3006, Idaho Code.

SECTION 3. That Section 63-3022L, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022L. ~~NONRESIDENT~~ INDIVIDUAL OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS OF A CORPORATION OR PARTNERSHIP. (1) ~~Nonresident~~ Individual officers, directors, shareholders, partners or members of a corporation or partnership transacting business in Idaho may elect to have Idaho taxable income described in subsection (2) of this section reported and taxed as Idaho taxable income of the corporation or partnership. Income subject to the election in this subsection shall be taxed at the rate applicable to corporations. The election shall be made on the return of the corporation or partnership from which the income is received and on which the income is reported in Idaho taxable income. The election in this section is not available to an ~~nonresident~~ individual who has Idaho taxable income in addition to income described in subsection (2) of this section.

(2) The election in subsection (1) of this section applies to:

(a) Wages, salary and other compensation paid by the corporation or partnership to such ~~nonresident~~ officers, directors, shareholders, partners or members to the extent the compensation is Idaho taxable income of the ~~nonresident~~ individual to whom it is paid under section 63-3026A, Idaho Code; and

(b) The share of any income, loss, deduction or credit of an S corporation or partnership required to be included on such ~~nonresident~~ shareholder's, partner's or member's federal return except that such amount shall first be apportioned and allocated in the manner provided in section 63-3027, Idaho Code.

(c) When the ~~total~~ gross income attributable to an ~~nonresident~~ individual under paragraphs (a) and (b) of this subsection (2) is less than the filing requirement of the ~~nonresident~~ individual under section 63-3030~~(2)~~, Idaho Code, the income is not income under this subsection.

(3) If no election is made and an ~~nonresident~~ officer, director, shareholder, partner or member of a corporation or partnership transacting business in Idaho fails to file an Idaho ~~individual~~ income tax return reporting all or any part of the items described in subsection (2) of this section or fails to pay any tax due ~~thereof~~ thereon, such corporation or partnership shall include such items in its Idaho taxable income and be taxed at the rate applicable to corporations.

(4) The provisions of this section shall not apply to a corporation, other than an S corporation, with less than fifty ~~per-cent~~ percent (50%) of its income taxable within this state.

SECTION 4. That Section 63-3082, Idaho Code, be, and the same is hereby amended to read as follows:

63-3082. ADDITIONAL TAX REQUIRED WHEN FILING INCOME TAX RETURN. (1) Every person required to file an income tax return shall pay a tax of ten dollars ($10.00). For this purpose, a husband and wife filing a joint return shall be deemed a single person. This tax shall be in the nature of an excise tax upon the receipt of the income which requires

the filing of such return.

(2) When, pursuant to section 63-3022L, Idaho Code, the income of an ~~nonresident~~ individual officer, director, shareholder, partner or member of a corporation or partnership is taxed as Idaho taxable income of the corporation or partnership, the corporation or partnership shall also pay the tax imposed in subsection (1) of this section for each ~~nonresident~~ individual.

(3) For purposes of this section, a husband and wife filing a joint federal return may be deemed a single individual.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1999.

Approved March 15, 1999.

CHAPTER 61
(H.B. No. 88)

AN ACT

RELATING TO PUBLIC HEALTH DISTRICTS; AMENDING SECTION 39-411, IDAHO CODE, TO PROVIDE THAT EACH YEAR A DISTRICT BOARD SHALL SELECT A TRUSTEE TO REPRESENT THE BOARD AS A MEMBER OF THE BOARD OF TRUSTEES OF THE IDAHO DISTRICT BOARDS OF HEALTH AND TO PROVIDE THE AUTHORITY OF THE BOARD OF TRUSTEES OF THE IDAHO DISTRICT BOARDS OF HEALTH; AMENDING SECTION 39-414, IDAHO CODE, TO AUTHORIZE A DISTRICT BOARD TO SELECT A BOARD MEMBER TO SERVE ON THE BOARD OF TRUSTEES OF THE IDAHO DISTRICT BOARDS OF HEALTH AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-416, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND DELETE OBSOLETE LANGUAGE; AMENDING SECTION 39-422, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 39-423, IDAHO CODE, TO PROVIDE FOR A DISTRICT BUDGET BASED ON A FISCAL YEAR OF JULY THROUGH JUNE; AMENDING SECTION 39-424, IDAHO CODE, TO ELIMINATE THE REQUIREMENT THAT THE DEPARTMENT OF COMMERCE CERTIFY COUNTY POPULATIONS TO EACH COUNTY AS WELL AS TO EACH HEALTH DISTRICT, TO REQUIRE THAT THE STATE TAX COMMISSION CERTIFY THE TAXABLE MARKET VALUE FOR EACH COUNTY TO THE HEALTH DISTRICTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-425, IDAHO CODE, TO PROVIDE THAT THE STATE APPROPRIATION TO THE HEALTH DISTRICTS BE DIVIDED BASED ON THE FORMULA DEVELOPED BY THE BOARD OF TRUSTEES OF THE IDAHO DISTRICT BOARDS OF HEALTH AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 39-411, Idaho Code, be, and the same is hereby amended to read as follows:

39-411. COMPOSITION OF DISTRICT BOARD -- QUALIFICATIONS OF MEMBERS -- APPOINTMENT AND REMOVAL -- TERMS -- TRUSTEE SELECTED FOR BOARD

OF TRUSTEES OF DISTRICT BOARDS OF HEALTH. For those districts comprised of less than eight (8) counties, the district board of health shall consist of seven (7) members to be appointed by the boards of county commissioners within each district acting jointly, and each board of county commissioners may appoint a board member. For those districts comprised of eight (8) counties, the district board of health shall consist of eight (8) members and each board of county commissioners may appoint a board member. Each member of the district board of health shall be a citizen of the United States, a resident of the state of Idaho and the public health district for one (1) year immediately last past, and a qualified elector. One (1) member of the district board, if available to serve, shall be a physician licensed by the Idaho state board of medicine and no more than one (1) member shall be appointed from any professional or special interest group. All members shall be chosen with due regard to their knowledge and interest in public health and in promoting the health of the citizens of the state and the public health district. Representation shall be assured from rural as well as urban population groups. All appointments to the district board shall be confirmed by a majority vote of all the county commissioners of all the counties located within the public health district. Any member of the district board may be removed by majority vote of all the county commissioners of all the counties located within the district. The members of the district board, each year, shall select a chairman, ~~and~~ a vice-chairman and a trustee. The trustee shall represent the district board as a member of the board of trustees of the Idaho district boards of health. The board of trustees of the Idaho district boards of health shall have authority to allocate appropriations from the legislature to the health districts. The board of trustees shall develop and administer a formula for the allocation of legislative appropriations.

The members of the district board of health shall be appointed for the purpose of organization as follows: One (1) member to be appointed for a term of one (1) year, one (1) for two (2) years, one (1) for three (3) years, two (2) for four (4) years and two (2) for five (5) years. Each succeeding vacancy shall be filled by the boards of county commissioners within the district acting jointly and with confirmation as herein described for a term of five (5) years, subject to reappointment; and vacancies on the board for an unexpired term shall be filled for the balance of the unexpired term.

SECTION 2. That Section 39-414, Idaho Code, be, and the same is hereby amended to read as follows:

39-414. POWERS AND DUTIES OF DISTRICT BOARD. The district board of health shall have and may exercise the following powers and duties:

(1) To administer and enforce all state and district health laws, regulations, and standards.

(2) To do all things required for the preservation and protection of the public health and preventive health, and such other things delegated by the director of the state department of health and welfare and this shall be authority for the director to so delegate.

(3) To determine the location of its main office and to determine the location, if any, of branch offices.

(4) To enter into contracts with any other governmental or public agency whereby the district board agrees to render services to or for such agency in exchange for a charge reasonably calculated to cover the cost of rendering such service. This authority is to be limited to services voluntarily rendered and voluntarily received and shall not apply to services required by statute, rule, and regulations, or standards promulgated pursuant to this act or chapter 1, title 39, Idaho Code.

(5) All moneys or payment received or collected by gift, grant, devise, or any other way shall be deposited to the respective division or subaccount of the public health district in the public health district ~~account~~ fund authorized by section 39-422, Idaho Code.

(6) To establish a fiscal control policy required by the state controller.

(7) To cooperate with the state board and the department of health and welfare.

(8) To enter into contracts with other governmental agencies, and this act hereby authorizes such other agencies to enter into contracts with the health district, as may be deemed necessary to fulfill the duties imposed upon the district in providing for the health of the citizens within the district.

(9) To purchase, exchange or sell real property and construct, rent, or lease such buildings as may be required for the accomplishment of the duties imposed upon the district and to further obtain such other personal property as may be necessary to its functions.

(10) To accept, receive and utilize any gifts, grants, or funds and personal and real property that may be donated to it for the fulfillment of the purposes outlined in this act.

(11) To establish a charge whereby the board agrees to render services to or for entities other than governmental or public agencies for an amount reasonably calculated to cover the cost of rendering such service.

(12) To enter into a lease of real or personal property as lessor or lessee, or other transaction with the Idaho health facilities authority for a term not to exceed ninety-nine (99) years upon a determination by the district board that the real or personal property to be leased is necessary for the purposes of the district, and to pledge nontax revenues of the district to secure the district's obligations under such leases.

(13) To administer and certify solid waste disposal site operations, closure, and post closure procedures established by statute or regulation in accordance with provisions of chapter 74, title 39, Idaho Code, in a manner equivalent to the site certification process set forth in section 39-7408, Idaho Code.

(14) To select a board member to serve as trustee on the board of trustees of the Idaho district boards of health.

SECTION 3. That Section 39-416, Idaho Code, be, and the same is hereby amended to read as follows:

39-416. ~~REGULATIONS~~ RULES ADOPTED BY DISTRICT BOARD -- PROCEDURE. (1) The district board by the affirmative vote of a majority of its members may adopt, amend or rescind ~~regulations,~~ rules and standards

as it deems necessary to carry out the purposes and provisions of this act.

(2) Every rule~~,--regulation~~ or standard adopted, amended, or rescinded by the district board shall be done in a manner conforming to the provisions of chapter 52, title 67, Idaho Code.

(3) At the same time that proposed rules~~,--regulations~~ and standards are transmitted to the director of ~~the~~ legislative ~~council~~ services, they shall be submitted for review and comment to the state board of health and welfare, and to the board of county commissioners of each county within the public health district's jurisdiction. The state board of health and welfare shall, within seventy-five (75) days of receipt of a district board's proposed rules, ~~or-regulations,~~ disapprove of the adoption of the rules ~~or-regulations~~ if, on the advice of the attorney general, such rules ~~and-regulations~~ would be in conflict with state laws~~,~~ or rules. ~~or-regulations.~~ The state board of health and welfare shall immediately advise the district board as to the reason for the disapproval.

(4) This section does not apply to measures adopted for the internal operation of the district board or for federal programs where the regulations are established by the federal government but shall apply to all measures affecting the public at large or any identifiable segment thereof.

SECTION 4. That Section 39-422, Idaho Code, be, and the same is hereby amended to read as follows:

39-422. PUBLIC HEALTH DISTRICT ~~ACCOUNT~~ FUND -- ESTABLISHMENT -- DIVISIONS -- FISCAL OFFICER -- EXPENDITURES. (1) There is hereby authorized and established in the state treasury a special ~~account~~ fund to be known as the public health district ~~account~~ fund for which the state treasurer shall be custodian. Within the public health district ~~account~~ fund there shall be seven (7) divisions, ~~or subaccounts,~~ one (1) for each of the seven (7) public health districts. Each division within the ~~account~~ fund will be under the exclusive control of its respective district board of health and no moneys shall be withdrawn from such division of the ~~account~~ fund unless authorized by the district board of health or ~~their~~ its authorized agent.

(2) The procedure for the deposit and expenditure of moneys from the public health district ~~account~~ fund will be in accordance with procedures established between all district boards and the state controller. All income and receipts received by the districts shall be deposited in the public health district ~~account~~ fund.

(3) Claims against the divisions of the health district ~~account~~ fund are not claims against the state of Idaho. Claims against an individual health district are limited to that district's division moneys.

SECTION 5. That Section 39-423, Idaho Code, be, and the same is hereby amended to read as follows:

39-423. BUDGET COMMITTEE OF PUBLIC HEALTH DISTRICT. The chairmen of the boards of county commissioners located within the public health

district are hereby constituted as the budget committee of the public health district.

The district board will submit to the budget committee by the first Monday in ~~August~~ June of each year the preliminary budget for the public health district and the estimated cost ~~of~~ to each county, as determined by the provisions of section 39-424, Idaho Code.

On or before the first Monday in ~~September~~ July, there will be held at a time and place determined by the budget committee a budget committee meeting and public hearing upon the proposed budget of the district. Notice of the budget committee meeting and public hearing shall be posted at least ten (10) full days prior to the date of said meeting in at least one (1) conspicuous place in each public health district to be determined by the district board of health. A copy of such notice shall also be published in the official newspaper or a generally circulated newspaper of each county of such public health district, in one (1) issue thereof, during such ten (10) day period. The place, hour and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A summary of such proposed budget shall be published with and as a part of the publication of such notice of hearing in substantially the form required by section 31-1604, Idaho Code.

On or before the first Monday in ~~October~~ July a budget for the public health district shall be agreed upon and approved by a majority of the budget committee. Such determination shall be binding upon all counties within the district and the district itself.

SECTION 6. That Section 39-424, Idaho Code, be, and the same is hereby amended to read as follows:

39-424. COST OF MAINTENANCE OF DISTRICT -- APPORTIONMENT TO MEMBER COUNTIES. The manner of apportioning the contributions of the counties as part of the budget of the health district, created pursuant to section 39-423, Idaho Code, shall be as follows:

(1~~.~~) Seventy ~~per-cent~~ percent (70%) of the amount to be contributed by the counties shall be apportioned among the various counties within the health district on the basis of population. The proportion of the total population of each county as compared to the total population of the health district shall be the proportion by which such county shall share in the contribution of county funds for the maintenance of the health district, pursuant to this subsection. The population will be determined by the last general census when applicable. When a general census number is not applicable, population shall be estimated for each county by the state department of commerce and such estimated population number shall be certified ~~to each county and~~ to each health district by not later than April 1.

(2~~.~~) Thirty ~~per--cent~~ percent (30%) of the amount to be contributed by the counties shall be apportioned among the counties within the district on the basis of taxable market value for assessment purposes. The proportion of the total taxable market value for assessment purposes of each county as compared to the total taxable market value for assessment purposes of the health district shall be the proportion by which such county shall share in the contribution of funds for the maintenance of the health district, pursuant to this subsection. Total

taxable market value for assessment purposes shall mean the total taxable market value for assessment purposes as computed by the county assessor for the preceding full calendar year. Taxable market value for each county shall be certified to the health districts by the state tax commission for the preceding year.

SECTION 7. That Section 39-425, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(a~~.~~) The amount appropriated to the health districts shall be divided based upon the formula developed and administered by the board of trustees of the Idaho district boards of health.

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

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

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

(a~~.~~) The funds actually authorized and granted to the various public health districts as provided in subsection (1) of this section; and

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

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

(5) If revenues to the state treasury are insufficient to fully meet appropriations, and reductions in spending authority have been ordered pursuant to law, the amount of moneys to match revenues con-

tributed by the counties, pursuant to section 39-423, Idaho Code, which has been appropriated pursuant to this section, shall be reduced by the same percentage rate as other general account appropriations.

Approved March 15, 1999.

CHAPTER 62
(H.B. No. 91)

AN ACT

RELATING TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2732, IDAHO CODE, TO DELETE A LIMITATION ON LOAN LIABILITY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 22-2732, Idaho Code, be, and the same is hereby amended to read as follows:

22-2732. LOANS FROM ACCOUNT -- APPLICATION -- APPROVAL -- REPAYMENT. (a) Eligible applicants may file an application with the local soil conservation district for a loan from the account for the purpose of financing conservation improvement cost. Such application shall be filed in such a manner, and shall be in such form, and be accompanied by such information as may be prescribed by the commission; provided, however, that any such application filed with the district under the provisions of this act shall:

(1) Describe the nature and purposes of the improvements.

(2) Set forth or be accompanied by a conservation plan approved by the local soil conservation district which identifies the conservation improvements, together with such engineering and economic feasibility data and estimated costs of construction as may be required by the commission.

(3) State whether money other than that for which application is made under this act will be used for improvement costs, and whether such money is available or has been sought for this purpose.

(4) Show that the applicant holds or can acquire title to all lands or has necessary easements and rights-of-way for the improvements.

(5) Show the proposed project is feasible from an engineering standpoint and economically justified.

(b) Within sixty (60) days of receipt of an application, the local soil conservation district shall review and evaluate, and if it deems necessary, investigate all aspects of the proposed improvements. As part of such investigation, the district shall determine whether the plan for development of the conservation improvements is satisfactory. If the district determines the plan is unsatisfactory, it shall return the application to the applicant and the district may make such recommendations to the applicant as are considered necessary to make the plan satisfactory. If the district determines the plan is satisfactory, it shall assign a priority to the application and forward the

application to the commission with a recommendation for funding.

(c) The commission may approve a loan for conservation improvements if after review, evaluation, and investigation if necessary, finds that:

(1) The applicant is qualified and responsible;

(2) There is reasonable assurance that the borrower can repay the loan;

(3) That money in the resource conservation and rangeland development account is available for the loan~~;~~

~~(4)--That-the-loan-will-not-result--in--a--condition--whereby--the applicant-has-a-loan-liability-in-excess-of-fifty-thousand-dollars ($50,000)-pursuant-to-this-act.~~

(d) If the commission approves a loan, the applicant shall execute a promissory note for repayment to the account of money loaned therefrom, together with interest not to exceed six percent (6%) annually as determined by the commission. The note shall further provide that repayment of the loan, together with interest thereon, shall commence not later than two (2) full years from the date the note is signed. Repayment shall be completed within the time period specified by the commission not to exceed fifteen (15) years, except that the commission may extend the time for making repayment in event of emergency or hardship. Such agreement shall also provide for such assurance of, and security for, repayment of the loan as are considered necessary by the commission.

(e) If an applicant fails to comply with the repayment contract, the interest in the improvement may be conveyed to a successor upon approval by the commission, which may contract with the qualified successor in interest of the original obligor for repayment of the loan, together with interest thereon, and for succession to its rights and obligation in any contract with the commission.

Approved March 15, 1999.

CHAPTER 63
(H.B. No. 127)

AN ACT

RELATING TO THE IDAHO BEAN COMMISSION; AMENDING SECTION 22-2912, IDAHO CODE, TO DECREASE THE NUMBER OF MEMBERS, TO REVISE THE NUMBER OF DISTRICTS AND THE GEOGRAPHICAL MAKEUP OF DISTRICTS AND TO INCREASE COMPENSATION FOR MEMBERS OF THE BEAN COMMISSION.

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

SECTION 1. That Section 22-2912, Idaho Code, be, and the same is hereby amended to read as follows:

22-2912. BEAN COMMISSION CREATED. There is hereby created and established in the department of self-governing agencies the Idaho bean commission, hereinafter called the commission. It shall be composed of ~~nine (9)~~ eight (8) men or women engaged in the bean industry.

The commission shall be appointed by the governor, and each member must have been a resident of the state of Idaho for a period of three (3) years immediately prior to his appointment, shall have had active experience in growing, processing or shipping of beans produced in the state of Idaho, and at least ~~five~~ four (~~5~~4) members of the commission shall be growers actually engaged in production of beans, but who are not handlers, dealers or processors. One (1) grower member of the commission shall be appointed from each of the districts provided for by this section. The four (4) remaining members of the commission may be engaged in the processing or shipping of beans, at least one (1) of whom must be engaged in the processing or shipping of snap bean seed. The processor or shipper members of the commission shall be appointed at large, keeping in mind insofar as possible geographic locations representative of the Idaho bean industry. The qualifications for membership on the commission shall continue throughout the respective terms of office of the commissioners. Upon recommendation of organizations of producers and shippers of beans, ~~one (1) grower commissioner shall be appointed from district No. 1, which district shall be composed of the following counties: Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis and Idaho;~~ one (1) grower commissioner shall be appointed from district No. ~~2~~1, which district shall be composed of the following counties: Adams, ~~Valley, Lemhi, Custer, Boise,~~ Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Clearwater, Lewis, Idaho, Washington, Payette, Gem, Canyon and Ada; one (1) grower commissioner shall be appointed from district No. ~~3~~2, which district shall be composed of the following counties: Valley, Lemhi, Custer, Boise, Twin Falls, Owyhee and Elmore; one (1) grower commissioner shall be appointed from district No. ~~4~~3, which district shall be composed of the following counties: Cassia, Oneida, Power, Bannock, Caribou, Bear Lake, Franklin and Minidoka; one (1) grower commissioner shall be appointed from district No. ~~5~~4, which district shall be composed of the following counties: Camas, Blaine, Gooding, Lincoln, Jerome, Bingham, Bonneville, Butte, Jefferson, Madison, Teton, Fremont and Clark. ~~Commencing on July 1, 1971 and July 1, 1973, when the terms of the present commission members expire, the next regularly appointed grower members for districts No. 1 and No. 2 will hold office for a term of one (1) year; the next regularly appointed grower member from district No. 3 will hold office for a term of four (4) years; the next regularly appointed grower member for district No. 4 will hold office for a term of one (1) year; the next regularly appointed grower member from district No. 5 will hold office for a term of four (4) years. Also, commencing on July 1, 1971 and July 1, 1973, when the terms of the present processor or shipper members, who were appointed heretofore from districts 2, 3, 4 and 5, expire, the processor or shipper members replacing the heretofore appointed processor or shipper members will serve the following terms: the processor or shipper member who is appointed to replace the processor or shipper member appointed from district No. 2 will serve a term of four (4) years; the processor or shipper member who is appointed to replace the processor or shipper member appointed from district No. 3 will serve a term of three (3) years; the processor or shipper member who is appointed to replace the processor or shipper member appointed from district No. 4 will serve a term of four (4)~~

~~years;-the-processor-or-shipper-member-who-is-appointed-to-replace-the processor-or-shipper-member-appointed-from-district-No.-5-will-serve-a term--of--three--(3)--years.~~ Commencing on July 1, 1999, the governor shall appoint two (2) members for a one (1) year term, two (2) members for a two (2) year term, two (2) members for a three (3) year term, and two (2) members for a four (4) year term. Thereafter, the governor shall appoint commissioners as their terms expire. Each commissioner shall serve for a term of four (4) years. Each commissioner shall hold office until his successor has been appointed.

A simple majority of members of the commission shall constitute a quorum for the transaction of business and for carrying out the duties of the commission. All commissioners shall take an oath of office before commencing their duties.

Each member of the commission shall be compensated as provided by section 59-509(~~j~~l), Idaho Code, provided however, that compensation paid to members of the commission on and after January 1, 1998, shall not be considered salary as defined in section 59-1302, Idaho Code.

Approved March 15, 1999.

CHAPTER 64
(H.B. No. 216)

AN ACT

RELATING TO THE IDAHO POTATO COMMISSION; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 22-1210, IDAHO CODE, TO PROVIDE THAT ALL CONTRACTUAL EXPENSES INCURRED BY THE COMMISSION IN PERFORMING ITS DUTIES AND EXERCISING ITS POWERS SHALL BE WITHOUT LIABILITY ON THE PART OF THE STATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature of the State of Idaho is fully aware of and familiar with the decision of the District Court in the case of "Idaho Potato Commission v. M&M Farms & Sales, Inc. et al.," Case Number 97 Civ. 8125 (CLB). This act clarifies Section 22-1210, Idaho Code, and expresses the Legislature's disagreement with that portion of the court's opinion holding that the Idaho Potato Commission, as an agency of the state of Idaho, is not entitled to sovereign immunity. This legislation clarifies the limitation on expenses consistent with the Legislature's original intent and prior understanding of the law: The Idaho Potato Commission is responsible for and must satisfy its contractual obligations out of tax funds collected from the potato tax. The state of Idaho, through its mandatory risk management program, is responsible for tort claims made against state agencies, including the Idaho Potato Commission. The Legislature also reaffirms and confirms the powers and duties of the Idaho Potato Commission in requiring the licensing of all those using any of the Idaho trade or certification marks, regulating the Idaho potato industry by requiring licensing of those who handle or pack potatoes grown in Idaho, certifying Idaho grown potatoes and preventing those who

would not agree to licensure and an audit of their packing facilities and records from handling and packing Idaho grown potatoes. These activities and duties advance the interests and welfare of the state of Idaho and its potato industry which are of vital importance to the general welfare of the state.

SECTION 2. That Section 22-1210, Idaho Code, be, and the same is hereby amended to read as follows:

22-1210. LIMIT ON STATE LIABILITY -- COMPENSATION AND EXPENSES. All contractual expenses incurred by the commission in performing its duties and exercising its powers shall be without liability on the part of the state.

No member of the commission shall receive any compensation for his services as such member, except as provided in section 22-1202, Idaho Code, but members and employees of the commission and other persons acting under the direction of the commission shall, if approved by the commission, be reimbursed for their actual and reasonable expenses incurred in performing their duties under this chapter.

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, 1999.

CHAPTER 65
(H.B. No. 3)

AN ACT

RELATING TO THE INSURANCE CODE; AMENDING SECTION 41-268, IDAHO CODE, TO CHANGE A REPORTING DATE; AMENDING SECTION 41-307, IDAHO CODE, TO CORRECT A CITATION; AMENDING SECTION 41-332, IDAHO CODE, TO CORRECT CITATIONS; AMENDING SECTION 41-342, IDAHO CODE, TO CORRECT A CITATION; AMENDING SECTION 41-345, IDAHO CODE, TO REQUIRE REPORTS BE FILED WITH THE IDAHO DEPARTMENT OF INSURANCE; AMENDING SECTION 41-2803, IDAHO CODE, TO CORRECT CITATIONS; AMENDING SECTION 41-2852, IDAHO CODE, TO CLARIFY APPLICATION; AND AMENDING SECTION 41-3806, IDAHO CODE, TO CHANGE A REPORTING DATE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-268, Idaho Code, be, and the same is hereby amended to read as follows:

41-268. ARSON, FIRE AND FRAUD PREVENTION ACCOUNT. (1) There is hereby created an account in the agency asset fund in the state treasury, to be designated the "arson, fire and fraud prevention account." The account shall be used by the director, department of insurance, for enforcement of this act, investigation of alleged cases of arson,

fraud and related alleged violations of the laws of this state, and prevention of fire, explosions and other conditions necessary for the public safety, health, peace and welfare.

(2) In addition to moneys, if any, appropriated to the account by the legislature, the director shall deposit with the state treasurer for credit to the arson, fire and fraud prevention account:

(a) Penalties collected under the provisions of sections 41-261 and 41-263, Idaho Code;

(b) Assessments and, in the case of surplus lines insurers, fees, collected from insurers as defined by section 41-103, Idaho Code;

(c) Other moneys now or hereinafter in the state fire prevention account;

(d) Other moneys or revenues derived from whatever source for arson or fraud investigation or fire prevention.

(3) Not more often than annually, assessments against authorized insurers and fees from surplus lines insurers, as a prerequisite to eligibility under section 41-1217, Idaho Code, will be levied by the director, and insurers will pay the assessments or fees levied within sixty (60) days but not later than ~~May~~ March 1 of each year or, in the case of newly applying insurers, upon notification of authorization, or of surplus lines eligibility. Assessments and fees from surplus lines insurers, will be as follows:

(a) Insurers writing coverages as defined in section 41-504, Idaho Code, "property insurance," section 41-505, Idaho Code, "marine and transportation," section 41-506, Idaho Code, "casualty insurance," and section 41-3101, Idaho Code, "domestic county mutual fire insurers, associations or organizations," not less than one hundred dollars ($100) nor more than five hundred dollars ($500) annually; and

(b) Insurers including, but not limited to, those defined in sections 41-3201, 41-3403 and 41-3903, Idaho Code, not writing coverages, as defined above in subsection (3)(a), shall pay one-half (1/2) the assessment made under the preceding subsection but not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250) annually.

(4) All claims against the account shall be examined, audited and allowed in the manner now or hereafter provided by law.

(5) All moneys placed in the account are hereby perpetually appropriated to the department of insurance for the purposes of the provisions of this section.

(6) Pending use for purposes of the provisions of this section, moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the account.

SECTION 2. That Section 41-307, Idaho Code, be, and the same is hereby amended to read as follows:

41-307. AUTHORIZATION FOR INVESTMENT PURPOSES ONLY. A foreign insurer may make investments in this state without certificate of authority as provided by section 30-1-~~106~~1501, Idaho Code. Such an insurer shall not be subject to any other provision of this code.

SECTION 3. That Section 41-332, Idaho Code, be, and the same is hereby amended to read as follows:

41-332. FOREIGN INSURERS EXEMPT FROM CORPORATION LAWS GOVERNING ADMISSION OF FOREIGN CORPORATIONS. A foreign insurer authorized to transact insurance in this state and fully complying with this code shall be exempt from complying with the provisions of sections 30-1-~~106~~1501 through 30-1-~~124~~1532, Idaho Code.

SECTION 4. That Section 41-342, Idaho Code, be, and the same is hereby amended to read as follows:

41-342. REDOMESTICATION AS A DOMESTIC INSURER -- CONVERSION TO FOREIGN INSURER. (1) Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in Idaho. Such a domestic insurer shall be entitled to a certificate of redomestication and a certificate of authority to transact business in this state, and shall have the same rights and obligations as other domestic insurers of this state.

(2) Any domestic insurer may, upon the approval of the director, transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon such a transfer, the insurer shall cease to be a domestic insurer. If the insurer is otherwise qualified, the director shall admit the insurer to this state as a foreign insurer. The director shall approve any such proposed transfer unless he determines that such a transfer is not in the interest of the policyholders of the insurer in this state. After the director has approved the transfer, the director shall provide written notice to the secretary of state that the insurer has transferred its domicile to another state, stating the effective date of the transfer and the state to which the insurer has transferred its domicile. Upon receipt of the written notice from the director and the payment of the fee required in section 30-1-~~128(n)~~122, Idaho Code, the secretary of state shall file the notice and, on the effective date of the transfer, terminate the existence of the insurance company as a domestic corporation.

(3) The certificate of authority, appointment of statutory agent and licenses, policy forms, rates, authorizations and other filings and approvals in existence at the time an insurer admitted to transact insurance in this state transfers its corporate domicile to this or any other state, continue in effect upon the transfer of corporate domicile. All rates and outstanding policies of any transferring insurer shall remain in full force and effect and policies need not be endorsed as to the new domicile unless so ordered by the director. Every transferring insurer shall either file new policy forms for use in this state with the director on or before the effective date of the transfer, or use existing policy forms in this state with appropriate endorsements as allowed by, and under such conditions as may be approved by the director. Every transferring insurer shall notify the

director of the proposed transfer, and shall promptly file any resulting amendments to its corporate documents required to be filed with the director.

SECTION 5. That Section 41-345, Idaho Code, be, and the same is hereby amended 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 Idaho department of 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 6. That Section 41-2803, Idaho Code, be, and the same is hereby amended to read as follows:

41-2803. APPLICABILITY OF GENERAL CORPORATION STATUTES. (1) The applicable statutes of this state relating to the powers and procedures of domestic private corporations formed for profit shall apply to domestic stock insurers and to domestic mutual insurers, except where in conflict with the express provisions of this code and the reasonable implications of such provisions.

(2) Domestic stock insurers and domestic mutual insurers are exempt from the provisions of section~~s--30-1-125--(annual--report--of domestic--and-foreign-corporations),-30-1-126-(filing-of-annual-report of-domestic-and-foreign-corporations),--and--30-1-130--(franchise--tax payable-by-domestic-and-foreign-corporations),~~ 30-1-1622, Idaho Code.

SECTION 7. That Section 41-2852, Idaho Code, be, and the same is

hereby amended to read as follows:

41-2852. IMPAIRMENT OF CAPITAL OR ASSETS. (1) If ~~a domestic stock insurer's capital (as represented by the aggregate par value of its outstanding capital stock) becomes impaired, or~~ the assets of a domestic ~~mutual~~ insurer are less than its liabilities and the minimum amount of ~~surplus~~ capital funds required to be maintained by it under ~~this code~~ section 41-313, Idaho Code, for authority to transact the kinds of insurance being transacted, the director shall at once determine the amount of deficiency and serve notice upon the insurer to cure the deficiency and file proof thereof with him within the period specified in the notice, which period shall be not less than thirty (30) nor more than ninety (90) days from the date of the notice. Such notice may be so served by delivery to the insurer, or by mailing to the insurer addressed to its registered office in this state.

(2) The deficiency may be made good in cash or in assets eligible under chapter 7 (investments) for the investment of the insurer's funds; or by amendment of the insurer's certificate of authority to cover only such kind or kinds of insurance thereafter for which the insurer has sufficient paid-in capital stock (if a stock insurer) or surplus (if a mutual insurer) under this code; or, if a stock insurer, by reduction of the number of shares of the insurer's authorized capital stock or the par value thereof through amendment of its articles of incorporation, to an amount of authorized and paid-in capital stock not below the minimum required for the kinds of insurance thereafter to be transacted.

(3) After any such reduction of authorized capital stock the insurer shall require the surrender to it of outstanding stock certificates in exchange for new certificates to be issued in lieu thereof for such number and/or par value of shares as the respective stockholders are proportionately entitled to receive.

(4) If the deficiency is not made good and proof thereof filed with the director within the period required by the notice as specified in subsection (1) above, the insurer shall be deemed insolvent and the director shall institute delinquency proceedings against it under chapter 33 of this code.

SECTION 8. That Section 41-3806, Idaho Code, be, and the same is hereby amended to read as follows:

41-3806. REGISTRATION OF HOLDING COMPANY SYSTEM INSURERS. (1) Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the director; except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in:

(a) Section 41-3806, Idaho Code;

(b) Sections 41-3807 (1), 41-3808 and 41-3809, Idaho Code; and

(c) Either section 41-3807 (2), Idaho Code, or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen (15)

days after the end of the month in which it learns of each change or addition.

Each insurer which is subject to registration under the provisions of this section shall register within fifteen (15) days after it becomes subject to registration, and annually thereafter ~~within one hundred twenty (120) days after the end of the holding company's fiscal year~~ for the year ended December 31 immediately preceding, on the due date provided for filing of audited financial reports or, if the insurer is not subject to filing of audited financial reports, on June 1, unless the director, for good cause shown, extends the time for registration, and then within such extended time. Nothing in this section shall be construed to prohibit the director from requesting any authorized insurer, which is a member of a holding company system and not subject to registration under the provisions of this section, for a copy of the registration statement or other information filed by such insurer with the insurance regulatory authority of its state of domicile. Upon request of the insurer or of the insurance regulatory authority of another jurisdiction in which the insurer is authorized to transact insurance, the director at the insurer's expense shall furnish a copy of the registration statement or other information filed by a domestic insurer with the director pursuant to this chapter.

(2) Every insurer subject to registration shall file a registration statement, on a form provided by the director, which shall contain current information about:

(a) The capital structure, general financial condition, ownership and management of the insurer and of any person controlling the insurer;

(b) The identity and relationship of every member of the insurance holding company system;

(c) The following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(i) Loans and other investments, and purchases, sales or exchanges of securities of the affiliate by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchanges of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management and service contracts and all cost-sharing arrangements;

(vi) Reinsurance agreements;

(vii) Dividends and other distributions to shareholders; and

(viii) Consolidated tax allocation agreements.

(d) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system; and

(e) Other matters concerning transactions between the insurer and any affiliate as may be required by the director.

(3) All registration statements shall contain a summary outlining

all items in the current registration statement representing changes from the prior registration statement.

(4) No information need be disclosed on the registration statement filed pursuant to this section if such information is not material to the purposes of this chapter. Unless the director by rule~~,~~ ~~regulation~~ or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, involving one-half of one ~~per-cent~~ percent (.5%) or less of an insurer's admitted assets as of December 31 immediately preceding shall not be deemed material for purposes of this section.

(5) Subject to the provisions of section 41-3809, Idaho Code, each registered insurer shall report to the director all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof.

(6) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where such information is reasonably necessary to enable the insurer to comply with the provisions of this chapter.

(7) The director shall terminate the registration of any insurer which demonstrates that it is no longer a member of an insurance holding company system.

(8) The director may require or allow two (2) or more affiliated insurers subject to registration hereunder to file a consolidated registration statement.

(9) The director may allow any insurer, which is authorized to do business in this state and which is part of an insurance holding company system, to register on behalf of any affiliated insurer which is required to register under subsection (1) of this section, and to file all information and material required to be filed under the provisions of this chapter.

(10) This section shall not apply to any insurer, information or transaction if and to the extent that the director by rule~~,--regulation,~~ or order shall exempt the same from the provisions of this section as not comprehended within the purposes thereof.

(11) Any person may file with the director a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and the insurer as well as the bases for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the director disallows the disclaimer. The director shall disallow a disclaimer only after a hearing thereon with notice to all parties in interest, and after making specific findings of fact to support such disallowance.

(12) The failure to file a registration statement or any summary of the registration statement thereto required in this section within the time specified for such filing shall be a violation of the provisions of this section.

Approved March 17, 1999.

CHAPTER 66
(H.B. No. 12)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1404, IDAHO CODE, TO INCREASE THE REIMBURSABLE DAMAGES FOR ILLEGALLY TAKEN, POSSESSED OR WASTED WILDLIFE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 36-1404, Idaho Code, be, and the same is hereby amended to read as follows:

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

1. Elk, ~~five~~ seven hundred fifty dollars ($7~~5~~00) per animal killed, possessed or wasted.
2. Caribou, bighorn sheep, mountain goat and moose, one thousand five hundred dollars ($1,0~~5~~00) per animal killed, possessed or wasted.
3. Any other species of big game, ~~two~~ four hundred dollars ($~~2~~400) per animal killed, possessed or wasted.
4. Wild turkey and swan, two hundred fifty dollars ($20~~5~~0) per bird killed, possessed or wasted.
5. Sturgeon, chinook salmon, and wild steelhead, two hundred fifty dollars ($20~~5~~0) per fish killed, possessed or wasted.
6. ~~Chinook salmon, wild steelhead and b~~Bull trout, one hundred fifty dollars ($10~~5~~0) per fish killed, possessed or wasted.
7. Any other game bird, game fish or furbearer, ~~twenty-five~~ fifty dollars ($~~2~~5~~0~~.00) per animal killed, possessed or wasted.

Provided further, that any person who pleads guilty, ~~if~~ is found guilty of, or is convicted of a flagrant violation, in accordance with section 36-1402(e), Idaho Code, involving the illegal killing, illegal possession or illegal waste of a trophy big game animal as defined in section 36-202(h), Idaho Code, shall reimburse the state for each animal so killed, possessed or wasted, as follows:

1. Trophy mule deer: two thousand dollars ($2,000) per animal killed, possessed or wasted;
2. Trophy white-tailed deer: two thousand dollars ($2,000) per animal killed, possessed or wasted;
3. Trophy elk: five thousand dollars ($5,000) per animal killed, possessed or wasted;
4. Trophy bighorn sheep: ten thousand dollars ($10,000) per animal killed, possessed or wasted;
5. Trophy moose: ten thousand dollars ($10,000) per animal

killed, possessed or wasted;

6. Trophy mountain goat: ten thousand dollars ($10,000) per animal killed, possessed or wasted;

7. Trophy pronghorn antelope: two thousand dollars ($2,000) per animal killed, possessed or wasted;

8. Trophy caribou: ten thousand dollars ($10,000) per animal killed, possessed or wasted.

For each additional animal of the same category killed, possessed or wasted during any twelve (12) month period, the amount to be reimbursed shall double from the amount for each animal previously illegally killed, possessed or wasted. For example, the reimbursable damages for three (3) elk illegally killed during a twelve (12) month period would be three thousand five hundred dollars ($3,500), calculated as follows: five hundred dollars ($500) for the first elk; one thousand dollars ($1,000) for the second elk; and two thousand dollars ($2,000) for the third elk. In the case of three (3) trophy elk illegally killed in a twelve (12) month period, the reimbursable damages would be thirty-five thousand dollars ($35,000) calculated as follows: five thousand dollars ($5,000) for the first elk, ten thousand dollars ($10,000) for the second elk, and twenty thousand dollars ($20,000) for the third elk. Provided however, that wildlife possessing a twenty-five dollar ($25.00) reimbursement value shall be figured at the same rate per each animal in violation, without compounding.

(b) In every case of a plea of guilty, a finding of guilt or a conviction of unlawfully releasing any fish species into any public body of water in the state, the court before whom the plea of guilty, finding of guilt, or conviction is obtained shall enter judgment ordering the defendant to reimburse the state for the cost of the expenses, not to exceed ten thousand dollars ($10,000), incurred by the state to correct the damage caused by the unlawful release. For purposes of this subsection, "unlawfully releasing any fish species" shall mean a release of any species of live fish, or live eggs thereof, in the state without the permission of the director of the department of fish and game; provided, that no permission is required when fish are being freed from a hook and released at the same time and place where caught or when crayfish are being released from a trap at the same time and place where caught.

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

(d) The judgment shall fix the manner and time of payment, and may permit the defendant to pay the judgment in installments at such times and in such amounts as, in the opinion of the court, the defendant is able to pay. In no event shall any defendant be allowed more than two (2) years from the date judgment is entered to pay the judgment.

(e) A defaulted judgment or any installment payment thereof may be collected by any means authorized for the enforcement of a judgment

under the provisions of the Idaho Code.

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

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

Approved March 17, 1999.

CHAPTER 67
(H.B. No. 20)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2711, IDAHO CODE, BY THE ADDITION OF SIBUTRAMINE TO CONTROLLED SUBSTANCES AND TO MAKE A TECHICAL CORRECTION.

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

SECTION 1. That Section 37-2711, Idaho Code, be, and the same is hereby amended to read as follows:

37-2711. SCHEDULE IV. (a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) No more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

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

(1) Alprazolam;
(2) Barbital;
(3) Bromazepam;
(4) Camazepam;
(5) Chloral betaine;
(6) Chloral hydrate;
(7) Chlordiazepoxide;
(8) Clobazam;

(9) Clonazepam;
(10) Clorazepate;
(11) Clotiazepam;
(12) Cloxazolam;
(13) Delorazepam;
(14) Diazepam;
(15) Estazolam;
(16) Ethchlorvynol;
(17) Ethinamate;
(18) Ethyl loflazepate;
(19) Fludiazepam;
(20) Flurazepam;
(21) Halazepam;
(22) Haloxazolam;
(23) Ketazolam;
(24) Loprazolam;
(25) Lorazepam;
(26) Lormetazepam;
(27) Mebutamate;
(28) Medazepam;
(29) Meprobamate;
(30) Methohexital;
(31) Methylphenobarbital (mephobarbital);
(32) Midazolam;
(33) Nimetazepam;
(34) Nitrazepam;
(35) Nordiazepam;
(36) Oxazepam;
(37) Oxazolam;
(38) Paraldehyde;
(39) Petrichloral;
(40) Phenobarbital;
(41) Pinazepam;
(42) Prazepam;
(43) Temazepam;
(44) Tetrazepam;
(45) Triazolam;
(46) Quazepam;
(47) Zolpidem.

(d) Fenfluramine - Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Fenfluramine.

(e) 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 (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine);

(2) Diethylpropion;
(3) Fencamfamin;
(4) Fenproporex;
(5) Mazindol;
(6) Mefenorex;
(7) Pemoline (including organometallic complexes and chelates thereof);
(8) Phentermine;
(9) Pipradrol;
(10) Sibutramine;
(11) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(f) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts:

(1) Pentazocine.

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Approved March 17, 1999.

CHAPTER 68
(H.B. No. 24)

AN ACT

RELATING TO THE DIVISION OF BUILDING SAFETY; AMENDING SECTION 54-1009, IDAHO CODE, TO PROVIDE CORRECT REFERENCES TO THE ADMINISTRATOR OF THE DIVISION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1009, Idaho Code, be, and the same is hereby amended to read as follows:

54-1009. REVOCATION OR SUSPENSION OF LICENSES -- HEARINGS -- TAKING TESTIMONY. The ~~director~~ administrator shall have power to revoke or suspend any license if the same was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent, or has ~~wilfully~~ willfully violated any of the rules prescribed by the board, or as prescribed in this act; or has, after due notice, failed or refused to correct, within the specified time, any electrical installation not in compliance with the provisions of this act, provided, before any license shall be revoked or suspended, the holder thereof shall have written notice enumerating the charges against him,

and shall be given a hearing by said ~~director~~ administrator, and have an opportunity to produce testimony in his behalf, at a time and place specified in said notice, which time shall not be less than five (5) days after the service thereof. The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. Any party aggrieved by the action of the ~~director~~ administrator shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

The ~~director~~ administrator shall have the power to appoint, by an order in writing, a hearing officer to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses, and the decision of the ~~director~~ administrator shall be based on his examination of the testimony taken and the records produced. Any person whose license has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

Approved March 17, 1999.

CHAPTER 69
(H.B. No. 99)

AN ACT

RELATING TO THE IDAHO PESTICIDE LAW; REPEALING CHAPTER 14, TITLE 22, IDAHO CODE; AMENDING THE CHAPTER HEADING FOR CHAPTER 34, TITLE 22, IDAHO CODE; AMENDING SECTION 22-3401, IDAHO CODE, TO PROVIDE DEFINITIONS AND REFERENCES TO CHEMICALS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-3404, IDAHO CODE, TO PROVIDE FOR CHEMIGATION LICENSING; AMENDING SECTION 22-3406, IDAHO CODE, TO PROVIDE THAT PESTICIDE DEALER APPLICATIONS SHALL BE DUE AS PRESCRIBED BY RULE; AMENDING CHAPTER 34, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3406A, IDAHO CODE, TO PROVIDE RESPONSIBILITIES OF CHEMICAL SUPPLIERS; AMENDING CHAPTER 34, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3406B, IDAHO CODE, TO PROVIDE FOR CHEMIGATION RESPONSIBILITIES; AMENDING SECTION 22-3407, IDAHO CODE, TO PROVIDE FOR THE SAFE USE OF CHEMICALS; AMENDING CHAPTER 34, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3407A, IDAHO CODE, TO PROVIDE FOR COMPLIANCE WITH STANDARDS AND REQUIREMENTS WHEN USING IRRIGATION SYSTEMS FOR CHEMIGATION; AMENDING CHAPTER 34, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-3407B, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL COMPILE A LIST OF RECOGNIZED CHEMIGATION SYSTEMS; AMENDING SECTION 22-3408, IDAHO CODE, TO PROVIDE FOR A CHEMIGATION STOP WORK ORDER; AMENDING SECTION 22-3414, IDAHO CODE, TO PROVIDE FOR INSPECTION OF CHEMIGATION EQUIPMENT, STANDARDS, AND CHEMICALS USED FOR CHEMIGATION; AMENDING SECTION 22-3420, IDAHO CODE, TO PROHIBIT CERTAIN ACTS RELATED TO CHEMIGATION; AND AMENDING SECTION 22-3421, IDAHO CODE, TO PROVIDE FOR THE ADOPTION OF RULES GOVERNING CHEMIGATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Chapter 14, Title 22, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That the Heading for Chapter 34, Title 22, Idaho Code, be, and the same is hereby amended to read as follows:

PESTICIDES AND CHEMIGATION

SECTION 3. That Section 22-3401, Idaho Code, be, and the same is hereby amended to read as follows:

22-3401. DEFINITIONS. When used in this act:

(1) "Adulterated" means a pesticide is adulterated for the purpose of this act if the strength or purity of the pesticide is below the purported or professed standard of quality as expressed in its labeling, or any substance has been substituted wholly or in part for any ingredient of the pesticide, or any valuable constituent thereof has been omitted wholly or in part.

(2) "Antipollution device" means any mechanical equipment used to reduce hazard to the environment in cases of malfunction or shutdown of chemigation equipment during chemigation and may include, but not be limited to, interlock, irrigation line check valve, chemical line closure device, vacuum relief device and automatic low-pressure drain.

(3) "Certified applicator" means a person who has qualified as a professional applicator, or private applicator under the provisions of this act and the rules promulgated by the director.

(4) "Chemical" means any fertilizer or pesticide.

(5) "Chemigation" means any process whereby chemicals are added to irrigation water applied to land, crops or plants through an irrigation system, such as, but not limited to, agricultural, nursery, turf, lawn, golf course and greenhouse sites.

(~~3~~6) "Defoliant" means any substance or mixture of substances intended for causing the foliage to drop from a plant, with or without causing abscission.

(~~4~~7) "Department" means the Idaho department of agriculture.

(~~5~~8) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(~~6~~9) "Designated agent" means an employee or agent of the state authorized by the director to perform various duties in connection with enforcement of this act.

(~~7~~10) "Device" means an instrument or contrivance, other than a firearm, intended to trap, destroy, control, repel or mitigate any pest or any other form of plant or animal life, other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals, but does not include equipment used for the application of pesticides when sold separately therefrom.

(~~8~~11) "Director" means the director of the department of agriculture of the state of Idaho.

(~~9~~12) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having so received, deliver or offer to deliver, pesticides in this state.

(~~10~~3) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which

exist among these.

(1~~1~~4) "EPA" means the United States Environmental Protection Agency.

(1~~2~~5) "Fertilizer" means any formulation or product used as a plant nutrient which is intended to promote plant growth and contains one (1) or more plant nutrients.

(1~~3~~6) "General use pesticide" means any pesticide which is not a restricted-use pesticide.

(17) "Irrigation system" means any device or combination of devices having a hose, pipe, or other conduit which connects directly to any source of ground or surface water, through which water or a mixture of water and chemicals is drawn and applied to land, crops or plants. The term does not include any hand-held sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow into the water source.

(1~~4~~8) "Label or labeling" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappers. It would also include all other written, printed or graphic material that accompanies the pesticide or device at any time.

(1~~5~~9) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(~~16~~20) "Misbranded" shall apply to (a) any pesticide or device if its labeling bears any false or misleading statement, design or graphic representation, and (b) any pesticide if such pesticide is not labeled as required by section 22-3402, Idaho Code, and (c) any pesticide if the labeling bears any reference to the registration provisions of section 22-3402, Idaho Code, unless such reference is required by rules promulgated by the director.

(~~17~~21) "Person" means any individual, partnership, association, fiduciary corporation, or any organized group of persons whether incorporated or not.

(~~18~~22) "Pest" means (a) any insect, rodent, nematode, fungus, weed, or (b) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except virus, bacteria, or other microorganism on or in living man or other living animals, which the director declares to be a pest.

(~~19~~23) "Pesticide" means but is not limited to (a) any substance or mixture of substances intended to prevent, destroy, control, repel or mitigate any insect, rodent, nematode, snail, slug, fungus, weed and any other form of plant or animal life or virus, except virus or fungus on or in living man or other animal, which is normally considered to be a pest or which the director may declare to be a pest, and (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant, and (c) any spray adjuvant.

(2~~0~~4) "Pesticide dealer" means a person who distributes any restricted-use pesticide or general use pesticide except those exempted in section 22-3406, Idaho Code, or any pesticide whose uses or distribution are further restricted by the director by rule.

(2~~1~~5) "Pesticide equipment" means any equipment, machinery, or apparatus used in the actual application of pesticides including air-

craft and ground-spraying equipment.

(~~22~~6) "Pesticide industry representative" means a person who is a pesticide manufacturer's representative, distributor's representative, or any field representative of any company or organization that deals in agricultural commodities, who uses or supervises the application of restricted-use pesticides solely for the purpose of demonstrating the use of the restricted-use pesticide.

(~~23~~7) "Plant regulator" means any substance or mixture of substances intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments.

(~~24~~8) "Private applicator" means a person who: (a) uses or supervises the use of restricted-use pesticides to produce agricultural commodities or forest crops on land owned or rented by him or his employer; or (b) applies restricted-use pesticides on the property of another without compensation other than the trading of personal services between producers of agricultural commodities; or (c) applies ~~pesticides or fertilizers~~ chemicals through irrigation systems on land owned or rented by him or his employer.

(~~25~~9) "Professional applicator" means a person who: (a) applies pesticides upon the land or property of another for compensation, or applies ~~pesticides or fertilizers~~ chemicals through irrigation systems upon the land or property of another for compensation; or (b) uses or supervises the use of restricted-use pesticides and is not a private applicator; or (c) offers or supplies technical advice or recommendations regarding the use of agricultural pesticides.

(~~26~~30) "Restricted area" means an area established under the provisions of section 22-3419, Idaho Code, to prohibit or restrict the application of pesticides in order to prevent injury to land, people, animals, crops or the environment.

(~~27~~31) "Restricted-use pesticide" means any pesticide or pesticide use classified for restricted use by the administrator of EPA.

(~~28~~32) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a separate container from that of the pesticide with which it is to be used.

(~~29~~33) "State restricted pesticide use" means any pesticide use which, when used as directed in accordance with a widespread and commonly recognized practice, may be further restricted when the director determines, subsequent to a hearing, that additional restrictions are needed for that use to prevent unreasonable adverse effects on the environment including man, lands, beneficial insects, animals, crops and wildlife, other than pests.

(~~30~~4) "Under the direct supervision of a certified private applicator" means that, unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified private applicator if it is applied by a competent person acting under the instructions and control of a certified private

applicator who is available if and when needed, even though the certified private applicator is not physically present at the time and place the pesticide is applied.

(3~~4~~5) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(3~~2~~6) "Wildlife" means all living things that are neither human, domesticated, nor as defined in this act, pests, including but not limited to, mammals, birds and aquatic life.

SECTION 4. That Section 22-3404, Idaho Code, be, and the same is hereby amended to read as follows:

22-3404. PESTICIDE AND CHEMIGATION APPLICATORS -- CLASSIFICATION LICENSING REQUIREMENTS. (1) The director may classify pesticide applicator licenses issued under this act. Such classifications may include, but are not limited to, professional and private applicators. Separate licensing requirements and testing procedures may be utilized for each classification.

(2) Professional Applicators -- no person shall act as a professional applicator without first obtaining a professional applicator's license issued by the department.

(a) Application for a license shall be on a form prescribed by the department and shall be accompanied by a fee as prescribed by rule; and

(b) on the application for a license to perform chemigation, the applicant must certify that the equipment and system he plans to use for chemigation meet department standards and that the owner and persons operating the equipment have read the Idaho rules for chemigation and that the owner intends to operate and maintain the chemigation system according to the rules. On the application for licensure, the department may require other information as it deems necessary; and

(c) an applicant must be at least eighteen (18) years of age and must pass the department's examination in order to demonstrate his knowledge of how to apply, use and handle pesticides or chemicals in areas relevant to the operations he intends to undertake, or proper equipment and methods for injecting chemicals through irrigation systems; and

(~~c~~d) show proof of financial responsibility as prescribed by rule; and

(~~d~~e) an examination fee will be charged as prescribed by rule and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date; and

(~~e~~f) if at any time a licensed professional applicator fails to maintain the financial responsibility required by paragraph (~~c~~d) of this subsection, his license shall be automatically suspended until the department receives verification that he is in compliance with paragraph (~~c~~d) of this subsection.

(3) Private Applicator -- no person shall act as a private applicator without first obtaining a private applicator license issued by

the department.

(a) Application for a license shall be on a form prescribed by the department; and

(b) on the application for a license to perform chemigation, the applicant must certify that the equipment and system he plans to use for chemigation meet department standards and that the owner and persons operating the equipment have read the Idaho rules for chemigation and that the owner intends to operate and maintain the chemigation system according to the rules. On the application for licensure, the department may require other information as it deems necessary; and

(c) an applicant must be at least eighteen (18) years of age and must pass the department's examination in order to demonstrate his knowledge of how to apply, use and handle pesticides or chemicals in areas relevant to the operations he intends to undertake or proper equipment and methods for injecting ~~pesticides or fertilizers~~ chemicals through irrigation systems; and

(~~c~~d) an applicant must pay a license fee as prescribed by rule.

(4) If the director finds an applicant qualified for a professional or private applicator's license; and if an applicant applying for a license to engage in the application of pesticides or chemicals has met all of the requirements of any applicable federal or state laws, regulations and rules, the director shall issue the license. The license or permit may restrict the applicant to the use of a certain type or types of equipment, ~~or~~ pesticides or chemicals. If a license or permit is not issued as applied for, the department shall inform the applicant in writing of the reasons therefor.

(5) The director may by rule require professional applicators to maintain and furnish records forthwith pertaining to the application of pesticides and other relevant information as he may deem necessary.

(6) Licenses issued to dealers, professional and private applicators shall expire as designated by the director unless suspended or revoked as provided for in section 22-3409, Idaho Code.

(7) Exemptions:

(a) The following persons are exempt from subsections (2), (3) and (4) of this section:

1. Any person applying pesticides other than restricted-use pesticides for himself or on an exchange of service basis, and who does not publicly hold himself out as a professional applicator; and

2. any person using hand-powered equipment to apply pesticides other than restricted-use pesticides to lawns, or to ornamental trees and shrubs owned by such person, or as an incidental part of his business of taking care of yards for remuneration, and is not holding himself out as a professional applicator; and

3. any industry, governmental, University of Idaho research personnel and extension research personnel who apply pesticides other than restricted-use pesticides to experimental plots or to demonstrate the use of pesticides; and

4. any veterinarian who applies pesticides as an integral part of his business and does not publicly hold himself out as a professional applicator.

(b) Federal, state, and other governmental agencies are exempt from the licensing fees provision of subsections (2) and (3) of this section.

(c) Professional applicators who do not apply pesticides may receive an exemption from the proof of financial responsibility required in subsection (2)(~~c~~d) of this section, upon submitting a completed form prescribed by the department.

SECTION 5. That Section 22-3406, Idaho Code, be, and the same is hereby amended to read as follows:

22-3406. PESTICIDE DEALERS. No person shall act as a pesticide dealer without first obtaining a pesticide dealer's license issued by the department.

(1) Licensing:

(a) Application for a pesticide dealer's license shall be on a form prescribed by the department and shall be accompanied by a fee as prescribed by rule; and

(b) an applicant who sells restricted-use pesticides must pass the department's examination in order to demonstrate his knowledge of how to use and handle pesticides in areas relevant to the operation he intends to undertake; and

(c) such application shall be due ~~on or before September 1 of each year~~ as prescribed by rule; and

(d) a license shall be required for each location, outlet, or warehouse from which such pesticides are distributed; and

(e) for an applicant selling restricted-use pesticides an examination fee will be charged as prescribed by rule and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date.

(2) Records and Reports:

(a) Restricted-use pesticides or devices: The director shall require a pesticide dealer to keep accurate sale and distribution records of restricted-use pesticides or devices as prescribed by rule;

(i) The director may also require a pesticide dealer to maintain other records and furnish reports for restricted-use pesticides or devices he determines necessary to implement the provisions of this act; and

(ii) Records shall be maintained for three (3) years and be available for inspection and reproduction by the director at all reasonable times; and

(iii) The dealer shall be required to post total sales of each restricted-use pesticide by county and shall not include detailed customer sales records or customer invoice records. This report shall be furnished to the director no more than two (2) times per year as prescribed by rule.

(b) General use pesticides: The director shall require a pesticide dealer to keep accurate sale and distribution records as prescribed by rule of general use pesticides except those exempted in subsection (4) of this section.

(i) Records shall be maintained for three (3) years and be

available for inspection and reproduction by the director at all reasonable times; and

(ii) The dealer shall be required to report total sales of each general use pesticide by county and shall not include detailed customer sales records or customer invoice records. This report shall be furnished to the director no more than two (2) times per year as prescribed by rule; and

(iii) The director may require dealers to furnish other reports of these records in the case of emergency as provided by rule.

(3) Pesticide dealers shall sell restricted-use pesticides only to licensed professional and private applicators, and dealers.

(4) Exemptions:

(a) A manufacturer's representative or wholesale distributor shall be exempt from subsection (1) of this section provided such representative or distributor does not have a warehouse in Idaho that pesticides are sold, stored or distributed from; and

(b) federal, state and other governmental agencies are exempt from the examination and licensing fees of this section; and

(c) the director may exempt a pesticide from the provisions of subsection (1) or (2) of this section by rule if it is determined that licensing or recordkeeping is not necessary for selling the pesticide.

(5) A user of a pesticide, without obtaining a pesticide dealer's license, may for the exclusive purpose of keeping it from becoming a waste, distribute a properly labeled pesticide to another user who is legally entitled to use that pesticide.

SECTION 6. 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 22-3406A, Idaho Code, and to read as follows:

22-3406A. RESPONSIBILITIES OF CHEMICAL SUPPLIERS. Any person who supplies or sells at retail a chemical and who knows or has reason to know that the chemical will be applied by chemigation shall sell chemicals only to licensed professional or private applicators with a chemigation category.

SECTION 7. 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 22-3406B, Idaho Code, and to read as follows:

22-3406B. CHEMIGATOR RESPONSIBILITIES. The chemigator shall be responsible for assuring that the irrigation system and chemigation equipment functions properly.

SECTION 8. That Section 22-3407, Idaho Code, be, and the same is hereby amended to read as follows:

22-3407. REQUALIFICATION. The director may renew any applicant's license or permit issued under the provisions of this act provided the

applicant has met the requirements imposed by the director to ensure that the applicant continues to meet the requirements of changing technology and to assure the proper and safe use of pesticides or chemicals.

SECTION 9. 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 22-3407A, Idaho Code, and to read as follows:

22-3407A. USE OF IRRIGATION SYSTEM FOR CHEMIGATION -- COMPLIANCE WITH STANDARDS AND REQUIREMENTS. Any person who utilizes an irrigation system for chemigation shall comply with any standards and requirements which are established pursuant to section 22-3421, Idaho Code, and shall be certified and licensed as provided in this chapter.

SECTION 10. 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 22-3407B, Idaho Code, and to read as follows:

22-3407B. DEPARTMENT TO COMPILE LIST. The department shall compile a list of the types of chemigation systems or portions thereof which may be used by persons to apply chemicals through an irrigation system in accordance with the rules promulgated under section 22-3421, Idaho Code. This list shall be made public and constitutes state recognition of a chemigation system.

SECTION 11. That Section 22-3408, Idaho Code, be, and the same is hereby amended to read as follows:

22-3408. STOP SALE, USE OR REMOVAL ORDER AND CHEMIGATION STOP WORK ORDER. (1) The department may issue and enforce a written stop sale, use or removal order to the owner or custodian of any pesticide or device to hold such pesticide or device at a designated place when the department finds such pesticide or device being distributed in violation of any of the provisions of this act or rules, or is likely to cause unreasonable adverse effects on the environment. The director shall release the pesticide or device by written order when the owner or custodian has complied with all of the provisions of this act and rules.

(2) The department may issue and enforce a written or printed chemigation stop work order to any person engaged in, conducting or carrying on chemigation when the department finds the chemigation is in violation of the provisions of this chapter or any rules promulgated pursuant to this chapter.

(3) The chemigation stop work order shall be in effect until the provisions of this chapter or rules promulgated pursuant to this chapter have been complied with.

SECTION 12. That Section 22-3414, Idaho Code, be, and the same is hereby amended to read as follows:

22-3414. INSPECTION. (1) For the purpose of carrying out the provisions of this act the director may enter on any public or private premises at reasonable times in order to have access for the purpose of observing the use and application of pesticides, inspecting records that are required to be maintained by this act, chemigation equipment and standards, chemical use for chemigation, spraying equipment, storage facilities, disposal areas, investigating complaints of injury, inspection and sampling of land and sampling pesticides being distributed, offered for sale, applied or to be applied. The department shall conduct, or make provision to conduct, at least two hundred fifty (250) annual chemigation system inspections to assure the effectiveness of the chemigation system from keeping chemicals out of surface and ground water.

(2) Should the director be denied access to any land where such access was sought for the purposes set forth in this act, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may, upon such application, issue the search warrant for the purposes requested.

SECTION 13. That Section 22-3420, Idaho Code, be, and the same is hereby amended to read as follows:

22-3420. PROHIBITED ACTS. No person shall:

(1) Use a pesticide in a manner inconsistent with its labeling except as provided for by rule.

(2) Make pesticide recommendations in a manner inconsistent with its labeling except as provided for by rule.

(3) Make false or misleading claims through any media relating to the effect of pesticides or application methods to be utilized.

(4) Operate a faulty or unsafe pesticide spray apparatus, aircraft, or other application device or equipment.

(5) Operate a faulty or unsafe chemigation system.

(6) Apply ineffective or improper pesticides.

(~~6~~7) Make false, misleading or fraudulent records, reports or application forms required by the provisions of this act.

(~~7~~8) Apply pesticides in a faulty, careless, or negligent manner.

(~~8~~9) Refuse or neglect to keep and maintain records required by the provisions of this act, or to make reports when and as often as required.

(~~9~~10) Distribute, sell or offer for sale any pesticide or device which is misbranded.

(~~10~~11) Formulate, distribute, sell or offer for sale any pesticide which is adulterated.

(~~11~~12) Distribute, sell or offer for sale any pesticide except in the manufacturer's original unbroken container.

(~~12~~13) Refuse or neglect to comply with any limitations or restrictions placed on a license or permit issued under the provisions of this act.

(~~13~~14) Refuse or neglect to comply with any other provisions of this act or rule, or any lawful order of the director.

(~~14~~15) Aid or abet a licensed or an unlicensed person to evade the provisions of this act, conspire with such licensed or an unlicensed person to evade the provisions of this act, or allow one's license or

permit to be used by another person.

(~~15~~6) Make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land.

(~~16~~7) Impersonate any federal, state, county or city inspector or official.

(~~17~~8) ~~No person shall u~~Use or supervise the use of any restricted-use pesticide, or any state restricted-use pesticide without ~~that person's first complying~~ having complied with the licensing requirements pursuant to this act, and such other restrictions as had been determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator, persons, or land, provided, that a ~~competent~~ person who is not a certified applicator but an employee of a licensed private applicator may use a restricted-use pesticide or a state restricted-use pesticide under the direct supervision of the licensed private applicator unless otherwise prescribed by the labeling of the pesticide.

(19) Use or supervise the use of a chemical in a chemigation system without having complied with the licensing requirements pursuant to this act and rules, and such other restrictions as have been determined by the director. A person who is not a certified applicator but an employee of a licensed private applicator may use chemicals under the direct supervision of a licensed private applicator unless otherwise prescribed by the labeling of the chemical.

(20) Chemigate without installing the proper chemigation equipment to protect against surface or ground water contamination.

(21) Fail to abide by the conditions of a stop sale, use or removal order, or chemigation stop work order.

(22) Offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having so received, deliver or offer to deliver, chemicals for chemigation to an unlicensed person.

SECTION 14. That Section 22-3421, Idaho Code, be, and the same is hereby amended to read as follows:

22-3421. ADOPTION AND SCOPE OF RULES. (1) The director is authorized to adopt appropriate rules for carrying out the purpose and provisions of this act including, but not limited to, rules providing for:

(a) The collection and examination of samples of pesticides or devices; and

(b) the safe handling, transportation, storage, display, distribution and disposal of pesticides and their containers; and

(c) procedures in making pesticide recommendations; and

(d) procedures for obtaining permits; and

(e) regulating the labeling of devices; and

(f) procedures to take possession and dispose of canceled, suspended, or otherwise unusable pesticides held by persons. For the purpose of this section, the department may become a hazardous waste generator, and may set fees to partially offset an agricultural chemical waste disposal program's cost; and

(g) antipollution devices, chemigation equipment requirements, performance standards and installation requirements; and

(h) listing of the sites where chemigation will be conducted by the applicator.

(2) Such rules shall be promulgated in accordance with chapter 52, title 67, Idaho Code.

Approved March 17, 1999.

CHAPTER 70
(H.B. No. 109, As Amended)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO CHANGE THE NET OPERATING LOSS CARRYBACK FROM THREE YEARS TO TWO YEARS, TO CHANGE THE NET OPERATING LOSS CARRYFORWARD FROM FIFTEEN TO TWENTY YEARS, TO CLARIFY THAT CERTAIN LOSSES ARE DEDUCTIBLE FOR A CORPORATION OR FOR ANY CORPORATION FILING AS A COMBINED GROUP IF THE LOSS OCCURRED WHEN BUSINESS WAS BEING TRANSACTED IN IDAHO, AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

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

63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022M, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(a) 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.

(b) Add the net operating loss deduction used in arriving at taxable income.

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 199~~0~~9, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the ~~three~~ two (~~3~~2) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the ~~three~~ two (~~3~~2) preceding years may be subtracted in the next ~~fifteen~~ twenty (~~15~~20) years succeeding the taxable year in which the loss arises in 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~~ two (~~3~~2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next ~~fifteen~~ twenty (~~15~~20) 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 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

(c) means Idaho taxable income as defined in this chapter as modified by 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 did not transact business in Idaho or was not included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, may not be subtracted. However, if at least one (1) corporation within a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred, then the net operating loss may be subtracted. Net operating losses incurred by a person, other than a corporation, in business activities not taxable by Idaho may not be subtracted.

(d) 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.

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

(f) 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.

(g) In the case of corporations and partnerships, add Idaho taxable income of nonresident officers, directors, shareholders, partners or members to the extent such income is attributed to the corporation or partnership in section 63-3022L, Idaho Code.

(h) 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.

(i) 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. The deduction is allowed only to the extent such income is included in taxable income, and provided that appropriate adjustments shall be made in determining the deductions and exemptions allowed pursuant to section 63-3026A(4), Idaho Code.

(j) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss deducted which loss was incurred during any year in which such corporation did not transact business in Idaho. ~~unless the~~ However, do not add any capital loss

deducted if a corporation, ~~was included~~ including any corporation in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons, other than corporations, add any capital loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. In computing the income taxable to an S corporation or partnership under this section, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (c) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

(k) In the case of an individual, there shall be allowed as a deduction from gross income either (1) or (2) at the option of the taxpayer:

(1) The standard deduction as defined in section 63, Internal Revenue Code.

(2) 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.

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

(m) 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.

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

SECTION 2. This act shall be in full force and effect on and after January 1, 2000.

Approved March 17, 1999.

CHAPTER 71
(H.B. No. 112)

AN ACT

RELATING TO COPIES OF CERTAIN COURT RECORDS; AMENDING SECTION 1-1105, IDAHO CODE, TO INCREASE THE CHARGE PER PAGE FROM TWO DOLLARS TO THREE DOLLARS AND TWENTY-FIVE CENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 1-1105, Idaho Code, be, and the same is hereby amended to read as follows:

1-1105. COPY OF RECORD -- EFFECT -- CHARGE FOR FURNISHING. 1. It

shall be the duty of each reporter to furnish, upon order of the court entered upon written application being made therefor by any attorney of record in a suit, or any party to a suit, in which a stenographic record has been made, a typewritten copy, or copies, of the record, or any part thereof, upon the payment by such attorney, or party, of the cost thereof, as provided in ~~subdivision 2 hereof~~ subsection 2. of this section, to such reporter, which payment shall be retained by the reporter as a part of his compensation and in addition to his salary allowed by section 1-1102, Idaho Code. Said copy, or copies, shall, when properly certified by said reporter, constitute prima facie the minutes of the court, and may be used on all motions for new trials, review or appeal, when the minutes of the court may be used; and the cost of which may, when the same is used on review or appeal, be charged as costs in a civil case against the party finally defeated in the action.

2. That in all actions such reporter shall charge and receive, and retain as provided in ~~subdivision 1 hereof~~ subsection 1. of this section, ~~two~~ three dollars and twenty-five cents (~~$2.00~~$3.25) per page for the transcript to be prepared in the style and with the number of copies as directed by ~~R~~rule of the ~~S~~supreme ~~C~~court; provided, however, that when such transcript is requested by a defendant or his attorney on an appeal in a criminal action where after conviction, it appears to the satisfaction of the district court that the accused is poor and unable to procure such transcript, the court must direct payment to such court reporter of the page charge in this ~~subdivision~~ subsection provided, from the county treasury.

Approved March 17, 1999.

CHAPTER 72
(H.B. No. 135)

AN ACT

RELATING TO RECREATIONAL TRESPASS; AMENDING SECTION 36-1604, IDAHO CODE, TO PROVIDE THAT LIMITATION OF LANDOWNER LIABILITY INCLUDES THE RECREATIONAL PURPOSE OF ENJOYING GEOLOGICAL SITES.

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

SECTION 1. That Section 36-1604, Idaho Code, be, and the same is hereby amended to read as follows:

36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Purpose. The purpose of this section is to encourage owners of land to make land and water areas available to the public without charge for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(b) Definitions. As used in this section:

1. "Land" means private or public land, roads, trails, water, watercourses, irrigation dams, water control structures, headgates, private or public ways and buildings, structures, and

machinery or equipment when attached to or used on the realty.

2. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.

3. "Recreational Purposes" includes, but is not limited to, any of the following or any combination thereof: Hunting, fishing, swimming, boating, rafting, tubing, camping, picnicking, hiking, pleasure driving, nature study, water skiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, geological or scientific sites, when done without charge of the owner.

(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes. Neither the installation of a sign or other form of warning of a dangerous condition, use, structure, or activity, nor any modification made for the purpose of improving the safety of others, nor the failure to maintain or keep in place any sign, other form of warning, or modification made to improve safety, shall create liability on the part of an owner of land where there is no other basis for such liability.

(d) Owner Assumes No Liability. An owner of land or equipment who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

1. Extend any assurance that the premises are safe for any purpose.

2. Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.

3. Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of such persons.

(e) Provisions Apply to Leased Public Land. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(f) Owner Not Required to Keep Land Safe. Nothing in this section shall be construed to:

1. Create a duty of care or ground of liability for injury to persons or property.

2. Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities thereon, or from legal consequences or failure to employ such care.

3. Apply to any person or persons who for compensation permits the land to be used for recreational purposes.

(g) User Liable for Damages. Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to property, livestock or crops which he may cause while on said property.

Approved March 17, 1999.

CHAPTER 73
(H.B. No. 150)

AN ACT

RELATING TO TIME LIMITS FOR FILING A PETITION BY A SURVIVING SPOUSE IN PROBATE FOR AN ELECTIVE SHARE; AMENDING SECTION 15-2-205, IDAHO CODE, TO PROVIDE THAT THE SURVIVING SPOUSE MAY ELECT TO TAKE HIS OR HER ELECTIVE SHARE IN THE AUGMENTED NET ESTATE BY FILING IN THE COURT OR MAILING OR DELIVERING TO THE PERSONAL REPRESENTATIVE A PETITION FOR THE ELECTIVE SHARE WITHIN NINE MONTHS AFTER THE DEATH OF THE DECEDENT OR SIX MONTHS AFTER THE DATE OF FILING OF THE PETITION FOR PROBATE.

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

SECTION 1. That Section 15-2-205, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-205. PROCEEDING FOR ELECTIVE SHARE -- TIME LIMIT. (a) The surviving spouse may elect to take his elective share in the augmented net estate by filing in the court and mailing or delivering to the personal representative a petition for the elective share within ~~six (6)~~ nine (9) months after ~~the publication of the first notice to creditors -- for -- filing claims which arose before~~ the death of the decedent or six (6) months after the date of filing of the petition for probate, whichever is later. The court may extend the time for election as it sees fit for cause shown by the surviving spouse before the time for election has expired.

(b) The surviving spouse shall give notice of the time and place set for hearing to persons interested in the estate and to the distributees and recipients of portions of the augmented net estate whose interests will be adversely affected by the taking of the elective share.

(c) The surviving spouse may withdraw his demand for an elective share at any time before entry of a final determination by the court.

(d) After notice and hearing, the court shall determine the amount of the elective share and shall order its payment from the assets of the augmented net estate or by contribution as appears appropriate under section 15-2-207 of this code. If it appears that a fund or property included in the augmented net estate has not come into the possession of the personal representative, or has been distributed by the personal representative, the court nevertheless shall fix the liability of any person who has any interest in the fund or property or who has possession thereof, whether as trustee or otherwise. The proceeding may be maintained against fewer than all persons against whom relief could be sought, but no person is subject to contribution in any greater amount than he would have been if relief had been secured against all persons subject to contribution.

(e) The order or judgment of the court may be enforced as necessary in suit for contribution or payment in other courts of this state or other jurisdictions.

Approved March 17, 1999.

CHAPTER 74
(H.B. No. 171)

AN ACT
RELATING TO THE STANDARD VALUATION OF ANNUITY AND ENDOWMENT INSURANCE CONTRACTS; AMENDING SECTION 41-612, IDAHO CODE, TO UPDATE THE MINIMUM STANDARD FOR RESERVE VALUATION OF INDIVIDUAL ANNUITY AND PURE ENDOWMENT CONTRACTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-612, Idaho Code, be, and the same is hereby amended to read as follows:

41-612. STANDARD VALUATION LAW -- LIFE INSURANCE. (1) This section shall be known as the standard valuation law.

(2) Annual valuation. The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in the calculation of such reserves. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the director may use group methods and approximate averages for fractions of a year or otherwise. He may accept in his discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided, and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the director when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. Where any such valuation is made by the director, he may use the actuary of the department or employ an actuary for the purpose, and the reasonable compensation and expenses of the actuary, at a rate approved by the director, upon demand by the director supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the director with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the director, the valuation shall be verified by the actuary of the department without costs to the insurer.

(3) Except as otherwise provided in subsections (4) and (4a) of this section, the minimum standard for the valuation of all such policies and contracts issued on and after January 1, 1914, and prior to the operative date of section 41-1927, Idaho Code, (standard nonfor-

feiture law) shall be the American experience table of mortality and interest at three and one-half ~~per-cent~~ percent (3 1/2%) per annum. Not more than one (1) year shall be used as a preliminary term. Extra charges may be made in particular cases of invalid lives and other extra hazards, policies may be valued in groups, and approximate averages may be used for fractions of a year. Policies other than ordinary and twenty (20) payment life may be valued according to the modified preliminary term, with twenty (20) payment life policies as a basis for such valuation. This subsection applies only as to policies and contracts issued prior to the operative date of section 41-1927, Idaho Code.

(4) Except as otherwise provided in subsections (4a) and (4b) of this section, the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) shall be the commissioners reserve valuation methods defined in subsections (5), (6) and (10) of this section, three and one-half ~~per--cent~~ percent (3 1/2%) interest for all other such policies and contracts, except that the rate shall be four and one-half ~~per-cent~~ percent (4 1/2%) for individual annuity contracts, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, four ~~per--cent~~ percent (4%) interest for such policies issued prior to July 1, 1977, five and one-half ~~per--cent~~ percent (5 1/2%) interest for single premium life insurance policies and four and one-half ~~per-cent~~ percent (4 1/2%) interest for all other such policies issued on or after July 1, 1977, but prior to the operative date of section (9)(d) of the standard nonforfeiture law for life insurance as amended, seven ~~per-cent~~ percent (7%) interest for such policies issued on and after the operative date of section (9)(d) of the standard nonforfeiture law for life insurance as amended, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1941 standard ordinary mortality table for such policies issued prior to the operative date of subsection (9)(b) of section 41-1927, Idaho Code; the commissioners 1958 standard ordinary mortality table for such policies issued on or after the operative date of subsection (9)(b) of the standard nonforfeiture law for life insurance as amended and prior to the operative date of subsection (9)(d) of the standard nonforfeiture law for life insurance as amended; except, that for any category of such policies issued on female risks, all modified net premiums and present values, referred to in subsections (5) and (10) of this section, may be calculated according to an age not more than six (6) years younger than the actual age of the insured; and for such policies issued on or after the operative date of subsection (9)(d) of the standard nonforfeiture law for life insurance as amended~~;~~:

(i) ~~t~~The commissioners 1980 standard ordinary mortality table, or

(ii) ~~a~~At the election of the company for any one (1) or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mor-

tality factors, or

(iii) ~~a~~Any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 standard industrial mortality table for such policies issued prior to the operative date of subsection (9)(c) of section 41-1927, Idaho Code, and for such policies issued on or after such operative date the commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 standard annuity mortality table or, at the insurer's option, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the director.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the group annuity mortality table for 1951, any modification of such table approved by the director, or, at the insurer's option, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966, either such tables or, at the insurer's option, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies issued on or after the operative date of section 41-1927, Idaho Code, (standard nonforfeiture law) and prior to January 1, 1966, either such table or, at the

insurer's option, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the director as being sufficient with relation to the benefits provided by such policies.

(4a) Except as provided in subsection (4b), the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection (4a), as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in subsections (5) and (6) of this section and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to July 1, 1977, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and six ~~per-cent~~ percent (6%) interest for single premium immediate annuity contracts, and four and one-half ~~per-cent~~ percent (4 1/2%) interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after July 1, 1977, but prior to January 1, 1982, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and seven and one-half ~~per-cent~~ percent (7 1/2%) interest.

(c) For individual single premium immediate annuity contracts issued on or after January 1, 1982, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and eleven ~~per-cent~~ percent (11%) interest.

(d) For individual annuity and pure endowment contracts issued on or after July 1, 1977, but prior to January 1, 1982, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the director, and five and one-half ~~per-cent~~ percent (5 1/2%) interest for single premium deferred annuity and pure endowment contracts and four and one-half ~~per-cent~~ percent (4 1/2%) interest for all other such individual annuity and pure endowment contracts.

(e) For individual annuity and pure endowment contracts issued on or after January 1, 1982, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after

1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and eight ~~per cent~~ percent (8%) interest.

(f) For all annuities and pure endowments purchased prior to July 1, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the director, and six ~~per cent~~ percent (6%) interest.

(g) For all annuities and pure endowments purchased on or after July 1, 1977, but prior to January 1, 1982, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table, or any modification of this table approved by the director, and seven and one-half ~~per cent~~ percent (7 1/2%) interest.

(h) For all annuities and pure endowments purchased on or after January 1, 1982, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table or any group annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the director, and eleven ~~per cent~~ percent (11%) interest.

After July 1, 1973, any insurer may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1979, which shall be the operative date of this subsection for such insurer, provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1979.

(4b) For any calendar year on or after the effective date of subsection (9)(d) of the standard nonforfeiture law for life insurance in the case of life insurance policies issued on or after such effective date, and for any calendar year on or after January 1, 1982, in the case of:

(a) Individual annuity and pure endowment contracts issued on or after January 1, 1982;

(b) Annuities and pure endowments purchased on or after January 1, 1982, under group annuity and pure endowment contracts; and

(c) The net increase, if any, in any particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts, the company may elect, for the purpose of determining the minimum standard for valuation, for any category of policy or contract, the calendar year statutory valuation interest rate as defined in this subsection in lieu of the interest rate specified in subsection (4) or (4a).

The provisions of this subsection shall be applicable to:

A. The interest rates used in determining the minimum standard for the valuation of:

a. All life insurance policies issued in a particular calendar year, on or after the operative date of subsection (9)(d) of the standard nonforfeiture law for life insurance;

b. All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

c. All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

d. The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts

shall be the calendar year statutory valuation interest rates as defined in this subsection.

B. Calendar year statutory valuation interest rates:

a. The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one ~~per-cent~~ <u>percent</u> (1/4 of 1%).

1. For life insurance,

$$I = .03 + W(R_1 - .03) + \frac{W}{2}(R_2 - .09);$$

2. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W(R - .03)$$

where R_1 is the lesser of R and .09;

R_2 is the greater of R and .09;

R is the reference interest rate defined in this subsection and W is the weighting factor defined in this subsection,

3. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in 2. above, the formula for life insurance stated in 1. above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten (10) years and the formula for single premium immediate annuities stated in 2. above shall apply to annuities and guaranteed interest contracts with guarantee duration of ten (10) years or less,

4. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in 2. above shall apply,

5. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in 2. above shall apply.

b. However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one ~~per-cent~~ percent (1/2 of 1%), the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when subsection (9)(d) of the standard nonforfeiture law for life insurance becomes operative.

C. Weighting factors

a. The weighting factors referred to in the formulas stated above are given in the following tables:

1. Weighting factors for life insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, which are guaranteed in the original policy;

2. Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80

3. Weighting factors for other annuities and for guaranteed interest contracts, except as stated in 2. above, shall be as specified in tables (i), (ii) and (iii) below, according to the rules and definitions in (iv), (v) and (vi) below:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type A	B	C
5 or less	.80	.60	.50
More than 5, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 20	.45	.35	.35

(ii)	Plan Type A	B	C
For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by:	.15	.25	.05
(iii) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one (1) year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve (12) months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by:	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty (20) years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only:

(1) with an adjustment to reflect changes in

interest rates or asset values since receipt of the funds by the insurer; or

(2) without such adjustment but in installments over five (5) years or more; or

(3) as an immediate life annuity; or

(4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only:

(1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or

(2) without such adjustment but in installments over five (5) years or more; or

(3) no withdrawal permitted.

At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five (5) years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five (5) years, either:

(1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; or

(2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this subsection, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

D. Reference interest rate

a. The reference interest rate referred to in paragraph B. of this subsection shall be defined as follows:

1. For all life insurance, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

b. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

c. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year of issue basis, except as stated in b. above, with guarantee duration in excess of ten (10) years, the lesser of the average over a period of thirty-six (36) months and the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

d. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in b. above, with guarantee duration of ten (10) years or less, the average over a period of twelve (12) months, ending June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

e. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve (12) months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

f. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in b. above, the average over a period of twelve (12) months, ending on June 30 of the calendar year of the change in the fund, of Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.

E. Alternative method for determining reference interest rates

a. In the event that Moody's corporate bond yield average -- monthly average corporates is no longer published by Moody's Investors Service, Inc., or in the event that the national association of insurance commissioners determines that Moody's corporate bond yield average -- monthly average corporates, as published by Moody's Investors Service, Inc.,

is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the national association of insurance commissioners and approved by regulation promulgated by the director, may be substituted.

(5) Commissioners reserve valuation method.

(a) Except as otherwise provided in subsections (6) and (10) of this section reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (i) over (ii) as follows:

(i) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan for insurance of the same amount at an age one (1) year higher than the age at issue of such policy.

(ii) A net one (1) year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (10), be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph and the reserve as of such policy anniversary calculated as described in that paragraph, but with (a) the value defined in subparagraph (i) of that paragraph being reduced by fifteen ~~per cent~~ percent (15%) of the amount of such excess first year premium, (b) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date,

(c) the policy being assumed to mature on such date as an endowment, and (d) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest basis stated in subsection (4) and (4b) shall be used.

(b) Reserves according to the commissioners reserve valuation method for:

(i) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,

(ii) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended,

(iii) Disability and accidental death benefits in all policies and contracts, and

(iv) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts,

shall be calculated by a method consistent with the principles of subsection (5)(a) of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(6) Individual annuity and pure endowment reserves.

(a) This subsection (6) shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

(b) Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be ~~equal-to-the-accumulation-up-to-the-date-of valuation-at-the-accumulation-interest-rate-specified-in-the--contract--of--the-actual-percentages-of-the-actual-net-considerations credited-to-the-contract-prior-to-the-date-of-valuation-for--benefits,---other--than--disability--and--accidental--death--benefits, decreased-by-the-amount-appropriate-according-to-the-terms-of--the contract--to-reflect-any-prior-withdrawals-from-or-partial-surrenders-of-the-contract-and--increased--by--any--existing--additional amounts--credited--by--the--insurer--to--the--contract.-Additional amounts-credited-by-the-insurer-to-the-contract-shall-include--any dividends--declared-on-the-contract~~ the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of

valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(7) Minimum aggregate reserves. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of section 41-1927, Idaho Code, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (5), (6), (10) and (11) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(8) Optional reserve basis.

(a) Reserves for all policies and contracts issued prior to the operative date of section 41-1927, Idaho Code, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(b) For any category of policies, contracts or benefits specified in subsections (4), (4a) and (4b) of this section, issued on or after the operative date of section 41-1927, Idaho Code, (the standard nonforfeiture law), reserves may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(9) Lower valuations. An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the director, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(10) Minimum reserve. If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net pre-

mium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsections (4) and (4b).

Provided that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection (10) shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (5), ignoring the second paragraph of subsection (5). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (5), including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection (10).

(11) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on the then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (5), (6) and (10), the reserves which are held under any such plan must:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(b) Be computed by a method which is consistent with the principles of this standard valuation law,

as determined by rules promulgated by the director.

(12) Actuarial opinion of reserves.

(a) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The director by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(b) Actuarial analysis of reserves and assets supporting such reserves.

(i) Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by paragraph (a) of this subsection, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts

including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(ii) The director may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required in this section.

(c) Requirements for opinion in paragraph (b) of this subsection. Each opinion required in paragraph (b) of this subsection shall be governed by the following provisions:

(i) A memorandum, in form and substance acceptable to the director as specified by rule, shall be prepared to support each actuarial opinion.

(ii) If the insurance company fails to provide a supporting memorandum at the request of the director within a period specified by rule or the director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and prepare such supporting memorandum as is required by the director.

(d) Requirements for all opinions. Every opinion shall be governed by the following provisions:

(i) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

(ii) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the director as specified by rule.

(iii) The opinion shall be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the director may by rule prescribe.

(iv) In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(v) For the purposes of this section, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements set forth in such regulations.

(vi) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the director) for any act, error, omission, decision or conduct with respect to the actuary's opinion.

(vii) Disciplinary action by the director against the company or the qualified actuary shall be defined by rule by the director.

(viii) Any memorandum in support of the opinion, and any other material provided by the company to the director in

connection therewith, shall be kept confidential by the director and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required in this section or by rule promulgated hereunder; provided however, that the memorandum or other material may otherwise be released by the director (A) with the written consent of the company or (B) to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall no longer be confidential.

Approved March 17, 1999.

CHAPTER 75
(H.B. No. 197)

AN ACT

RELATING TO NOXIOUS WEEDS; AMENDING SECTION 22-2402, IDAHO CODE, TO ADD NEW DEFINITIONS; AMENDING SECTION 22-2403, IDAHO CODE, TO PROVIDE AUTHORITY FOR THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO CONSULT AND COORDINATE WITH OTHER WEED MANAGEMENT AGENCIES IN DEVELOPMENT AND IMPLEMENTATION OF COOPERATIVE WEED MANAGEMENT AREAS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2404, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF AN ADVISORY COMMITTEE, TO PROVIDE FOR ACCEPTANCE OF MONEYS, TO AUTHORIZE THE DIRECTOR TO INITIATE COOPERATIVE AGREEMENTS WITH OTHER AGENCIES AND STATES FOR DEVELOPMENT AND IMPLEMENTATION OF COOPERATIVE WEED MANAGEMENT AREAS, TO AID OTHER AUTHORITIES IN DEVELOPMENT OF COOPERATIVE WEED MANAGEMENT AREAS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2405, IDAHO CODE, TO AUTHORIZE COUNTY WEED CONTROL AUTHORITIES TO COOPERATE IN DESIGNATION OF AND TO PARTICIPATE IN WEED CONTROL ADVISORY COMMITTEES AND COOPERATIVE WEED MANAGEMENT AREAS, TO AUTHORIZE COUNTY WEED SUPERINTENDENTS TO MAKE RECOMMENDATIONS REGARDING WEED CONTROL ADVISORY COMMITTEES AND ESTABLISHMENT OF COOPERATIVE WEED MANAGEMENT AREAS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2406, IDAHO CODE, TO AUTHORIZE COUNTY OFFICIALS TO PROPOSE, ACCEPT AND IMPLEMENT INTEGRATED WEED MANAGEMENT PLANS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2410, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF INTERESTED PARTIES TO WEED CONTROL ADVISORY COMMITTEES AND TO PROVIDE AUTHORITY FOR COUNTY APPOINTED OFFICIALS TO PARTICIPATE WITHIN OR ACROSS BOUNDARIES IN COOPERATIVE WEED MANAGEMENT AREAS.

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

SECTION 1. That Section 22-2402, Idaho Code, be, and the same is hereby amended to read as follows:

22-2402. DEFINITIONS. As used in this chapter:

(1) "Agency" means:

(a) In the case of the federal government, any authority which exercises administrative control over defined areas of federal lands within the state of Idaho;

(b) In the case of the state of Idaho, any department, board, commission, or institution;

(c) In the case of local government, cities, counties and any legal subdivisions thereof, drainage districts, irrigation districts, canal companies, highway districts, or any special taxing district.

(2) "Applicable fund or account" means:

(a) In the case of the state of Idaho, the noxious weed account, which is hereby created and established in the dedicated fund and which shall be used exclusively for the purposes prescribed by this chapter;

(b) In each county, the noxious weed fund, which is hereby created and established and shall be maintained in each county and which shall be used exclusively for the purposes prescribed by this chapter.

(3) "Containment" means halting the spread of a weed infestation beyond specified boundaries.

(4) "Control authority" means:

(a) On the state level, the director of the department of agriculture;

(b) On the county level, the board of county commissioners.

(5) "Cooperative weed management area (CWMA)" means a distinguishable hydrologic, vegetative or geographic zone based upon geography, weed infestations, climate or human-use patterns. Cooperative weed management areas may be composed of a portion of a county, a county, portions of several counties, or portions of one (1) or more states.

(6) "Department" means the Idaho department of agriculture.

(7) "Director" means the director of the department of agriculture or the director's designated agent.

(~~6~~8) "Eradication" means the complete elimination of all aboveground plant growth of a target noxious weed species for a period of two (2) years.

(9) "Integrated weed management plan (IWMP)" means a plan developed to manage, control or eradicate a noxious weed(s) from a cooperative weed management area or other weed management area.

(~~7~~10) "Land" means all soil or water or other growing medium.

(~~8~~11) "Landowner" means:

(a) The person who holds legal title to the land, except that portion for which another person has the right to exclude others from possession of the parcel;

(b) A person with an interest in a parcel of land such that the person has the right to exclude others from possession of the par-

cel.

(~~9~~12) "Noxious weed" means any plant having the potential to cause injury to public health, crops, livestock, land or other property; and which is designated as noxious by the director.

(1~~0~~3) "Person" means any individual, partnership, firm, agency, corporation, company, society or association.

(1~~1~~4) "Prevention" means any action that reduces the potential for the introduction or establishment of a plant species in areas not currently infested with that species.

(1~~2~~5) "Quarantine" means the regulation of the production, movement, or existence of plants, plant products, animals, animal products, or any other article or material, or the normal activity of persons, to prevent or limit introduction or spread of noxious weeds.

(1~~3~~6) "Restoration" means the process of reconditioning formerly weed infested land to a productive or desirable condition.

(1~~4~~7) "Special management zone" is an area wherein specific requirements of this chapter may be modified.

(18) "State noxious weed advisory committee" means an advisory committee appointed by the director to advise and to assist in development, modification and direction of a statewide noxious weed management strategy.

(1~~5~~9) "Weed control" means any or all of the following: prevention, restoration, eradication, or modified treatments specified in a special management zone.

(20) "Weed control advisory committee" means a committee established by weed control agencies or authorities, at the county level, or a steering committee of a cooperative weed management area, to develop and to recommend implementation of integrated weed management plans and strategies.

SECTION 2. That Section 22-2403, Idaho Code, be, and the same is hereby amended to read as follows:

22-2403. ENFORCEMENT OF CHAPTER VESTED IN DIRECTOR -- STATE DUTIES. (1) The duty of enforcing this chapter and carrying out its provisions is vested in the director.

(2) The director shall:

(a) ~~d~~Determine what weeds are noxious for the purposes of this chapter; and

(b) ~~c~~Compile and keep current a list of such noxious weeds or group of noxious weeds, which list shall be published and incorporated in the rules and regulations of the director; and

(c) ~~m~~Make and publish such rules and regulations as in the director's judgment are necessary to carry out the provisions of this chapter; and

(d) ~~e~~Employ a statewide weed coordinator to carry out the director's duties and responsibilities; and

(e) ~~p~~Publish a list of items capable of disseminating noxious weeds, and designate treatment of such articles as in the director's opinion would prevent such dissemination; and

(f) ~~c~~Consult with affected county control authorities before establishing a special management zone; and

(g) Consult and coordinate with other weed management agencies

and authorities in the designation and development of cooperative weed management areas and development and implementation of integrated weed management plans.

SECTION 3. That Section 22-2404, Idaho Code, be, and the same is hereby amended to read as follows:

22-2404. STATE POWERS. (1) The director is authorized to:
(a) Investigate the subject of noxious weeds; and
(b) Require information, annual work plans and reports from each county and from each state agency as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof; and
(c) To cooperate with agencies and persons in carrying out the director's duties under this chapter, and to conduct matters outside this state in the interest of state noxious weed control; and
(d) Advise and confer as to the extent of noxious weed infestations and the methods of control; and
(e) Establish minimum requirements and proficiency training of county weed superintendents; and
(f) Call and attend meetings and conferences dealing with the subject of noxious weeds; and
(g) Disseminate information and conduct educational campaigns independently or in cooperation with others; and
(h) Appoint a state noxious weed advisory committee, as provided by section 22-103, Idaho Code, to aid in the development and implementation of a statewide noxious weed management strategy, aid in evaluation of cost share projects and research proposals, and advise the director on matters pertaining to the state noxious weed program; and
(i) Procure materials and equipment; and
(~~i~~j) Inspect and certify Idaho crops and imports and exports to verify freedom from noxious weeds, and authorize others to conduct such inspections and certification; and
(~~j~~k) Enter on any public or private land at reasonable times for the purpose of carrying out the provisions of this chapter; and
(~~k~~l) Apply to any court of competent jurisdiction for a search warrant authorizing access to any land where access was denied and sought for the purposes set forth in this chapter. The court may, upon such application, issue the search warrant for the purposes requested; and
(~~l~~m) Perform such other acts as may be necessary or appropriate to the administration of the provisions of this chapter; and
(~~m~~n) Cooperate with the federal government or any established agency thereof in any program of noxious weed control which shall be deemed advisable for the welfare of the people of the state of Idaho, accept any advisable program and make any necessary regulations which are not in contradiction to the purposes of this chapter; and
(~~n~~o) Accept any gift, grant, contract or other funds, or grants-in-aid from the federal government or other entities for noxious weed control purposes and account for such moneys as prescribed by the state controller, and all such ~~federal~~ funds are

hereby appropriated to the purpose for which they are received; and

(~~o~~p) Initiate agreements with federal agencies in accordance with applicable federal laws; and

(~~p~~q) Control noxious weeds on federal land within the state, with or without reimbursement, and with the consent of the federal agency involved; and

(~~q~~r) Take any appropriate action necessary to control or quarantine noxious weed infestations whenever an actual or potential emergency situation exists concerning noxious weed infestations anywhere in the state; and

(~~r~~s) Permit modification of specific noxious weed control requirements in certain areas, after consulting with the county control authority and designating the area as a special management zone; and

(t) Initiate cooperative agreements with other agencies and states for the establishment and support of cooperative weed management areas; and

(u) Aid other weed control agencies or authorities in developing and implementing integrated weed management plans for control of noxious weeds; and

(~~s~~v) Temporarily designate a weed as noxious for up to fifteen (15) months, after publication in a newspaper of general circulation serving the area of infestation; and

(~~t~~w) Authorize the issuance of deficiency warrants for the purposes of defraying excess costs for the control of noxious weeds for emergency situations, in the event the actual cost for the control of noxious weeds in any one (1) year exceeds the appropriations made for that purpose. When so authorized the state controller shall draw deficiency warrants against the general account.

(2) If at any time the director determines that the county commissioners have failed to cooperate or carry out their duties and responsibilities as a control authority, the director shall notify them of the deficiency, and suggest corrective action. If the situation is not satisfactorily corrected within seven (7) days after the time outlined in the director's corrective action plan, the director shall initiate appropriate action and charge to the county all expenses including the hiring of necessary labor and equipment. Quarantine of specific crops or potential noxious weed propagating activities may be a part of the control program.

SECTION 4. That Section 22-2405, Idaho Code, be, and the same is hereby amended to read as follows:

22-2405. COUNTY DUTIES. (1) The county control authority shall:

(a) Carry out the duties and responsibilities vested in the county under this chapter and rules ~~and regulations~~ prescribed by the director; and

(b) Establish and maintain a coordinated program for control of noxious weeds in the county; employ a county weed superintendent, who may be a superintendent for more than one (1) county and who shall be qualified to detect and treat noxious weeds; and

(c) Designate one (1) of its members as the liaison between the county weed superintendent and the county commissioners;~~;~~ and

(d) Provide operational and educational funds for the county weed superintendent; and

(e) Be authorized to initiate cooperative agreements with other agencies or counties for the designation of or participation in cooperative weed management areas for control of noxious weeds.

(2) A general notice for control of noxious weeds shall be published between March 1 and April 30, in a newspaper of general circulation within the county. The notice shall contain the list of noxious weeds and identify those known to be in the county, and shall stipulate the obligation to control. Failure to publish the notice for control or serve individual notices herein provided does not relieve any person from full compliance with this chapter ~~and--regulations~~ thereunder. In all cases said published notice shall be deemed legal and sufficient notice.

(3) Whenever any county finds it necessary to secure more prompt or definite control of noxious weeds than is accomplished by the general notice, it shall cause individual notices on a form prescribed by the director to be served upon the landowner and where possible on the operator of the land giving specific instructions when and how certain named noxious weeds are to be controlled. The individual notice shall also contain information concerning the right to appeal pursuant to section 22-2408, Idaho Code. Individual notices shall be applicable only to the current growing season.

(4) Whenever the landowner of any nonfederal land on which noxious weeds are present has neglected or failed to initiate control as required pursuant to this chapter within five (5) working days from receipt of an individual notice given pursuant to this section, the county having jurisdiction shall have proper control methods used on such land, including necessary destruction of crops, and shall advise the landowner of the cost incurred in connection with such operation. The cost of any such control shall be at the expense of the landowner. If the costs have not been paid to the control authority within sixty (60) days, the control authority may direct that suit be brought in a court of competent jurisdiction for the unpaid charges. On private lands, if unpaid for sixty (60) days or longer the amount of such expense shall become a lien upon the property; and thereafter the lien shall be subject to collection by the county by sale of the property in the same manner as for delinquent taxes. Nothing contained in this section shall be construed to require satisfaction of the imposed obligation by the sale of property or to bar the application of any other available remedy.

(5) Amounts collected under the provisions of this section shall be deposited to the noxious weed fund of the county and shall be accounted for as prescribed by the county auditor. Disbursements from the noxious weed fund shall be made only for noxious weed control purposes.

(6) The county weed superintendent shall:

(a) Examine all land within the county for the purpose of determining whether the provisions of this chapter and rules ~~and--regulations~~ of the director have been complied with; and

(b) Compile data and submit reports as the director or county may

require; and
(c) Implement enforcement action as outlined in this chapter; and
(d) Consult, advise and provide direction on matters pertaining to the most effective and most practical methods of noxious weed control; and
(e) Investigate or aid in the investigation and prosecution of any violation of the provisions of this chapter; and
(f) Meet certification requirements as prescribed by the regulations of the director; and
(g) Make recommendations regarding establishment of special management zones; and
(h) Make recommendations regarding establishment of cooperative weed management areas; and
(i) Participate on weed control advisory committees to develop and implement noxious weed control strategies for cooperative weed management areas, at the discretion of the county weed control authority.

SECTION 5. That Section 22-2406, Idaho Code, be, and the same is hereby amended to read as follows:

22-2406. COUNTY POWERS. (1) The county control authority is authorized to:
(a) Have noxious weeds controlled without cost to the landowner, notwithstanding any other provision of this chapter relating to payment of cost; and
(b) Quarantine any tract of land under its jurisdiction when it appears there is an infestation of noxious weeds beyond the ability of the landowner to control and put into immediate operation the required means for the control or containment of such noxious weeds including necessary destruction of crops; and
(c) Serve individual notice on the landowner and where possible on the operator of the land prior to the entry upon such land declaring a quarantine and specifying the date of the proposed entry and the proposed cost to the violator, and advise the same person of the completion of the control operation and the required reimbursement thereof. If the landowner is not known or readily available, notice shall be deemed satisfied after eight (8) days from postmark of registered mail to the address as shown on the assessment roll of the county; and
(d) Stop movement of noxious weed infested items. Such items shall not be moved from designated premises except in accordance with the written permission of the county control authority; and
(e) Purchase or provide for equipment and materials for the control of noxious weeds, independently or in combination with other control authorities, and use such equipment or materials upon any lands within the state; and
(f) Levy annually upon all taxable property of said county a tax for the control of noxious weeds to be collected and apportioned to the county noxious weed fund, which levy shall not exceed six hundredths ~~per cent~~ percent (.06%) of the market value for assessment purposes of said property in said county; and
(g) Utilize any other methods or local options that may be avail-

able for the purpose of funding a coordinated noxious weed control program on the county level; and

(h) Use the noxious weed fund, which may be a revolving fund, only for noxious weed purposes. In addition to any appropriated funds designated for the control of noxious weeds, the county control authority shall have the power to receive and disburse funds from any source as a continuing appropriation at any time for the purpose of controlling noxious weeds; and

(i) Propose and accept plans for noxious weed control which may be extended over a period of years by agreement with the landowner. The agreement shall be a contract and the control authority shall have the power and duty to enforce the terms of any such agreement; and

(j) Propose, accept and implement integrated weed management plans developed by weed control advisory committees for control of noxious weeds in cooperative weed management areas; and

(k) Designate weeds, in addition to the state noxious weed list, as noxious within their county, but such additional species are not subject to provisions of the state noxious weed laws.

(2) The county weed superintendent is authorized to:

(a) Enter upon all lands within the county where there are noxious weeds to ascertain conditions, if a reasonable attempt has been made to contact the landowner and where possible the operator of the land prior to entry and there is probable cause for entry; and

(b) Stipulate items as requiring treatment to prevent dissemination of noxious weeds, in accordance with the applicable regulations.

SECTION 6. That Section 22-2410, Idaho Code, be, and the same is hereby amended to read as follows:

22-2410. WEED CONTROL ADVISORY COMMITTEES. (1) Control agencies or authorities may appoint persons to a weed control advisory committee, who shall be persons knowledgeable of noxious weeds and the damage done by such weeds. The members of the advisory committee shall be residents of or landowners in one (1) of the counties included in the cooperative weed management area, and shall be appointed for renewable terms of two (2) years.

(2) It shall be the function of each weed control advisory committee to:

(a) Assist in planning and carrying out noxious weed control programs within or across county, state or federal boundaries as may be provided by cooperative agreement among the participating parties for control of noxious weeds in cooperative weed management areas; and

(b) Act as liaison to other weed control advisory committees; and

(c) Provide a forum for public input on matters relating to the control of noxious weeds.

(3) Members of the advisory committee may be reimbursed for actual and necessary expenses when on committee business. Expense payments may be made from the noxious weed fund.

(4) Advisory committees have no executive powers and act in an advisory capacity only.

Approved March 17, 1999.

CHAPTER 76
(H.B. No. 198)

AN ACT
RELATING TO THE CANCER REGISTRY; AMENDING SECTION 57-1703, IDAHO CODE, TO FURTHER DEFINE CANCER TO EXCLUDE IN SITU NEOPLASMS OF THE CERVIX.

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

SECTION 1. That Section 57-1703, Idaho Code, be, and the same is hereby amended to read as follows:

57-1703. CANCER REGISTRY -- DEFINITIONS. (1) "Cancer" means all in situ 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 <u>and excluding in situ neoplasms of the cervix.</u>

(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.

Approved March 17, 1999.

CHAPTER 77
(H.B. No. 218)

AN ACT
RELATING TO SPECIAL LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-418B, IDAHO CODE,

TO AUTHORIZE ISSUANCE OF AN IDAHO YOUTH LICENSE PLATE AND TO DESIGNATE DISPOSITION OF RECEIPTS FROM THE PLATE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-418B, Idaho Code, and to read as follows:

49-418B. IDAHO YOUTH PLATES. (1) On or after January 1, 2000, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval receive special Idaho youth license plates in lieu of regular license plates. Availability of Idaho youth plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, 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 the 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 transferred by the county assessor's motor vehicle registration division of each county into the youth programs fund of the sheriff of that county, for use in implementation of prevention and early intervention programs for Idaho's at-risk youth including, but not limited to: (a) providing mentoring programs, (b) creating safe places and structured activities in nonschool hours, (c) fostering good health, (d) developing effective education opportunities for marketable career skills, and (e) providing an opportunity for youth to give back to their community.

(3) 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. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho youth license plate shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans, acceptable to the Idaho association of counties, to be added to the plate. The design shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho association of counties.

(5) Sample Idaho youth license 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 sheriff's youth program fund of the county where the plate was purchased for the implementation of youth programs for at-risk youth. No additional fee shall be charged for personalizing sample plates.

SECTION 2. This act shall be in full force and effect on and after January 1, 2000.

Approved March 18, 1999.

CHAPTER 78
(S.B. No. 1046)

AN ACT

RELATING TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2721, IDAHO CODE, TO PROVIDE AUTHORITY TO SUPERVISORS OF SOIL CONSERVATION DISTRICTS TO RETAIN PRIVATE LEGAL COUNSEL AND TO MAKE TECHNICAL CORRECTIONS.

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

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

22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS. The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided in this chapter. Elections shall be conducted pursuant to the provisions of this section and the uniform district election law, chapter 14, title 34, Idaho Code. 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 soil conservation commission, unless it has contracted with the county clerk to conduct the election, shall designate an individual to act as the election official. If contracted to do so, the county clerk shall act as the election official. The election official shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the election official unless it shall be subscribed by not less than five (5) persons who are qualified electors owning land or residing within the boundaries of the district. The election official 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, which shall be supervised and conducted by the election official.

B. All elections in districts, excluding the first election as provided in subparagraph A. of this section, shall be conducted by the district supervisors of the districts involved who shall designate an individual to be the election official, or the county clerk if contracted for that purpose. Such election shall be held on the first Tuesday succeeding the first Monday of November in each even-numbered year. Such elections shall be in compliance with the provisions of chapter 14, title 34, Idaho Code, and shall be supervised and conducted by the election official. The cost of conducting such elections shall be borne by the district involved. The election official 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. In any election for supervisors of a soil conservation district, if after the expiration of the date for filing written nominations it appears that only one (1) qualified candidate has been nomi-

nated for each position to be filled and no declaration of intent has been filed by a write-in candidate as provided in subparagraph D. of this section, it shall not be necessary to hold an election, and the election official shall, no later than seven (7) days before the scheduled date of the election, declare such candidate elected as supervisor, and the state soil conservation commission shall immediately make and deliver to such person a certificate of election.

D. No write-in vote for supervisor shall be counted unless a declaration of intent has been filed with the election official indicating that the person making the declaration desires the office and is legally qualified to assume the duties of supervisor if elected as a write-in candidate. The declaration of intent shall be filed not later than eleven (11) days before the day of election.

E. 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 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.

F. 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 <u>or may employ their own counsel and legal staff.</u> The supervisors may delegate to their chairman, to one (1) or more supervisors, or to one (1) 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, 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 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, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

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

Approved March 18, 1999.

CHAPTER 79
(S.B. No. 1052)

AN ACT

RELATING TO DRIVER'S LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 49-322, IDAHO CODE, TO PROVIDE THAT WHEN A DRIVER'S LICENSE IS CANCELLED FOR REASONS OF IMPAIRMENT, INCOMPETENCE OR INABILITY OF THE LICENSEE TO SAFELY OPERATE A MOTOR VEHICLE AND THE LICENSE IS VOLUNTARILY SURRENDERED, THE LICENSEE MAY BE ELIGIBLE FOR A NO-FEE IDENTIFICATION CARD; AND AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF A NO-FEE IDENTIFICATION CARD.

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

SECTION 1. That Section 49-322, Idaho Code, be, and the same is hereby amended to read as follows:

49-322. AUTHORITY OF DEPARTMENT TO CANCEL DRIVER'S LICENSE. (1) The department shall cancel any driver's license upon determining that the licensee was not entitled to the issuance of the driver's license, or that the licensee failed to give the required or correct information in his application, or committed fraud in making the application.

(2) Upon a cancellation, the licensee shall surrender the cancelled driver's license to the department.

(3) The department shall cancel a person's commercial driver's license upon determining that the class A, B, or C licensee has falsified information. Upon cancellation of a class A, B, or C driver's license, the licensee shall be disqualified from operating a commercial motor vehicle for a period of sixty (60) days.

(4) When a driver's license has been cancelled for reasons of impairment, incompetence or inability of the licensed driver to operate a motor vehicle safely as provided in section 49-303 or 49-326, Idaho Code, and the licensee has voluntarily surrendered his driver's license, or when a licensed driver requests cancellation of his

license for any of the same reasons stated in this subsection and he voluntarily surrenders his license, the licensee may be eligible for a no-fee identification card as provided in section 49-2444, Idaho Code.

SECTION 2. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED. (1) The department shall issue an identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall be issued a distinguishing number and shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or until he executes an affidavit that he does not possess an identification card. A notation of "under 21 until (month, day, year)" and any other distinguishing printing of the words "under 21" on the identification card shall be made if applicable. The nonrefundable fee for an identification card shall be seven dollars and fifty cents ($7.50) of which five dollars ($5.00) shall be retained by the county and credited to the current expense fund, and two dollars and fifty cents ($2.50) shall be deposited in the state treasury to the credit of the highway distribution account. Every identification card shall expire on the cardholder's birthday in the fourth year following issuance of the card.

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

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

(4) A person possessing an identification card desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the identification card by the imprinting of the word "donor" on the identification card.

(5) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(6) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within fourteen (14) days, notify the transportation department in writing of the old and new addresses.

(7) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the cancelled identification card to the department.

(8) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

(9) The department may issue a no-fee identification card to an individual whose driver's license has been cancelled and voluntarily surrendered as provided in section 49-322(4), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains cancelled.

Approved March 18, 1999.

CHAPTER 80
(S.B. No. 1053)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE; AMENDING SECTION 18-8002A, IDAHO CODE, TO DELETE REFERENCE TO TRANSPORTATION DEPARTMENT FORMS IN DEPARTMENT OF LAW ENFORCEMENT RULES, TO PROVIDE FOR SERVICE OF A NOTICE OF DRIVER'S LICENSE SUSPENSION BY THE DEPARTMENT AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 18-8005, IDAHO CODE, TO DELETE PROVISIONS FOR COURT SUSPENSION OF A COMMERCIAL LICENSE UPON A CONVICTION OF DRIVING UNDER THE INFLUENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-8002A, Idaho Code, be, and the same is hereby amended to read as follows:

18-8002A. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES -- SUSPENSION UPON FAILURE OF TESTS. (1) Definitions. As used in this section:

(a) "Actual physical control" means being in the driver's position of a motor vehicle with the motor running or with the vehicle moving.

(b) "Administrative hearing" means a hearing conducted by a hear-

ing officer to determine whether a suspension imposed by the provisions of this section should be vacated or sustained.

(c) "Department" means the Idaho transportation department and, as the context requires, shall be construed to include any agent of the department designated by rule as hereinafter provided.

(d) "Director" means the director of the Idaho transportation department.

(e) "Evidentiary testing" means a procedure or test or series of procedures or tests utilized to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in a person, including additional testing authorized by subsection (6) of this section. An evidentiary test for alcohol concentration shall be based on a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath, or sixty-seven (67) milliliters of urine. Analysis of blood, breath or urine for the purpose of determining alcohol concentration shall be performed by a laboratory operated by the Idaho department of law enforcement or by a laboratory approved by the Idaho department of law enforcement under the provisions of approval and certification standards to be set by that department, or by any other method approved by the Idaho department of law enforcement. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated and approved by the Idaho department of law enforcement or by any other method approved by the Idaho department of law enforcement shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(f) "Hearing officer" means a person designated by the department to conduct administrative hearings. The hearing officer shall have authority to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas, regulate the course and conduct of the hearing and make a final ruling on the issues before him.

(g) "Hearing request" means a request for an administrative hearing on the suspension imposed by the provisions of this section.

(2) Information to be given. At the time of evidentiary testing for concentration of alcohol, or for the presence of drugs or other intoxicating substances is requested, the person shall be informed that if the person refuses to submit to or fails to complete evidentiary testing, or if the person submits to and completes evidentiary testing and the test results indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, the person shall be informed substantially as follows (but need not be informed verbatim):

"If you refuse to submit to or if you fail to complete and pass evidentiary testing for alcohol or other intoxicating substances:

(a) The peace officer will seize your driver's license and issue a notice of suspension and a temporary driving permit to you, but no peace officer will issue you a temporary driving permit if your driver's license or permit has already been and is suspended or

revoked. No peace officer shall issue a temporary driving permit to a driver of a commercial vehicle who refuses to submit to or fails to complete and pass an evidentiary test;

(b) You have the right to request a hearing within seven (7) days of the notice of suspension of your driver's license to show cause why you refused to submit to or to complete and pass evidentiary testing and why your driver's license should not be suspended;

(c) If you refused or failed to complete evidentiary testing and do not request a hearing before the court or do not prevail at the hearing, your driver's license will be suspended. The suspension will be for one hundred eighty (180) days if this is your first refusal. The suspension will be for one (1) year if this is your second refusal within five (5) years. You will not be able to obtain a temporary restricted license during that period; and

(d) If you complete evidentiary testing and fail the testing and do not request a hearing before the department or do not prevail at the hearing, your driver's license will be suspended. This suspension will be for ninety (90) days if this is your first failure of evidentiary testing, but you may request restricted driving privileges after the first thirty (30) days. The suspension will be for one (1) year if this is your second failure of evidentiary testing within five (5) years. You will not be able to obtain a temporary restricted license during that period;

(e) After submitting to evidentiary testing you may, when practicable, at your own expense, have additional tests made by a person of your own choosing.

(3) Rulemaking authority of the department of law enforcement. The Idaho department of law enforcement may, pursuant to chapter 52, title 67, Idaho Code, prescribe by rule:

(a) ~~A form restating the substance of the information required to be provided in subsection (2) of this section. The information in this form shall be considered by operation of this section to comply with the information required to be given by subsection (2) of this section;~~

~~(b)~~ What testing is required to complete evidentiary testing under this section; and

(~~c~~b) What calibration or checking of testing equipment must be performed to comply with the department's requirements. ~~Unless~~ Any rules of the Idaho department of law enforcement ~~has prescribed to the contrary by rule,~~ shall be in accordance with the following: ~~shall apply:~~ a test for alcohol concentration in breath as defined in section 18-8004, Idaho Code, and subsection (1)(e) of this section will be valid for the purposes of this section if the breath alcohol testing instrument was approved for testing by the Idaho department of law enforcement in accordance with section 18-8004, Idaho Code, ~~not more than~~ at any time within ninety (90) days before the evidentiary testing. A test for alcohol concentration in blood or urine as defined in section 18-8004, Idaho Code, that is reported by the Idaho department of law enforcement or by any laboratory approved by the Idaho department of law enforcement to perform this test will be valid for the purposes of this section.

(4) Suspension.

(a) Upon receipt of the sworn statement of a peace officer that

there existed legal cause to believe a person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances and that the person submitted to a test and the test results indicated an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, the department shall suspend the person's driver's license, driver's permit, driving privileges or nonresident driving privileges:

(i) For a period of ninety (90) days for a first failure of evidentiary testing under the provisions of this section. The first thirty (30) days of the suspension shall be absolute and the person shall have absolutely no driving privileges of any kind. Restricted driving privileges applicable during the remaining sixty (60) days of the suspension may be requested as provided in subsection (9) of this section.

(ii) For a period of one (1) year for a second and any subsequent failure of evidentiary testing under the provisions of this section within the immediately preceding five (5) years. No driving privileges of any kind shall be granted during the suspension imposed pursuant to this subsection.

The person may request an administrative hearing on the suspension as provided in subsection (7) of this section. Any right to contest the suspension shall be waived if a hearing is not requested as therein provided.

(b) The suspension shall become effective thirty (30) days after service upon the person of the notice of suspension. The notice shall be in a form provided by the department and shall state:

(i) The reason and statutory grounds for the suspension;

(ii) The effective date of the suspension;

(iii) The suspension periods to which the person may be subject as provided in subsection (4)(a) of this section;

(iv) The procedures for obtaining restricted driving privileges;

(v) The rights of the person to request an administrative hearing on the suspension and that if an administrative hearing is not requested within seven (7) days of service of the notice of suspension the right to contest the suspension shall be waived;

(vi) The procedures for obtaining an administrative hearing on the suspension;

(vii) The right to judicial review of the hearing officer's decision on the suspension and the procedures for seeking such review.

(5) Service of suspension by peace officer <u>or the department.</u> If the driver submits to evidentiary testing after the information in subsection (2) of this section has been provided and the results of the test indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code:

(a) The peace officer shall take possession of the person's driver's license, shall issue a temporary permit which shall be valid for a period not to exceed thirty (30) days from the date of

issuance, and, acting on behalf of the department, ~~shall~~ will serve the person with a notice of suspension in the form and containing the information required under subsection (4) of this section. The department may serve the person with a notice of suspension if the peace officer failed to issue the notice of suspension or failed to include the date of service as provided in subsection (4)(b) of this section.

(b) Within five (5) business days following service of a notice of suspension the peace officer shall forward to the department a copy of the completed notice of suspension form upon which the date of service upon the driver shall be clearly indicated, a copy of any completed temporary permit form along with any confiscated driver's license, and a ~~sworn statement~~ sworn statement of the officer, which may incorporate any arrest or incident reports relevant to the arrest and evidentiary testing setting forth:

(i) The identity of the person;

(ii) Stating the officer's legal cause to stop the person;

(iii) Stating the officer's legal cause to believe that the person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code;

(iv) That the person was advised of the consequences of taking and failing the evidentiary test as provided in subsection (2) of this section;

(v) That the person was lawfully arrested;

(vi) That the person was tested for alcohol concentration, drugs or other intoxicating substances as provided in this chapter, and that the results of the test indicated an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code.

A certified copy or duplicate original of the results of all tests for alcohol concentration, ~~drugs or other intoxicating substances~~ as shown by analysis of ~~blood, urine or~~ breath administered at the direction of the peace officer shall accompany the ~~officer's~~ sworn statement of the officer. If an evidentiary test of blood or urine was administered rather than a breath test, the peace officer or the department shall serve the notice of suspension once the results are received. The sworn statement required in this subsection shall be made on forms in accordance with rules adopted by the department.

(c) The department may serve the person with a notice of suspension if the peace officer failed to issue the notice of suspension or failed to include the date of service as provided in subsection (4)(b) of this section.

(6) Additional tests. After submitting to evidentiary testing at the request of the peace officer, the person may, when practicable, at his own expense, have additional tests for alcohol concentration or for the presence of drugs or other intoxicating substances made by a person of his own choosing. The person's failure or inability to obtain additional tests shall not preclude admission of the results of evidentiary tests administered at the direction of the peace officer unless additional testing was denied by the peace officer.

(7) Administrative hearing on suspension. A person who has been served with a notice of suspension after submitting to an evidentiary test may request an administrative hearing on the suspension before a hearing officer designated by the department. The request for hearing shall be in writing and must be received by the department within seven (7) calendar days of the date of service upon the person of the notice of suspension, and shall include what issue or issues shall be raised at the hearing. The date on which the hearing request was received shall be noted on the face of the request.

If a hearing is requested, the hearing shall be held within twenty (20) days of the date the hearing request was received by the department unless this period is, for good cause shown, extended by the hearing officer for one ten (10) day period. Such extension shall not operate as a stay of the suspension and any temporary permit shall expire thirty (30) days after service of the notice of suspension, notwithstanding an extension of the hearing date beyond such thirty (30) day period. Written notice of the date and time of the hearing shall be sent to the party requesting the hearing at least seven (7) days prior to the scheduled hearing date. The department may conduct all hearings by telephone if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

The hearing shall be recorded. The sworn statement of the arresting officer, and the copy of the notice of suspension and any temporary permit issued by the officer shall be admissible at the hearing without further evidentiary foundation. The results of any tests for alcohol concentration or the presence of drugs or other intoxicating substances by analysis of blood, urine or breath administered at the direction of the peace officer and the records relating to calibration, certification, approval or quality control pertaining to equipment utilized to perform the tests shall be admissible as provided in section 18-8004(4), Idaho Code. The arresting officer shall not be required to participate unless directed to do so by a subpoena issued by the hearing officer.

The burden of proof shall be on the person requesting the hearing. The hearing officer shall not vacate the suspension unless he finds, by a preponderance of the evidence, that:

(a) The peace officer did not have legal cause to stop the person; or

(b) The officer did not have legal cause to believe the person had been driving or was in actual physical control of a vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code; or

(c) The test results did not show an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, 18-8004C or 18-8006, Idaho Code; or

(d) The tests for alcohol concentration, drugs or other intoxicating substances administered at the direction of the peace officer were not conducted in accordance with the requirements of section 18-8004(4), Idaho Code, or the testing equipment was not functioning properly when the test was administered; or

(e) The person was not informed of the consequences of submitting

to evidentiary testing as required in subsection (2) of this section.

If the hearing officer finds that the person has not met his burden of proof, he shall sustain the suspension. The hearing officer shall make findings of fact and conclusions of law on each issue and shall enter an order vacating or sustaining the suspension. If the suspension is vacated, the person's driver's license, unless unavailable by reason of an existing suspension, revocation, cancellation, disqualification or denial shall be returned to him. The findings of fact, conclusions of law and order entered by the hearing officer shall be considered a final order pursuant to the provisions of chapter 52, title 67, Idaho Code, except that motions for reconsideration of such order shall be allowed and new evidence can be submitted.

The facts as found by the hearing officer shall be independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect the suspension required to be imposed under the provisions of this section. If a license is suspended under this section and the person is also convicted on criminal charges arising out of the same occurrence for a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, both the suspension under this section and the suspension imposed pursuant to the provisions of section 18-8005 or 18-8006, Idaho Code, shall be imposed, but the periods of suspension shall run concurrently, with the total period of suspension not to exceed the longer of the applicable suspension periods, unless the court ordering the suspension in the criminal case orders to the contrary.

(8) Judicial review. A party aggrieved by the decision of the hearing officer may seek judicial review of the decision in the manner provided for judicial review of final agency action provided in chapter 52, title 67, Idaho Code.

(9) Restricted driving privileges. A person served with a notice of suspension for ninety (90) days pursuant to this section may apply to the department for restricted driving privileges, to become effective after the thirty (30) day absolute suspension has been completed. The request may be made at any time after service of the notice of suspension. Restricted driving privileges will be issued for the person to travel to and from work and for work purposes, to attend an alternative high school, work on a GED, for postsecondary education, or to meet the medical needs of the person or his family if the person is eligible for restricted driving privileges.

(10) Rules. The department may adopt rules under the provisions of chapter 52, title 67, Idaho Code, deemed necessary to implement the provisions of this section.

SECTION 2. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a) or (5), Idaho Code, for the first time is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) May be sentenced to jail for not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars ($1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for a period of thirty (30) days which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days during which the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

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

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

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

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

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

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

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), and except as provided in section 18-8004C, Idaho Code, is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and may be sentenced to not more than one (1) year, provided however, that in the discretion of the sentencing judge, the judge may authorize the defendant to be assigned to a work detail program within the custody of the county sheriff during the period of incarceration;

(b) May be fined an amount not to exceed two thousand dollars ($2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which

advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) If the person has pled guilty or was found guilty for the second time within five (5) years of a violation of the provisions of section 18-8004(1)(b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(5) Except as provided in section 18-8004C, Idaho Code, any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed five (5) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his driver's license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind.

(6) For the purpose of computation of the enhancement period in subsections (4), (5) and (7) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(7) Notwithstanding the provisions of subsections (4) and (5) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a felony violation of the provisions of section 18-8004C, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, or

a violation of the provisions of section 18-4006 3. (b), Idaho Code, and within ten (10) years pleads guilty or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (5) of this section.

(8) For the purpose of subsections (4) and (5) of this section and the provisions of section 18-8004C, Idaho Code, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(9) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility approved by the Idaho department of health and welfare. In the event the alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(10) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section

18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (9) of this section, if any.

(11) A minor may be prosecuted for a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, under chapter 5, title ~~16~~20, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c) or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of twenty-one (21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(12) In the event that the alcohol evaluation required in subsection (9) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(13) Any person who is disqualified shall not be granted restricted driving privileges to operate a commercial motor vehicle.

Approved March 18, 1999.

CHAPTER 81
(S.B. No. 1054)

AN ACT

RELATING TO MOTOR VEHICLE DRIVER'S LICENSES AND DRIVING PRIVILEGES; AMENDING SECTION 33-4904, IDAHO CODE, TO PROVIDE THAT ONE DOLLAR OF EVERY CLASS A, B, C OR D DRIVER'S LICENSE FEE SHALL BE CREDITED TO THE MOTORCYCLE SAFETY PROGRAM FUND AND THE FUND SHALL NOT RECEIVE FEES COLLECTED FOR A MOTORCYCLE ENDORSEMENT OR MOTORCYCLE

ENDORSEMENT INSTRUCTION PERMIT; AMENDING SECTION 49-104, IDAHO CODE, TO FURTHER DEFINE "CONVICTION" TO INCLUDE INFRACTION JUDGMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-114, IDAHO CODE, TO DELETE REFERENCE TO A REPEALED LAW AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-202, IDAHO CODE, TO CLARIFY FEES CHARGED FOR FURNISHING COPIES OF RECORDS AND FOR SEARCHING FILES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-237, IDAHO CODE, TO CLARIFY PROCEDURES RELATING TO RECORDS OF CONVICTION SENT TO THE DEPARTMENT; REPEALING SECTION 49-237, IDAHO CODE, AS ENACTED BY SECTION 10, CHAPTER 110, LAWS OF 1998; AMENDING SECTION 49-301, IDAHO CODE, TO CLARIFY THAT NO IDAHO DRIVER'S LICENSE SHALL BE ISSUED UNTIL THE APPLICANT HAS SURRENDERED ALL OTHER LICENSES AND IDENTIFICATION CARDS; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE THAT NO DRIVER'S LICENSE OR INSTRUCTION PERMIT SHALL BE ISSUED TO AN APPLICANT OPERATING ON A TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT UNTIL THE DEPARTMENT HAS RECEIVED A CERTIFIED COPY OF THE APPLICANT'S BIRTH CERTIFICATE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-306, IDAHO CODE, TO CLARIFY INFORMATION REQUIRED ON AN APPLICATION FOR A DRIVER'S LICENSE OR INSTRUCTION PERMIT AND TO CLARIFY DOCUMENTS ACCEPTABLE AS PROOF OF IDENTITY; AMENDING SECTION 49-310, IDAHO CODE, TO PROVIDE THAT PERSONS WITH CUSTODY OR GUARDIANSHIP OF AN APPLICANT UNDER EIGHTEEN YEARS OF AGE SHALL VERIFY SUCH CUSTODY OR GUARDIANSHIP AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-318, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR OBTAINING DUPLICATE DRIVER'S LICENSES AND SUBSTITUTE PERMITS; AMENDING SECTION 49-319, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR THE RENEWAL OF A DRIVER'S LICENSE; AMENDING SECTION 49-326, IDAHO CODE, TO PROVIDE AUTHORITY FOR THE DEPARTMENT TO SUSPEND DRIVER'S LICENSES FOR OUT-OF-STATE CONVICTIONS AND SUSPENSIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-328, IDAHO CODE, TO CLARIFY PROCEDURES FOR COLLECTING REINSTATEMENT FEES; AMENDING SECTION 49-335, IDAHO CODE, TO PROVIDE THAT A JUDGMENT OR WITHHELD JUDGMENT IS A CONVICTION FOR PURPOSES OF DISQUALIFYING A COMMERCIAL VEHICLE DRIVER; AMENDING SECTION 49-337, IDAHO CODE, TO PROVIDE FOR EMPLOYERS' RESPONSIBILITIES RELATING TO COMMERCIAL VEHICLES SUBJECT TO AN OUT-OF-SERVICE ORDER; AMENDING SECTION 49-1208, IDAHO CODE, TO CORRECT AND CLARIFY PROVISIONS OF LAW RELATING TO MAINTAINING PROOF OF FINANCIAL RESPONSIBILITY; AMENDING SECTIONS 49-1229, 49-1232 AND 49-1428, IDAHO CODE, TO PROVIDE ADDITIONAL REFERENCES SO THAT A SECOND OR SUBSEQUENT VIOLATION OF THE SECTION OR THE REFERENCED SECTIONS CONSTITUTE A MISDEMEANOR; AND AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR THE ISSUANCE OF AN IDENTIFICATION CARD.

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

SECTION 1. That Section 33-4904, Idaho Code, be, and the same is hereby amended to read as follows:

33-4904. MOTORCYCLE SAFETY PROGRAM FUND. (1) The motorcycle safety program fund is established in the state treasury and appropri-

ated on a continual basis to the department of education which shall administer the moneys. Money in the fund shall only be used for administration and implementation of the program, including reimbursement of entities which offer approved motorcycle rider training courses.

(2) At the end of each fiscal year, moneys remaining in the motorcycle safety program fund shall be retained in said fund and shall not revert to any other general fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to and remain in the motorcycle safety program fund.

(3) Revenue credited to the fund shall include ~~eleven~~ one dollar~~s and--fifty--cents~~ ($~~11.5~~.00) of each fee ~~assessed~~ for a ~~motorcycle endorsement-instruction-permit-and-a-motorcycle-endorsement~~ class A, B, C or D driver's license as provided in section 49-306, Idaho Code.

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

49-104. DEFINITIONS -- C.

(1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license. The cancellation of a driver's license is without prejudice and after compliance with requirements, the individual may apply for a new driver's license at any time after cancellation.

(2) "Caravaning" means the transportation of any motor vehicle into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate in an amount not less than that required by section 49-1212, Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insur-

ance or a true copy, demonstrating the current existence of the liability insurance described above.

(4) "Commercial coach." (See section 39-4105, Idaho Code)

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

(6) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(7) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

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

(9) "Construction danger zone" means a construction or maintenance area that is located on or adjacent to a highway and marked by appropriate warning signs.

(10) "Controlled substance" means any substance so classified under section 102(6) of the controlled substances act (21 U.S.C. 802(6)), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(11) "Conviction" means the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment. A conviction for purposes of this title shall also include an infraction judgment.

(12) "Crosswalk" means:

(a) That part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable highway; and in the absence of a sidewalk on one side of the highway, that part of a highway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline.

(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

SECTION 3. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M.

(1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of

constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration or use fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Moped" means a limited-speed motor-driven cycle which is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(9) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor and moped.

(10) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American National Standards Institute (ANSI) A119.7 Standard for Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(11) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a handicapped person.

(12) "Motor number." (See "Identifying number,"~~;~~ section 49-110, Idaho Code)

(13) "Motor vehicle." (See "Vehicle,"~~;~~ section 49-123, Idaho Code)

(14) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, ~~or 49-1211,~~ Idaho Code, as proof of financial responsibility, and issued~~, except as otherwise provided in section 49-1211, Idaho Code,~~ by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(15) "Motor vehicle record" means any record that pertains to a motor vehicle registration, motor vehicle title or identification doc-

uments or other similar credentials issued by the department or other state or local agency.

SECTION 4. 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, except for those records declared by law to be for the confidential use of the department, or those records containing personal information subject to restrictions or conditions regarding disclosure. 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~~ <u>furnishing copies of</u> 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~~ <u>searching</u> 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

(n) For filing release of liability statements $2.00

(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 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.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof.

(9) The department shall not renew a driver's license or identification card when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including nonsufficient fund checks, until those fees have been paid.

(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 or its authorized agents have the authority to request any person, to submit to medical, vision, highway, or written examinations, to protect the safety of the public upon the highways. The department or its authorized agents may exercise such authority based upon evidence which may include, but is not limited to, observations made.

(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 or identification card when fees required by law have not been paid or where fees are due, owing and unpaid including nonsufficient fund checks, until those fees have been paid.

(16) The department shall examine persons and vehicles by written, oral, vision and skills 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, except where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on the portion of state highways, excluding controlled access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city. The placement and maintenance of such a traffic-control device by a local authority shall be made according to the board's manual and specifications for a uniform system of traffic-control devices.

(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, except in cases where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on portions of state highways, excluding controlled access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city.

(23) The department shall regulate or prohibit the use of any ~~controlledaccess~~ 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 (1) 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.

SECTION 5. That Section 49-237, Idaho Code, be, and the same is hereby amended to read as follows:

49-237. RECORDS TO BE SENT TO DEPARTMENT. Upon the conviction <u>or reversal of conviction</u> of any person for the violation of any of the provisions of this title, the <u>judicial officer before whom the proceedings are had or the</u> clerk of the district court shall immediately transmit the facts of the case to the department<u>,</u> ~~and the department of correction,~~ either in paper or electronic form, including the name, address, date of birth, and the driver's license number or social security number of the party charged, and any judgment issued, including a withheld judgment. The <u>judicial officer or the</u> clerk of the dis-

trict court shall also forward to the department information regarding the character of the punishment, and the amount of any fine imposed and paid, the ordered sentence and its terms, and the ordered suspension period, including when the suspension is to commence. The information provided to the department ~~and--the--department--of--correction~~ shall be certified if submitted in paper form; no certification is required for electronic transfers of information. The department shall enter the facts either in the records of registered vehicles, or in the records of registered dealers, or in the driver's license records, as the case may be, opposite the name of the person so convicted, and in the case of any other person, in a record of offenders, to be kept for that purpose. If an individual is reincarcerated while that person's driver's license or driving privileges are suspended, the department of correction is to notify the department that the individual is reincarcerated, as well as the terms and period of reincarceration. If the conviction be reversed on appeal, the person whose conviction has been reversed may serve on the department a certified copy of the order of reversal, and the department shall enter the reversal in the proper records.

SECTION 6. That Section 49-237, Idaho Code, as amended in Section 10, Chapter 110, Laws of 1998, be, and the same is hereby repealed.

SECTION 7. That Section 49-301, Idaho Code, be, and the same is hereby amended to read as follows:

49-301. DRIVERS TO BE LICENSED. (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a valid Idaho driver's license. No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license. No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway unless he has a seasonal or class A, B or C driver's license with required endorsements. No person shall operate a motor vehicle in violation of any valid restriction identified on or attached to, his valid driver's license. No person shall receive a <u>class D</u> driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction for use within the United States, <u>or any identification cards issued by any other jurisdiction within the United States,</u> or until he executes an affidavit that he does not possess a driver's license <u>or any identification cards.</u> No person shall be permitted to have more than one (1) driver's license issued for use within the United States at any time.

(2) Any holder of a class A, B or C commercial driver's license issued by a jurisdiction other than Idaho shall apply for an Idaho-issued commercial driver's license within thirty (30) days of establishing a domicile in Idaho. <u>In accordance with the federal motor carrier safety regulations, no person shall receive a class A, B or C driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction.</u>

SECTION 8. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS -- TEMPORARY LICENSES -- TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT. (1) Upon passage of the required knowledge tests appropriate for the vehicle being operated, the department may issue an instruction permit for the type of vehicle(s) the person will be operating, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of up to one hundred eighty (180) days. That person must be accompanied by an adult driver who holds a driver's license appropriate for the vehicle being operated and who is actually occupying a seat beside the driver.

(a) Any person who has reached the age of fifteen (15) years, and who has successfully completed an approved driver training course may apply for a class D instruction permit with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. Any person applying for an instruction permit or driving privileges who is under the age of eighteen (18) years shall be in compliance with school attendance requirements of section 49-303A, Idaho Code.

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

(c) On and after April 1, 1992, federal highway administration rules and regulations concerning instruction permits, as specified in 49 CFR part 383, will be in effect for commercial motor vehicle operators.

(2) The department may, at its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license may be cancelled at the department's discretion at any time after issuance. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) If an applicant for a driver's training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver's training instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver training course. The certified copy of his birth certificate shall be required before a driver's license or instruction permit will be issued.

(4) The department may issue a motorcycle endorsement instruction permit to an applicant who has a valid driver's license and who has successfully completed the motorcycle riders knowledge test and paid the appropriate fees. The permit entitles the applicant, while having the permit in his immediate possession, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days.

If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is a misdemeanor. The department shall cancel the permit whether or not such violation results in conviction of the misdemeanor.

SECTION 9. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE OR INSTRUCTION PERMIT. (1) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C license with endorsements $24.50
(b) Class D license $20.50
(c) Class A, B, C instruction permit $15.50
(d) Class D instruction permit $11.50
(e) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50
(f) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50
(g) License classification change (upgrade) $15.50
(h) Endorsement addition $11.50
(i) Class A, B, C skills tests ..... not more than $55.00
(j) Class D skills test $15.00
(k) Motorcycle endorsement skills test .....$ 5.00
(l) Knowledge test ..... $ 3.00
(m) Seasonal driver's license..... $23.50
(n) One time motorcycle "M" endorsement $11.50
(o) Motorcycle endorsement instruction permit $11.50
(p) Restricted driving permit $35.00

(2) Every application shall state the true and full name, date of birth, ~~place of birth,~~ sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the applicant's social security card or by the social security administration. A driver's license or instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code. Every application shall also state

whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, cancelled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature. The applicant may be required to submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate ~~and other~~ when obtainable, or another document which provides satisfactory evidence ~~to satisfy the issuing officer~~ of a person's date of birth acceptable to the examiner or the department.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to insure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars ($5.00) from each driver's license or instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement in the current expense fund; and

(b) Deposit two dollars and fifty cents ($2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars ($3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal to five dollars ($5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar ($5.00) fee;

(e) Remit the remainder to the state treasurer; and

(f) Deposit eleven dollars and fifty cents ($11.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to eleven dollars and fifty cents ($11.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars ($2.00) of each fee for a driver's license or seasonal driver's license shall be deposited in the emergency medical services account II created in section 39-146A, Idaho Code; and

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a seasonal or class A, B, or C driver's license shall be deposited in the state highway account; and

(c) Ten dollars and fifty cents ($10.50) of each fee for a class A, B, or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Six dollars and fifty cents ($6.50) of each fee for a duplicate seasonal or class A, B, or C driver's license, class A, B, or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(e) Four dollars ($4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(f) Five dollars and thirty cents ($5.30) of each fee for a class D driver's license shall be deposited in the driver training account; and

(g) Seven dollars and twenty cents ($7.20) of each fee for a class D driver's license shall be deposited in the highway distribution account; and

(h) Two dollars and sixty cents ($2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training account; and

(i) Three dollars and ninety cents ($3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution account; and

(j) Five dollars ($5.00) of each fee for a class A, B, or C skills test shall be deposited in the state highway account; and

(k) One dollar ($1.00) of each fee for a class A, B, C or D driver's license shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code.

(l) Three dollars and fifty cents ($3.50) of each fee for a class D skills test shall be deposited into the state highway account.

(9) The contractor administering a class A, B, or C skills test shall be entitled to not more than fifty dollars ($50.00) of the skills test fee. A contractor administering a class A, B, or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Thirty-five dollars ($35.00) of each restricted driving permit shall be deposited in the state highway account.

(11) The department may issue seasonal class B or C driver's licenses that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of

issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of 49 CFR part 383;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or 49-335(2), Idaho Code, or any one (1) serious traffic offense;

(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and

(e) Are at least sixteen (16) years old.

SECTION 10. That Section 49-310, Idaho Code, be, and the same is hereby amended to read as follows:

49-310. APPLICATIONS OF PERSONS UNDER THE AGE OF EIGHTEEN YEARS. (1) The application of any person under the age of eighteen (18) years for an instruction permit, restricted driver's license or driver's license shall be signed and verified before a person authorized to administer oaths by either the father or mother of the applicant, if both are living and have custody of him; or if either be dead, then by the surviving parent who has custody of him; or by the Idaho resident host of a foreign exchange student, or in the event neither parent is living, or if living and does not have the custody of the applicant, then by the person or guardian having such custody, with verifiable custody or guardianship documents, or by an employer of the applicant. In the event there is no guardian or employer then some other responsible person willing to assume the obligation for the applicant may sign the application. Any person who signs the applicant's application shall attest that the applicant is in compliance with the school attendance provisions of section 49-303A, Idaho Code. The person willing to assume responsibility for the applicant must be at least eighteen (18) years of age.

(2) Any negligence or willful misconduct of a person under the age of eighteen (18) years when operating a motor vehicle upon a highway shall be imputed to the person who signed the application of that person for a permit or driver's license, and that person shall be jointly and severally liable with the permit or driver's license holder for any damage caused by negligence or willful misconduct, except as otherwise provided by law.

(3) In the event a permit or driver's license holder under the age of eighteen (18) years deposits, or there is deposited upon his behalf, proof of financial responsibility in respect to the operation of any motor vehicle, in form and in amounts as required under the motor vehicle financial responsibility laws of this state, or by the

director if the form and amount is not fixed by law, then the department may accept the application when signed by one (1) parent or guardian of the applicant, and while that proof is maintained the parent or guardian shall not be subject to the liability imposed under subsection (2) of this section.

(4) Any person who has signed the application of a minor for a permit or driver's license shall be liable civilly for the payment of any court penalty imposed because the minor has been found to have committed an infraction violation. The provisions of this section shall not apply or create any civil liability for the person signing the application in connection with any pedestrian or bicycle infraction, and provided this subsection shall not apply to any civil action where the plaintiff is other than the state of Idaho.

SECTION 11. That Section 49-318, Idaho Code, be, and the same is hereby amended to read as follows:

49-318. DUPLICATE DRIVER LICENSES AND SUBSTITUTE PERMITS. ~~In--the event--that~~ (1) The holder of any instruction permit, class A, B, C, or D or seasonal driver's license which is lost or destroyed, or a ~~name--of--a~~ licensee whose name is ~~changed-by-marriage-or-otherwise~~ legally changed, ~~the-person-to-whom-the-permit-or-driver's-license-was issued~~ may~~,~~ apply for a duplicate driver's license or substitute permit. A duplicate driver's license or substitute permit will be issued upon:

(a) ~~p~~Payment of the fee ~~fixed~~ as provided in section 49-306, Idaho Code~~,-and-upon~~;

(b) ~~f~~Furnishing satisfactory proof ~~to--the-department~~ that the permit, class A, B, C, or D or seasonal driver's license has been lost or destroyed, or that the licensee's name has been legally changed~~,-apply-for-a-duplicate-or-substitute--permit--or--driver's license--together--with--appropriate--endorsements--that--may-have existed-on-the-previous-permit-or--license.--The--applicant--shall provide~~; and

(c) Furnishing proof of the applicant's identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate ~~and-other-satisfactory~~ when obtainable, or another document which provides evidence of a person's date of birth acceptable to the examiner or department. In the case of a name change, the applicant shall provide legal documentation acceptable to the department to verify the change. ~~in-accordance-with-department-rules.~~

(2) A duplicate driver's license or substitute permit shall not be issued, as provided in subsection (1) of this section, if the license or permit is suspended, revoked, canceled or disqualified in this state or any other jurisdiction or if the applicant has applied for, or has been issued, a license or permit in another jurisdiction.

SECTION 12. That Section 49-319, Idaho Code, be, and the same is hereby amended to read as follows:

49-319. EXPIRATION AND RENEWAL OF DRIVER'S LICENSE. (1) Every Idaho driver's license issued to a driver shall expire on the

licensee's birthday in the fourth year following the issuance of the driver's license. Every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight examination.

(2) An applicant who is issued a driver's license in another jurisdiction after an Idaho driver's license has been issued is not eligible for renewal or a duplicate of the Idaho driver's license. The applicant may apply for a new Idaho driver's license as provided in section 49-306, Idaho Code.

(3) No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(~~2~~4) When a driver's license has been expired for less than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twelve (12) months or more, the applicant shall be required to take the knowledge, skills for the class of license or endorsement being applied for, and vision tests and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license.

(~~3~~5) (a) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, cancelled, denied, refused or disqualified, the licensee may request in writing on a form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to one (1) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(~~4~~6) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, if the driver's license is not suspended, denied, disqualified, cancelled or

revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(~~5~~7) The department may use a mail renewal process for class D licenses based on criteria established by rule.

(~~6~~8) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

SECTION 13. That Section 49-326, Idaho Code, be, and the same is hereby amended to read as follows:

49-326. AUTHORITY OF DEPARTMENT TO SUSPEND, DISQUALIFY OR REVOKE DRIVER'S LICENSE AND PRIVILEGES. (1) If the court has not ordered the suspension of a license or privileges, the department is authorized to suspend, disqualify or revoke the license or privileges of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the driver:

(a) Has committed an offense for which mandatory revocation, suspension or disqualification of license or privileges is required upon conviction, court order or administrative action;

(b) Has been convicted in any court in this state of an offense against a municipal ordinance which would have been grounds for suspension, revocation or disqualification of his driver's license or privileges had the charge been prosecuted under a state law;

(c) Is incompetent to drive a motor vehicle;

1. Any person who in the opinion of the department, based upon recommendation of the person's personal physician, is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when the person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the streets and highways, or any person who is unable to understand highway signs, warning, regulating or directing traffic, is incompetent to drive a motor vehicle.

2. Any person who shall not have minimum visual acuity with or without corrective lenses of 20/40 in at least one (1) eye as determined by the Snellen system or other available systems is incompetent to operate a motor vehicle, however, the department shall have the authority to license such person upon the recommendation of an ophthalmologist or qualified physician and upon passage of a skills test. At 20/70 or more in both eyes with or without corrective lenses the department may suspend the driver's license and privileges. Any person who applies for or receives any type of tax, welfare or other benefits or exemptions for the blind shall be conclusively presumed incompetent to operate a motor vehicle.

3. Any person, department, or political subdivision of the state of Idaho who receives an application for any type of tax, welfare, aid or other benefits or exemptions for the

blind shall immediately forward the name, address, sex, date of birth, and date of application of the applicant to the department;

(d) Has permitted an unlawful or fraudulent use of a driver's license;

(e) Has committed an offense~~,~~ in another state as evidenced by a conviction, court order or administrative action, ~~in--another state~~ which if committed in Idaho would be grounds for suspension, disqualification or revocation;

(f) Has been convicted of the offense of reckless driving, or fleeing or attempting to elude a peace officer, and providing that the operating privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the period of suspension shall be for one (1) year;

(g) Has failed to satisfy a judgment as set forth in chapter 12, title 49, Idaho Code;

(h) Has failed to maintain proof of financial responsibility as set forth in chapter 12, title 49, Idaho Code;

(i) Has a driving record which shows a violation point count of twelve (12) or more points in any consecutive twelve (12) month period;

(j) Is an habitual violator of traffic laws;

(k) Has been convicted of the offense of violation of a restricted license and providing the driver's license and privileges be suspended for a period of thirty (30) days;

(l) Has been convicted for the offense of leaving the scene of an accident involving damages to a vehicle, the period of revocation shall be one (1) year;

(m) Has been convicted for the offense of leaving the scene of an accident resulting in injury or death, the period of revocation shall be one (1) year;

(n) Is under the age of eighteen (18) years and is not satisfactorily enrolled in school, has not received a waiver pursuant to or has not completed school as provided in section 49-303A, Idaho Code.

(2) A violation point is assessed for conviction of any charge or with proof of any infraction involving a moving traffic violation. A value of one (1) point shall be given for a less serious violation and up to four (4) points for a more serious violation. Conviction or proof of infraction for only one (1) violation arising from one (1) occasion of arrest or citation shall be counted in determining the violation point count.

(3) The department is authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of driver's licenses issued by the department.

(4) Notification of suspension, revocation, cancellation or disqualification. Upon suspending, revoking, canceling or disqualifying the driver's license or driving privileges of any person, the depart-

ment shall immediately notify the applicant or licensee in writing, at the licensee's address on file with the department pursuant to section 49-320, Idaho Code. Upon his request the department shall afford him an opportunity for a hearing before a hearing officer appointed by the director. The hearing may be held by telephone within twenty (20) days after receipt of the request, unless this period is for good cause shown, extended by the hearing officer for one ten-day period. The notice and hearing shall be required prior to the imposition of additional suspension or disqualification periods beyond the periods as set forth in this section. Upon a hearing the hearing officer may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon the hearing the department shall either rescind its order or, with good cause, may affirm or extend the suspension or disqualification of the driver's license or revoke the driver's license.

Whenever a driver's license, permit or driving privilege has been suspended or revoked by the department as provided in this section, other than as set forth in subsection (1)(c), (d), (g), (h), (m) or (n), the department may issue a temporary restricted permit restricting the time, area and purpose of use. The application, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule.

(5) The department shall not suspend or revoke a driver's license or privileges for a period of more than one (1) year, ~~except as~~ unless otherwise provided by law. The provisions of this subsection shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-325, Idaho Code, nor shall it be applicable to those suspensions placed on an individual's record for the purpose of administering suspensions ordered to take effect after an individual's release from confinement or imprisonment pursuant to chapter 80, title 18, Idaho Code.

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

SECTION 14. That Section 49-328, Idaho Code, be, and the same is hereby amended to read as follows:

49-328. REINSTATEMENT OF REVOKED, DISQUALIFIED OR SUSPENDED DRIVER'S LICENSE -- FEE -- WHEN REINSTATEMENT PROHIBITED. (1) When the period of revocation, disqualification or suspension of a driver's license has expired, or the reason for the revocation, disqualification or suspension no longer exists, the department shall reinstate the driver's license or driving privileges on application of the driver.

(2) The application shall be in the form prescribed by the department and accompanied by a reinstatement fee of fifteen dollars ($15.00) which shall be deposited in the state highway account.

(3) A driver's license which has been suspended under section 49-1505, Idaho Code, for failure to pay an infraction penalty shall not be reinstated until the licensee provides proof that the infraction penalty has been paid to the court.

(4) In addition to any other fees required in this section to be

collected, the department shall collect fifty dollars ($50.00) for reinstating a driver's license after conviction for driving under the influence, without privileges, and after conviction or other violation of any other traffic related misdemeanor or infraction, of which fees forty dollars ($40.00) shall be paid over to the county treasurer of the county in which the conviction occurred for support of that county's justice fund, or the current expense fund if no county justice fund has been established and the ten dollars ($10.00) shall be deposited in the state highway account.

(5) In addition to any other fees required in this section to be collected, the department shall collect one hundred fifteen dollars ($115) for reinstating a driver's license after a suspension imposed under the provisions of section 18-8002 or section 18-8002A, Idaho Code, or after a suspension arising out of any alcohol or drug related offense, other than a suspension imposed upon a person under eighteen (18) years of age pursuant to section 18-1502(d), Idaho Code. Funds collected pursuant to this subsection shall be deposited in the state highway account. The department shall reevaluate the amount of the reinstatement fee herein imposed not later than February, 2000, to determine the sufficiency of the fee to meet the costs associated with the implementation of section 18-8002A, Idaho Code.

(6) When there is more than one (1) reason why a driver's license was revoked or suspended or why a driver was disqualified, the department shall not collect multiple fees for reinstatement, but shall only collect one (1) reinstatement fee, which shall be the greater reinstatement fee, provided however, the department shall collect ~~two (2)~~ a reinstatement fee~~s~~ for ~~reinstating a driver's license for multiple~~ each suspension~~s~~ under chapter 80, title 18, Idaho Code~~, arising from the same occurrence~~.

SECTION 15. That Section 49-335, Idaho Code, be, and the same is hereby amended to read as follows:

49-335. DISQUALIFICATIONS AND PENALTIES -- COMMERCIAL DRIVER'S LICENSE. (1) Any person who operates a commercial motor vehicle and who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if convicted in the form of a judgment or withheld judgment of a first violation under any state or federal law of:

(a) Operating a commercial motor vehicle while under the influence of alcohol or a controlled substance;

(b) Operating a commercial motor vehicle while the alcohol concentration of the person's blood, breath or bodily substance is 0.04 or more;

(c) Leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(d) Using a commercial motor vehicle in the commission of any felony.

(2) Any person who operates a commercial motor vehicle and who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if the person refuses to submit to a test to determine the driver's alcohol concentration while operating a commercial motor

vehicle.

(3) If any of the offenses specified in subsection (1) or (2) of this section occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three (3) years.

(4) A person is disqualified for the period of time specified in 49 CFR part 383 if found to have committed two (2) or more of any of the offenses specified in subsection (1) or (2) of this section, or any combination of those offenses, arising from two (2) or more separate incidents.

(5) A person is disqualified for the period of time specified in 49 CFR part 383 from operating a commercial motor vehicle who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense such controlled substance.

(6) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.

(7) A person who drives, operates, or is in physical control of a commercial motor vehicle within this state while having any detectable amount of alcohol in his system or who refuses to submit to an alcohol test must be placed out of service for twenty-four (24) hours and be subject to the provisions of section 18-8002, Idaho Code.

(8) A person who is convicted <u>in the form of a judgment or withheld judgment</u> of a violation of an out-of-service order while driving a commercial motor vehicle is disqualified for not less than:

(a) Ninety (90) days nor more than one (1) year for a first conviction;

(b) One (1) year nor more than five (5) years for a second conviction arising from separate incidents during any ten (10) year period;

(c) Three (3) years nor more than five (5) years for three (3) or more convictions arising from separate incidents during any ten (10) year period.

(9) A person who is convicted <u>in the form of a judgment or withheld judgment</u> of a violation of an out-of-service order while driving a commercial motor vehicle and while transporting hazardous materials required to be placarded under the hazardous materials transportation act, or while operating motor vehicles designed to transport sixteen (16) or more people including the driver, is disqualified for not less than:

(a) One hundred eighty (180) days nor more than two (2) years for a first conviction;

(b) Three (3) years nor more than five (5) years for subsequent convictions arising from separate incidents in any ten (10) year period.

SECTION 16. That Section 49-337, Idaho Code, be, and the same is hereby amended to read as follows:

49-337. EMPLOYEE AND EMPLOYER RESPONSIBILITIES. (1) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance in any other state relating to motor vehicle traffic control, other than parking violations, shall notify the department of the conviction in the manner specified by the department within thirty (30) days of the date of conviction.

(2) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, shall notify his employer in writing of the conviction within thirty (30) days of the date of conviction.

(3) Each employee whose class A, B or C driver's license is suspended, revoked, denied, refused or cancelled by this state or who loses the privilege to operate a commercial motor vehicle in any state for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his employer of that fact before the end of the business day following the day the employee received notice of that fact.

(4) Each person who applies for employment as an operator of a commercial motor vehicle with an employer shall provide notification to the employer, at the time of application, of his previous employment as an operator of a commercial motor vehicle. The period of previous employment of which notification must be given shall be the ten (10) year period ending on the date of application for employment.

(5) No employer shall knowingly allow, permit or authorize an employee to operate a commercial motor vehicle in the United States during any period:

(a) In which the employee has a driver's license suspended, revoked or cancelled by a state, has lost the privilege to operate a commercial motor vehicle in a state or has been disqualified from operating a commercial motor vehicle; or

(b) In which the employee has more than one (1) driver's license; or

(c) In which the employee, or the motor vehicle being driven, or the motor carrier operation, is subject to an out-of-service order.

(6) Each employer shall require the information specified in subsection (4) of this section to be provided by the employee.

SECTION 17. That Section 49-1208, Idaho Code, be, and the same is hereby amended to read as follows:

49-1208. PROOF REQUIRED UPON CERTAIN CONVICTIONS. (1) If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial or has entered a plea of guilty for any offense requiring the suspension or revocation of the driver's license, or for operating a motor vehicle upon the highways without being licensed to do so, no driver's license shall be issued to that person and his driving privilege shall remain suspended or revoked until he gives and maintains proof of financial responsibility.

(2) Whenever the department or a court suspends, or the department revokes a resident's driver's license or nonresident's driving privilege by reason of a conviction, forfeiture of bail, or upon a plea or finding of guilty, the license or privilege shall remain suspended or revoked unless the person shall have previously given or shall immediately give and maintain proof of financial responsibility.

(3) Any person who is convicted of violating the provisions of either section 49-1229, 49-1232 or 49-1428, Idaho Code, for the first time shall give and maintain proof of financial responsibility throughout the one (1) year period following the conviction~~,--and for--a~~. Any person convicted for a second ~~conviction and~~ or any subsequent ~~conviction~~ time of violating the provisions of section 49-1229, 49-1232 or 49-1428, Idaho Code, within a five (5) years period, shall give and maintain proof of financial responsibility throughout the three (3) year period following such conviction. The department shall notify any person subject to this subsection of the requirements for maintaining proof of financial responsibility for a second and any subsequent conviction.

~~(3)--Any person who is convicted of violating--the--provisions--of either section 49-1229, 49-1232 or 49-1428, Idaho Code, shall have his driver's license and driving privileges suspended for a three (3) year period--following--such--conviction.~~ The driver's license and driving privileges shall remain suspended unless the person gives and maintains proof of financial responsibility throughout either the one (1) year or the three (3) year period following such conviction.

(4) Whenever a person is required to maintain proof of financial responsibility, and who is not a resident of Idaho, files and maintains proof of financial responsibility in his home state the department shall reinstate the person's driving privileges as long as proof of financial responsibility is maintained in the person's home state.

SECTION 18. That Section 49-1229, Idaho Code, be, and the same is hereby amended to read as follows:

49-1229. REQUIRED MOTOR VEHICLE INSURANCE. (1) Every owner of a motor vehicle which is registered and operated in Idaho by the owner or with his permission shall continuously, except as provided in section 41-2516, Idaho Code, provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of motor vehicles described therein in an amount not less than that required by section 49-117, Idaho Code, and shall demonstrate the existence of any other coverage required by this title or a certificate of self-insurance issued by the department pursuant to section 49-1224, Idaho Code, for each motor vehicle to be registered.

(2) A motor vehicle owner who prefers to post an indemnity bond with the director of the department of insurance in lieu of obtaining a policy of liability insurance may do so. Such bond shall guarantee that any loss resulting from liability imposed by law for bodily injury, death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance and use of the motor vehicle sought to be registered shall be paid within thirty (30) days. The indemnity bonds shall guarantee payment in an amount no less

than fifty thousand dollars ($50,000) for any one (1) accident of which fifteen thousand dollars ($15,000) is for property damage, for each vehicle registered up to a maximum of one hundred twenty thousand dollars ($120,000) for five (5) or more vehicles.

(3) Any bond given in connection with this chapter shall be, and shall be construed to be, a continuing instrument and shall cover the period for which the motor vehicle is to be registered and operated. Such bond shall be on a form approved by the director of insurance with a surety company authorized to do business in the state.

(4) In addition to any motor vehicle insurance required by the provisions of this chapter, any motor carrier operating under authority of a permit issued by the public utilities commission shall comply with the insurance requirements of section 61-804, Idaho Code.

(5) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction for a violation of the provisions of this section <u>or the provisions of section 49-1232 or 49-1428, Idaho Code,</u> within a period of five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction.

SECTION 19. That Section 49-1232, Idaho Code, be, and the same is hereby amended to read as follows:

49-1232. CERTIFICATE OR PROOF OF LIABILITY INSURANCE TO BE CARRIED IN MOTOR VEHICLE. (1) A certificate or proof of liability insurance shall be in the possession of the operator of every motor vehicle or present in every motor vehicle at all times when the vehicle is operated within this state. The certificate or proof of liability insurance shall be provided for inspection to any peace officer upon request to the operator of any motor vehicle. No person shall be convicted of violating this section if that person produces at any time prior to conviction the certificate or proof of liability insurance covering the motor vehicle that person is accused of operating in violation of this section, where the certificate or proof of liability insurance demonstrates the existence of liability insurance described in section 49-1212, Idaho Code, which was in effect at the time of occurrence of the violation.

(2) If the court has not ordered the department to suspend the driving privileges of any person convicted of a violation of the provisions of this section, the department may rescind the suspension action, only if the driver can prove by sufficient evidence that the legally required motor vehicle insurance or other required evidence of financial responsibility was in force and effect at the time of the issuance of the citation. No reinstatement fee will be assessed for rescinding the suspension action under this section.

(3) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction for a violation of the provisions of this section <u>or the provisions of sec-</u>

tion 49-1229 or 49-1428, Idaho Code, within five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction.

SECTION 20. That Section 49-1428, Idaho Code, be, and the same is hereby amended to read as follows:

49-1428. FINANCIAL RESPONSIBILITY. (1) It shall be unlawful for any person to operate a motor vehicle upon highways without a valid policy of liability insurance in full force and effect in an amount not less than that provided in section 49-117, Idaho Code, or unless the person has been issued a certificate of self-insurance pursuant to section 49-1224, Idaho Code, or has previously posted an indemnity bond with the director of insurance as provided in section 49-1229, Idaho Code.

(2) It is an infraction punishable by a fine of seventy-five dollars ($75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction of a violation of the provisions of this section or the provisions of section 49-1229 or 49-1232, Idaho Code, within five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction.

SECTION 21. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED. (1) The department shall issue an identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall be issued a distinguishing number and shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not

possess an identification card or any driver's license. A notation of "under 21 until (month, day, year)" and any other distinguishing printing of the words "under 21" on the identification card shall be made if applicable. The nonrefundable fee for an identification card shall be seven dollars and fifty cents ($7.50) of which five dollars ($5.00) shall be retained by the county and credited to the current expense fund, and two dollars and fifty cents ($2.50) shall be deposited in the state treasury to the credit of the highway distribution account. Every identification card shall expire on the cardholder's birthday in the fourth year following issuance of the card.

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

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

(4) A person possessing an identification card desiring to donate any or all organs or tissue in the event of death, pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, at the option of the donor may indicate this desire on the identification card by the imprinting of the word "donor" on the identification card.

(5) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(6) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within ~~fourteen~~ thirty (~~14~~30) days, notify the transportation department in writing of the old and new addresses.

(7) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the cancelled identification card to the department.

(8) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

Approved March 18, 1999.

CHAPTER 82
(S.B. No. 1074)

AN ACT

RELATING TO PAYMENT FOR SERVICES PROVIDED BY SKILLED CARE AND INTERMEDIATE CARE FACILITIES AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED; AMENDING SECTION 56-101, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-102, IDAHO CODE, TO SPECIFY PRINCIPLES WHICH GOVERN RATES AND PAYMENTS; AMENDING SECTION 56-108, IDAHO CODE, TO STRIKE OBSOLETE PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-113, IDAHO CODE, TO STRIKE OBSOLETE PROVISIONS; AMENDING SECTION 56-114, IDAHO CODE, TO GOVERN APPLICATION TO FREESTANDING SPECIAL CARE FACILITIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-117, IDAHO CODE, TO GOVERN PAYMENT OF SPECIAL RATES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 56-120, IDAHO CODE, TO GOVERN APPLICATION TO PROPERTY REIMBURSEMENT APPLIED TO HOSPITAL-BASED SKILLED NURSING FACILITIES; AMENDING SECTION 56-131, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AND REPEALING SECTIONS 56-103, 56-105, 56-106, 56-107, 56-109, 56-110, 56-111, 56-112, 56-115, 56-118, 56-121 AND 56-130, IDAHO CODE.

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

SECTION 1. That Section 56-101, Idaho Code, be, and the same is hereby amended to read as follows:

56-101. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter and shall have the following meanings:

(1) "Appraisal" means the method of determining the value of the property as determined by an M~~.A.I.~~ appraisal conducted by a member of the appraisal institute (MAI), or successor organization. The appraisal must specifically identify the values of land, building, equipment, and goodwill.

(2) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(3) "Bed-weighted median" is determined by arraying the average per diem cost per bed of all facilities from high to low and identifying the bed at the point in the array at which half of the beds have equal or higher per diem costs and half have equal or lower per diem costs. The identified bed is the median bed. The per diem cost of the median bed is the bed-weighted median.

(4) "Case mix index" is a numeric score assigned to each facility resident, based on the resident's physical and mental condition, which projects the amount of relative resources needed to provide care to the resident.

(5) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(6) "Direct care costs" consists of the following costs directly assigned to the nursing facility or allocated to the nursing facility through medicare cost finding principles:

(a) Direct nursing salaries which include the salaries of registered nurses, licensed professional nurses, certificated nurse's aides, and unit clerks; and

(b) Routine nursing supplies; and

(c) Nursing administration; and

(d) Direct portion of medicaid related ancillary services; and

(e) Social services; and

(f) Raw food; and

(g) Employee benefits associated with the direct salaries.

(~~4~~7) "Director" means the director of the department of health and welfare or ~~his~~ the director's designee.

(~~5~~8) "Equity" means the new book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(~~6~~9) "Facility" means an entity which contracts with the director to provide services to recipients in a structure owned, controlled, or otherwise operated by such entity, and which entity is responsible for operational decisions. In conjunction with the use of the term "facility":

~~1.~~(a) "Free-standing intermediate care" means an intermediate care facility, as defined in and licensed under chapter 13, title 39, Idaho Code, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code; and

~~2.~~(b) "Free-standing skilled care" means a skilled nursing facility, as defined in and licensed under chapter 13, title 39, Idaho Code, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code; ~~(or)~~ and

~~3.~~(c) "Free-standing special care" means a facility that provides either intermediate care, or skilled care, or intermediate care for the mentally retarded, or any combination of either, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code; ~~or~~ and

~~4.~~(d) "Hospital-based" means a skilled nursing or intermediate care facility, as defined in and licensed under chapter 13, title 39, Idaho Code, which is owned, managed, or operated by, or is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code.

(~~7~~10) "Forced sale" is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner which requires ownership transfer to existing partner or partners, or a sale required by the ruling of a federal agency or by a court order.

(~~8~~11) "Goodwill" means the amount paid by the purchaser that exceeds the net tangible assets received. The value of goodwill is derived from the economic benefits that a going concern may enjoy, as compared with a new one, from established relations in the related markets, with government departments and other noncommercial bodies

and with personal relationships. These intangible assets cannot be separated from the business and sold as can plant and equipment. Under the theory that the excess payment would be made only if expected future earnings justified it, goodwill is often described as the price paid for excess future earnings. The amortization of goodwill is nonallowable, nonreimbursable expense.

(~~9~~12) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(13) "Indirect care costs" consists of the following costs either directly coded to the nursing facility or allocated to the nursing facility through the medicare step-down process:

(a) Administrative and general care cost; and

(b) Activities; and

(c) Central services and supplies; and

(d) Laundry and linen; and

(e) Dietary (non-"raw food" costs); and

(f) Plant operation and maintenance (excluding utilities); and

(g) Medical records; and

(h) Employee benefits associated with the indirect salaries; and

(i) Housekeeping; and

(j) Other costs not included in direct care costs or costs exempt from cost limits.

(~~10~~4) "Interest rate limitation" means that the interest rate allowed for working capital loans and for loans for major movable equipment for intermediate care facilities for the mentally retarded shall be the prime rate as ~~established by the Bank of America Corporation, San Francisco, California~~ published in the western edition of the Wall Street Journal or successor publication, plus one percent (1%) at the date the loan is made. All interest expense greater than the amount derived by using the limitation above shall be nonreimbursable; provided, however, that this interest rate limitation~~s~~ shall not be imposed against loans or leases which were made prior to July 1, 1984. Said loans or leases shall be~~ing~~ subject to the tests of reasonableness, relationship to patient care and necessity.

(~~11~~5) "Intermediate care facility for the mentally retarded" means an habilitative facility designed and operated to meet the educational, training, habilitative and intermittent medical needs of the developmentally disabled.

(~~12~~6) "Major movable equipment" means such items as accounting machines, beds, wheelchairs, desks, furniture, vehicles, etc. The general characteristics of this equipment are:

~~1.~~(a) A relatively fixed location in the building;

~~2.~~(b) Capable of being moved, as distinguished from building equipment;

~~3.~~(c) A unit cost sufficient to justify ledger control;

~~4.~~(d) Sufficient size and identity to make control feasible by means of identification tags; and

~~5.~~(e) A minimum life of approximately three (3) years.

(~~13~~7) "Medicaid" means the 1965 amendments to the social security act (P.L. 89-97), as amended.

(~~14~~8) "Minor movable equipment" includes such items as wastebaskets, bedpans, syringes, catheters, silverware, mops, buckets,

etc. The general characteristics of this equipment are:

~~1.~~(a) In general, no fixed location and subject to use by various departments of the provider's facility;

~~2.~~(b) Comparatively small in size and unit cost;

~~3.~~(c) Subject to inventory control;

~~4.~~(d) Fairly large quantity in use; and

~~5.~~(e) Generally, a useful life of approximately three (3) years or less.

(~~15~~9) "Net book value" means the historical cost of an asset, less accumulated depreciation.

(20) "Normalized per diem costs" refers to direct care costs that have been adjusted based on the facility's case mix index for purposes of making the per diem costs comparable among facilities. Normalized per diem costs are calculated by dividing the facility's direct care per diem costs by its facility-wide case mix index, and multiplying the result by the statewide average case mix index.

(21) "Nursing facility inflation rate" means the most specific skilled nursing facility inflation rate applicable to Idaho established by data resources, inc., or its successor. If a state or regional index has not been implemented, the national index shall be used.

(~~16~~22) "Patient-day" means a calendar day of care which will include the day of admission and exclude the day of discharge unless discharge occurs after 3:00 p.m. or it is the date of death, except that, when admission and discharge occur on the same day, one (1) day of care shall be deemed to exist.

(~~17~~23) "Property costs" means the total of allowable interest expense, plus depreciation, property insurance, real estate taxes, amortization, and allowable lease/rental expense. The department may require and utilize an appraisal to establish those components of property costs which are identified as an integral part of an appraisal.

(24) "Raw food" means food used to meet the nutritional needs of the residents of a facility, including liquid dietary supplements, liquid thickeners, and tube feeding solutions.

(~~18~~25) "Reasonable property insurance" means that the consideration given is an amount that would ordinarily be paid by a cost-conscious buyer for comparable insurance in an arm's length transaction. Property insurance per licensed bed in excess of two (2) standard deviations above the mean of the most recently reported property insurance costs per licensed bed of all facilities in the reimbursement class as of the end of a facility's fiscal year shall not be considered reasonable.

(~~19~~26) "Recipient" means an individual determined eligible by the director for the services provided in the state plan for medicaid.

(27) "Rural hospital-based nursing facilities" are those hospital-based nursing facilities not located within a metropolitan statistical area (MSA) as defined by the United States bureau of the census.

(28) "Urban hospital-based nursing facilities" are those hospital-based nursing facilities located within a metropolitan statistical area (MSA) as defined by the United States bureau of the census.

(~~20~~9) "Utilities" ~~shall~~ means all expenses for heat, electricity, water and sewer. ~~Utilities shall be exempt from the percentile cap.~~

SECTION 2. That Section 56-102, Idaho Code, be, and the same is hereby amended to read as follows:

56-102. PRINCIPLES OF PROSPECTIVE RATES AND PAYMENT. The following principles ~~are inherent in this chapter~~ shall apply to the reimbursement of freestanding skilled care and hospital-based skilled care facilities:

(1) ~~Base rates shall be set by the director prospectively, on an annual basis by class of facilities, and shall be fixed for each class as determined in the manner established by this chapter~~ Payments to facilities shall be through a prospective cost-based system which includes facility-specific case mix adjustments. Details of the methodology shall be set forth in rules based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state associations(s) representing hospital-based skilled care facilities. In no event shall reimbursement to any facility exceed the usual and customary charges made to private pay patients; and

(2) ~~Prospective base rates shall be established by class not lower than the level which is determined to be adequate to reimburse the nonproperty costs of each facility which is economically and efficiently operated and to provide care which meets the needs of each recipient, in compliance with applicable standards~~ Each skilled care facility's case mix index shall be calculated quarterly and rates shall be adjusted based on the case mix of that facility's medicaid residents as of a certain date during the preceding quarter specified in rule; and

(3) ~~Prospective payment rates established pursuant to this chapter shall take into account economic conditions and trends during the period to be covered by such rates~~ In state fiscal year 2000, the total amount paid to skilled care facilities shall approximate the same amount in medicaid expenditures as would have been paid using the methodology in effect in state fiscal year 1999, and the percentages of medicaid funds projected to be paid to freestanding skilled care facilities and hospital-based skilled care facilities shall be the same percentages that are projected to be paid using the methodology in effect during state fiscal year 1999; and

(4) The cost limits used for the direct care and indirect care costs of rural hospital-based skilled care facilities shall be higher than the cost limits used for the direct care and indirect care costs of freestanding skilled care and urban hospital-based skilled care facilities; and

(5) In computing the direct care per diem rate neither medicaid-related ancillary services nor raw food shall be case-mix adjusted; and

(6) Property costs shall not be subject to a cost limitation or incentive. Property costs of freestanding skilled care facilities shall be reimbursed as described in section 56-108, Idaho Code, and property costs of urban and rural hospital-based skilled care facilities shall be reimbursed as described in section 56-120, Idaho Code; and

(7) Cost limits shall apply to direct care costs and indirect care costs. The cost limits shall be based on percentages above the

bed-weighted median of the combined costs of both freestanding skilled care and hospital-based skilled care facilities; and

(8) Costs exempt from cost limits are property taxes, property insurance, utilities and costs related to new legal mandates as defined by rule; and

(9) An incentive payment shall be paid to those facilities with indirect per diem costs that are less than the established indirect care cost limit. The incentive payment is calculated by taking the difference between the cost limits and the provider's per diem indirect care cost times the incentive percentage. Freestanding skilled care and hospital-based skilled care facilities shall receive the same percentage incentive payments for indirect care costs but no incentive payment for direct care costs. The percentage at which the incentive payment will be set shall be based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital-based skilled care facilities; and

(10) A newly constructed facility shall be reimbursed at the median rate for skilled care facilities of that type (freestanding or hospital-based) for the first three (3) full years of operation; and

(11) A facility adding new beds will have its rates for the three (3) full years following the addition of the beds subjected to an additional reimbursement limitation. This limitation will apply beginning with the first rate setting period which uses a cost report that includes the date when the beds were added. The facility's rate will be limited to the bed-weighted average of two (2) rates: the facility's rate in effect immediately prior to the rate first subject to the limitation and the median rate for skilled care facilities of that type (freestanding or hospital-based) at the time the beds were added; and

(12) A facility acquired prior to the end of that facility's fiscal year will be reimbursed at the rate then in effect for that facility until the next cost report can be used for rate setting. If the department determines that the facility is operationally or financially unstable, the department may negotiate a reimbursement rate different than the rate then in effect for that facility; and

(13) If the department determines that a facility is located in an under-served area, or addresses an underserved need, the department may negotiate a reimbursement rate different than the rate then in effect for that facility; and

(14) From July 1, 1999, through June 30, 2002, the nursing facility inflation rate plus one percent (1%) per year shall be added to the costs reported in a facility's cost report for purposes of setting that facility's rate. The inflation rate to be used effective July 1, 2002, and the period of its use will be based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital-based skilled care facilities; and

(15) To control the growth in the cost limits, the increase in the cost limits shall not exceed the skilled nursing facility inflation rate established by data resources, inc., or its successor, plus two percent (2%) per year for the period from July 1, 1999, through June 30, 2002. The maximum rate of growth in the cost limits to be used

effective July 1, 2002, and the period of its use will be based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital-based skilled care facilities; and

(16) To control declines in the cost limits, the cost limits for the period from July 1, 1999, through June 30, 2002, shall not be lower than the respective cost limits effective July 1, 1999. The minimum cost limits to be used effective July 1, 2002, and the period of its use will be based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital-based skilled care facilities; and

(17) Rates shall be rebased annually. Rate setting shall be prospective with new rates effective July 1 of each year, using the principles applying to skilled care facilities set forth in this chapter and the rules promulgated pursuant to this chapter. There will be no settlement between actual costs incurred during the rate year and the rate itself. Rates will be established using the most recent audited cost report trended forward to the rate year. Rates for skilled care facilities with unaudited cost reports will be interim rates established by the department until a rate is calculated based on an audited cost report. The draft audit of a cost report submitted by a facility shall be issued by the department no later than five (5) months from the date all information required for completion of the audit is filed with the department; and

(18) Changes of more than fifty cents (50¢) per patient day in allowable costs resulting from federal or state law or rule changes shall be treated as costs separate from the cost limitations until such time as they become part of the data used for calculating the cost limits and in cost reports used for rate setting; and

(19) If a review of the data submitted by a facility reveals errors that result in an incorrect case mix index, the department may retroactively adjust the facility's rate and pay the facility any amount by which the facility was underpaid or recoup from the facility any amount by which the facility was overpaid; and

(20) The rates established under the principles set forth in this section shall be phased in using a combination of the reimbursement methodology in effect as of state fiscal year 1999 and the principles set forth in this section and in rules based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital-based skilled care facilities. Effective July 1, 2001, the phase-in provisions will no longer apply and the department shall pay rates solely based on the principles set forth in this section and the applicable rules.

SECTION 3. That Section 56-108, Idaho Code, be, and the same is hereby amended to read as follows:

56-108. PROPERTY REIMBURSEMENT -- FACILITIES WILL BE PAID A PROPERTY RENTAL RATE, PROPERTY TAXES AND REASONABLE PROPERTY INSURANCE. The provisions of this section shall not apply to hospital-based

facilities which are subject to the provisions of section 56-120, Idaho Code, or to intermediate care facilities for the mentally retarded which are subject to the provisions of section 56-113, Idaho Code. The provisions of this section are applicable to all other facilities. The property rental rate includes compensation for major movable equipment but not for minor movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. Prior to final audit, the director shall determine an interim rate that approximates the property rental rate. The property rental rate shall be determined as follows:

(1) Except as determined pursuant to this section: ~~and--as--modified-by-section-56-109,-Idaho-Code:~~

Property rental rate = ("Property base") x ("Change in building costs") x $\frac{(40 - \text{"Age of facility"})}{40}$

where:

(a) "Property base" = $9.24 for all facilities.

(b) "Change in building costs" = 1.0 from April 1, 1985, through December 31, 1985. Thereafter "Change in building costs" will be adjusted for each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year, published by the Marshall Swift Valuation Service. However, for ~~free-standing~~ freestanding skilled care facilities "change in building costs" = 1.145 from July 1, 1991, through December 31, 1991. Thereafter, change in building costs for ~~free-standing~~ freestanding skilled care facilities will be adjusted each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year as published by the Marshall Swift Valuation Service or the consumer price index for renter's costs available in September of the prior year, whichever is greater.

(c) "Age of facility" = the director shall determine the effective age, in years, of the facility by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof shall be assigned an age of more than thirty (30) years. However, beginning July 1, 1991, for ~~free-standing~~ freestanding skilled care facilities, "age of facility" will be a revised age which is the lesser of the age established under other provisions of this section or the age which most closely yields the rate allowable to existing facilities as of June 30, 1991, under subsection (1) of this section. This revised age shall not increase over time.

(i) If adequate information is not submitted by the facility to document that the facility, or portion thereof, is newer than thirty (30) years, the director shall set the effective age at thirty (30) years. Adequate documentation shall include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contracts, and original notes of indebtedness. The director shall compute an appropriate age for

facilities when documentation is provided to reflect expenditures for building expansion or remodeling prior to the effective date of this section. The computation shall decrease the age of a facility by an amount consistent with the expenditure and the square footage impacted and shall be calculated as follows:

1. Determine, according to indexes published by the Marshall Swift Valuation Service, the construction cost per square foot of an average class D convalescent hospital in the western region for the year in which the expansion or renovation was completed.

2. Multiply the total square footage of the building following the expansion or renovation by the cost per square foot to establish the estimated replacement cost of the building at that time.

3. The age of the building at the time of construction shall be multiplied by the quotient of total actual renovation or remodeling costs divided by replacement cost. If this number is equal to or greater than 2.0, the age of the building in years will be reduced by this number, rounded to the nearest whole number. In no case will the age be less than zero.

(ii) The director shall adjust the effective age of a facility when major repairs, replacement, remodeling or renovation initiated after April 1, 1985, would result in a change in age of at least one (1) year. Such changes shall not increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the adjusted property base determined in subsections (1)(a) and (1)(b) of this section and the rental rate paid to the facility at the time of completion of such changes but before the change component has been added to said rate. The adjusted effective age of the facility will be used in future age determinations, unless modified by provisions of this chapter.

(iii) The director shall allow for future adjustments to the effective age of a facility or its rate to reimburse an appropriate amount for property expenditures resulting from new requirements imposed by state or federal agencies. The director shall, within twelve (12) months of verification of expenditure, reimburse the medicaid share of the entire cost of such new requirements as a one-time payment if the incurred cost for a facility is less than one hundred dollars ($100) per bed.

(d) At no time shall the property rental rate, established under subsection (1) of this section, be less than that allowed in subsection (1)(c)(ii), with the rate in effect December 31, 1988 being the base. However, subsequent to the application of this paragraph, before any rate increase may be paid, it must first be offset by any rate decrease that would have been realized if the provisions of this paragraph had not been in effect.

(2) A "grandfathered rate" for existing facilities will be determined by dividing the audited allowable annual property costs, exclusive of taxes and insurance, for assets on hand as of January 1, 1985

by the total patient days in the period July 1, 1984 through June 30, 1985. The property rental rate will be the greater of the amount determined pursuant to subsection (1) of this section, or the grandfathered rate. The director shall adjust the grandfathered rate of a facility to compensate the owner for the cost of major repairs, replacement, expansion, remodeling and renovation initiated prior to April 1, 1985, and completed after January 1, 1985, but completed no later than December 31, 1985. ~~[The director shall adjust the grandfathered rate of a facility to compensate the owner for the cost of major repairs, replacement, expansion, remodeling and renovation initiated prior to April 1, 1985, and completed after January 1, 1985, but completed no later than December 31, 1985.]~~ For facilities receiving a grandfathered rate making major repairs, replacement, expansion, remodeling or renovation, initiated after January 1, 1986, the director shall compare the grandfathered rate of the facility to the actual depreciation, amortization, and interest for the current audit period plus the per diem of the recognized cost of major repairs, replacement, expansion, remodeling or renovation, amortized over the American hospital association guideline component useful life. The greater of the two (2) numbers will be allowed as the grandfathered rate. Such changes shall not increase the allowable grandfathered rate by more than three-fourths (3/4) of the difference between the current grandfathered rate and the adjusted property base determined in subsections (1)(a) and (1)(b) of this section.

(3) The property rental rate per day of care paid to facilities with leases signed prior to March 30, 1981, will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1985, exclusive of taxes and insurance when paid separately, divided by total patient days in the period June 30, 1983 through July 1, 1984. Effective July 1, 1989, the director shall adjust the property rental rate of a leased skilled facility under this paragraph to compensate for the cost of major repairs, replacement, expansion, remodeling and renovation initiated after January 1, 1985, by adding the per diem of the recognized cost of such expenditures amortized over the American hospital association guideline component useful life. Such addition shall not increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the current property rental rate and the adjusted property base as determined in paragraphs (a) and (b) of subsection (1) of this section. Where such leases contain provisions that bind the lessee to accept an increased rate, reimbursement shall be at a rate per day of care which reflects the increase in the lease rate. Where such leases bind the lessee to the lease and allow the rate to be renegotiated, reimbursement shall be at a rate per day of care which reflects an annual increase in the lease rate not to exceed the increase in the consumer price index for renters costs. After the effective date of this subsection, if such a lease is terminated or if the lease allows the lessee the option to terminate other than by purchase of the facility, the property rental rate shall become the amount determined by the formula in subsection (1) of this section as of the date on which the lease is or could be terminated.

(4) (a) In the event of a sale, the buyer shall receive the property rental rate as provided in subsection (1) of this section,

except under the conditions of paragraph (b) of this subsection or except in the event of the first sale for a ~~free-standing~~ freestanding skilled care facility receiving a grandfathered rate after June 30, 1991, whereupon the new owner shall receive the same rate that the seller would have received at any given point in time.

(b) In the event of a forced sale of a facility where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, ~~not modified by section 56-109, Idaho Code,~~ whichever is higher, but not exceeding the rate that would be due the seller.

SECTION 4. That Section 56-113, Idaho Code, be, and the same is hereby amended to read as follows:

56-113. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED. (~~a~~1) Services provided by intermediate care facilities for the mentally retarded, with the exception of state operated facilities, shall be paid in accordance with the provisions of this section, and not as provided in any other section of this chapter, unless otherwise provided in this section. State operated facilities shall be reimbursed costs based on medicare reasonable cost provisions.

(~~b~~2) Except as otherwise provided in this section, intermediate care facilities for the mentally retarded shall be reimbursed based on a prospective rate system without retrospective settlement effective October 1, 1996. In no event, shall payments to this class of facility exceed, in the aggregate, the amount which would be reimbursed using medicare cost reimbursement methods as defined in the medicare provider reimbursement manual (HCFA - pub. 15).

(~~c~~3) The prospective rate shall consist of the following components:

(~~1~~a) A component for reasonable property costs which shall be computed using the property rental rate methodology set forth in section 56-108, Idaho Code, with the exceptions that the base rate shall exclude major moveable equipment and grandfathered rates will not apply. The initial base rate shall be eight dollars and ninety-four cents ($8.94) for facilities that accommodate residents in wheelchairs and five dollars and eighty-one cents ($5.81) for facilities that cannot accommodate residents in wheelchairs. The rates shall be adjusted annually as provided in section 56-108, Idaho Code; and

(~~2~~b) A component for forecasted reasonable day treatment costs which shall be subject to a per patient day limit as provided in rule; and

(~~3~~c) A component for all other allowable costs as determined in accordance with department rules which shall be subject to a limitation based on a percentage of the forecasted median for such costs of intermediate care facilities for the mentally retarded, excluding state operated facilities; and

(~~4~~d) A component that provides an efficiency increment payment of

twenty cents ($.20) for each one dollar ($1.00) per patient day that the facility is under the limit described in subsection (~~c~~3)(~~3~~c) of this section up to a maximum payment of three dollars ($3.00) per patient day.

~~(d)--In-the-event-that-the-prospective-payment--system--authorized by--this--section--does--not-receive-required-federal-approval-and-the department-and-providers-are-unable-to-negotiate-an--acceptable--reimbursement--methodology,-services-provided-by-intermediate-care-facilities-for-the-mentally-retarded-shall-be-reimbursed-in-the-same--manner as--specified--in-section-56-110,-Idaho-Code,-with-property-reimbursed as-described-in-subsection-(c)(1)-of-this-section.~~

(~~e~~4) The director may require retrospective settlement as provided by rule in limited circumstances including, but not limited to:

(~~1~~a) The facility fails to meet quality of care standards; or

(~~2~~b) The facility is new or operated by a new provider, until such time as a prospective rate is set; or

(~~3~~c) The prospective rate resulted from fraud, abuse or error.

(~~f~~5) The director shall have authority to provide by rule, exceptions to the limitations described in subsection (~~c~~3) of this section.

(~~g~~6) The director shall promulgate the rules necessary to carry out the provisions of this section.

SECTION 5. That Section 56-114, Idaho Code, be, and the same is hereby amended to read as follows:

56-114. ~~NEW-FREE-STANDING~~ FREESTANDING SPECIAL CARE FACILITIES. For ~~the-first-fiscal-year-of~~ a ~~free-standing~~ freestanding special care facility ~~established-on-or-after-January-1,-1989,~~ which seeks to contract for the first time to provide medicaid services to recipients, the director shall determine payment for such facility ~~in-the-same manner~~ as specified in ~~section-56-111,-Idaho--Code.--Thereafter,--such determination--for--such--facility--shall-be-done-in-substantially-the manner--required-in--sections-56-110,-56-112--and-56-113,--Idaho-Code~~ rule.

SECTION 6. That Section 56-117, Idaho Code, be, and the same is hereby amended to read as follows:

56-117. PAYMENT OF SPECIAL RATES. The director shall have authority to pay facilities at special rates for care given to patients who have long-term care needs ~~beyond-the-normal--scope--of--facility--services.--Patients--with-such-needs-may-include,-but-are-not-limited-to, ventilator-assisted--patients,--certain--pediatric--patients,--certain comatose--patients,--and--certain--patients--requiring--nasogastric-or intravenous-feeding-devices~~ not adequately reflected in the rates calculated pursuant to the principles set forth in section 56-102, Idaho Code. The payment for such specialized care will be in addition to any payments made in accordance with other provisions of this chapter. The incremental cost to a facility that exceeds the rate for services provided pursuant to the provisions of ~~this~~ section 56-102, Idaho Code, will be excluded from the computation of payments or rates under other provisions of this chapter. Until the facility applies for a special rate, patients with such needs will be included in the compu-

tation of the facility's rates following the principles described in section 56-102, Idaho Code.

SECTION 7. That Section 56-120, Idaho Code, be, and the same is hereby amended to read as follows:

56-120. ~~EXISTING~~ PROPERTY REIMBURSEMENT FOR HOSPITAL-BASED SKILLED NURSING FACILITIES. ~~(a) Not later than January 1, 1982, and prior to the beginning of each fiscal year -- thereafter, -- the -- director shall -- determine -- the maximum base payment rate for all hospital-based facilities that were under medicaid contract on or before such -- effective date as a class, using the following method:~~

~~(1) -- First, -- using -- worksheet B of the most recent cost report, or the most recent audited medicare cost report, if -- available, -- submitted to the director by each hospital-based facility, the director -- shall -- subtract such facility's total direct costs (excluding property and utility costs) from the sum of total general, -- ancillary -- and -- routine -- service -- costs (excluding property and utility costs) of both the facility and the hospital;~~

~~(2) -- Next, again using worksheet -- B -- of -- the -- same -- medicare -- cost report -- submitted by such facility, the director shall determine a percentage by dividing the sum of the total indirect costs of -- the hospital -- and -- the -- facility -- into the total indirect costs of the facility;~~

~~(3) -- Next, the director shall multiply the -- total -- direct -- general service -- costs -- (excluding property and utility costs), as used in paragraph (1) of this subsection, by the percentage -- derived -- from paragraph (2) of this subsection;~~

~~(4) -- Next, the director shall add to the total direct costs of the facility, -- as -- used -- in -- paragraph (1) of this subsection, the sum derived from paragraph (3) of -- this -- subsection -- and -- total -- costs attributable to central service, oxygen, and physical therapy services, -- taken -- from -- worksheet -- G -- of the facility's medicare cost report;~~

~~(5) -- Next, the director shall divide the sum -- derived -- from -- paragraph -- (4) -- of -- this -- subsection by the facility's total number of patient days in the fiscal year covered by that -- facility's -- medicare cost report;~~

~~(6) -- Next, -- the -- director -- shall -- multiply -- the -- cost -- of care per patient day obtained from paragraph (5) of this subsection by -- the percentage representing the annual combined inflator index for the period -- in -- which -- the base rate is to be effective, as determined and agreed upon pursuant to section 56-130, Idaho Code;~~

~~(7) -- Next, the -- director -- shall -- combine -- the -- results -- from -- each hospital-based -- facility, -- as -- obtained from paragraph (6) of this subsection, to establish the range of costs of care -- per -- patient day for all such facilities in the class; and~~

~~(8) -- Next, -- the director shall calculate the mean cost of care per patient day for the class and the -- standard -- deviation -- from -- such mean, -- which -- shall -- be -- used -- to -- determine the base rate for the class, as specified in section 56-103(a), Idaho Code.~~

~~The cost per patient day resulting from paragraph (8) of this -- subsection -- shall -- constitute -- the -- basic -- payment -- for the cost of care per~~

~~patient-day-in-each-hospital-based-facility--in--the--class,--and--the director--shall--notify-each-such-facility-of-such-rate-not-later-than sixty-(60)-days-prior-to-the-beginning-date--of--the--fiscal--year--in which--it--is--to--be--effective.---For--purposes--of-this-subsection, "medicare-cost-report"-means-form-2551,-form-2552,-or-any-similar-successor-form-promulgated-by-the-United-States-department-of-health--and human--services-or-its-successor-agency-for-the-purpose-of-determining allowable,-reimbursable-costs-for--delivery-of-care-or-services--under titles--V,-XVIII,-or-XIX-of-the-social-security-amendments-of-1965,-as amended.~~

~~(b)~~ In addition to the basic payment per patient-day of care, each hospital-based skilled care facility shall be paid on a prospective basis~~:~~

~~(1)--I~~its actual property and utility costs per patient-day, to be determined by dividing its total projected property and utility costs, ~~subject--to-the-interest-rate-limitation,-for-its-upcoming fiscal-year,-as-submitted-by-each-such-facility--to--the--director not--later--than--ninety--(90)-days-prior-to-the-beginning-date-of such-fiscal-year,-by-the-total-number-of-patient-days-estimated-by such-facility;-and~~

~~(2)--A-monthly-incentive-payment-equal-to-the-computed--difference between-the-facility's-actual-payment-per-patient-day-and-the-base rate--established--for--the--class--pursuant-to-section-56-103(a), Idaho-Code,-and-this-part.-This-computed-difference-shall-be:~~

~~1.--One-half-(1/2)-of-the-difference,-where-the-one-hundredth percentile-applies-to-such-facility's-class;~~

~~2.--One-third-(1/3)-of-the-difference,--where--the--ninetieth percentile-applies-to-such-facility's-class;~~

~~3.--One-fourth--(1/4)--of-the-difference,-where-the-eightieth percentile-applies-to-such-facility's-class;-or~~

~~4.--One-sixth-(1/6)-of-the--difference,--where--the--seventy-fifth-percentile-applies-to-such-facility's-class;~~

~~provided,--that--in--no-event-shall-the-computed-difference-exceed one-dollar-and-fifty-cents-($1.50)-per-patient-day.~~

~~(c)--Actual-payments-made-by-the-director-to--each--hospital-based facility--pursuant-to-sections-56-103-and-56-105,-Idaho-Code,-and-this section,-shall-be--subject--to--audit--and--settlement--under--section 56-107,--Idaho--Code.--In-no-event-shall-reimbursement-to-any-facility exceed-the-usual-and-customary-charges-made-to-private-pay-patients~~ as calculated from the cost report selected for rate setting, by the total number of patient-days from the same cost reporting period.

SECTION 8. That Section 56-131, Idaho Code, be, and the same is hereby amended to read as follows:

56-131. MULTIPLE-USE PLANS. The director shall promulgate such rules, as the director deems advisable to enable and encourage facilities to adopt plans for offering additional services or programs within their institutions which will promote appropriate levels of care for recipients residing in their service areas and, as a result, achieve cost savings for the medicaid program. In developing such rules, the director shall consult with representatives of ~~free-standing~~ freestanding skilled care, ~~free-standing~~ freestanding inter-

mediate care, ~~free-standing~~ freestanding special care, and hospital-based facilities.

SECTION 9. That Sections 56-103, 56-105, 56-106, 56-107, 56-109, 56-110, 56-111, 56-112, 56-115, 56-118, 56-121 and 56-130, Idaho Code, be, and the same are hereby repealed.

Approved March 18, 1999.

CHAPTER 83
(S.B. No. 1076)

AN ACT

RELATING TO NURSERIES AND FLORISTS; AMENDING SECTION 22-2305, IDAHO CODE, TO RAISE THE AMOUNT OF GROSS SALES FROM FIFTY DOLLARS TO FIVE HUNDRED DOLLARS AFTER WHICH A LICENSE IS REQUIRED AND TO PROVIDE FOR INSPECTION OF NURSERY OR FLORIST STOCK IN THE POSSESSION OF EXEMPTED PERSONS WHEN THE DEPARTMENT OF AGRICULTURE HAS REASON TO BELIEVE THERE MAY BE A PEST CONCERN OR QUARANTINE VIOLATION.

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

SECTION 1. That Section 22-2305, Idaho Code, be, and the same is hereby amended to read as follows:

22-2305. LICENSE REQUIRED -- SCHEDULE OF FEES. (1) It shall be unlawful for any person to engage in, conduct, or carry on the business of propagating, growing, selling, dealing in, or importing into this state, for sale or distribution, any nursery or florist stock, or to engage in landscape designing, or to act as agent, salesman, or solicitor for any nurseryman, florist, landscape contractor, or dealer in nursery or florist stock without first obtaining a license to do so from the Idaho department of agriculture, and it shall be unlawful for any person to falsely represent that he is the agent, salesman, solicitor, or representative of any nurseryman, florist, landscape contractor, or dealer in nursery or florist stock.

(2) The provisions of this chapter shall not apply to the sale of plants, shrubs, scions, or florist stock by any~~one~~ person not regularly engaged in that business when said sales are only incident to the seller's farming or gardening operations and the total amount of gross annual sales by such seller does not exceed ~~fifty~~ five hundred dollars ($50~~.~~00). The department shall have the authority to inspect any nursery or florist stock in the possession of any person exempted by this subsection, when it has reason to believe that there may be a pest concern or quarantine violation.

(3) Every nurseryman or florist, landscape contractor, dealer, or importer of nursery or florist stock, or collector of native plants for sale shall make application for a license therefor to the Idaho department of agriculture upon a form to be prescribed and furnished by said department, pay to said department the license fee as provided in subsection (4) of this section. No license shall be issued until

the applicant therefor shall have paid the fee hereinafter provided.

(4) Nurseries required to be licensed shall consist of nurserymen, florists, dealers, landscape contractors, and importers of nursery or florist stock, and collectors of native plants for sale, and they shall pay a license fee of seventy-five dollars ($75.00) for their principal place of business. Nurseries with more than one (1) retail outlet shall identify the number and location of such additional outlets on the license application and pay an additional seventy-five dollars ($75.00) for each such additional outlet. The license number shall be prominently displayed in each outlet. Should the holder of a nursery license add one (1) or more outlets during the license year, the department must be notified and the seventy-five dollar ($75.00) surcharge for each such outlet paid immediately.

(5) Dealers shall keep accurate records of their sales and transactions involving nursery or florist stock and shall produce the same at any time when so required by the Idaho department of agriculture. At any hearing in which the amount of license fee to be paid by any person is involved or any questions as to such person's claim for exemption from the provisions of this chapter, such person shall have the burden of proof to establish his claim.

(6) A license fee for an agent as defined in section 22-2302, Idaho Code, is twenty-five dollars ($25.00) per annum for each principal that the agent represents. Agents soliciting sales only from persons licensed under this chapter shall be exempt from licensing fees.

(7) The fees for nursery or florist stock inspection and special services performed for persons not required to be licensed shall be as provided in rules promulgated by the director.

Approved March 18, 1999.

CHAPTER 84
(S.B. No. 1084)

AN ACT

RELATING TO LEASES OF STATE LANDS; AMENDING SECTION 58-307, IDAHO CODE, TO PROVIDE THAT ALL STATE LANDS MAY BE LEASED FOR A PERIOD OF UP TO TWENTY-FIVE YEARS TO THE FEDERAL GOVERNMENT, FEDERAL AGENCIES, COUNTIES, CITIES, SCHOOL DISTRICTS OR POLITICAL SUBDIVISIONS WHEN LEASED FOR PUBLIC PURPOSES AND TO PROVIDE SUCH LEASES FOR PUBLIC PURPOSES MAY BE ENTERED INTO BY NEGOTIATION AND SHALL SECURE A RENTAL AMOUNT BASED ON THE FAIR MARKET VALUE OF THE STATE LAND.

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~~

(2) Notwithstanding any other provisions of law, all state lands ~~other than public school endowment lands~~ may be leased for a period of up to twenty-five (25) years to the federal government, to federal agencies, state agencies, counties, or cities, school districts or political subdivisions when leased for public purposes. Such leases for public purposes may be entered into by negotiation and shall secure a rental amount based on the fair market value of the state land.

(~~2~~3) 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~~4) 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~~5) 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~~6) 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~~7) 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~~8) 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~~9) 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 April preceding the date of such expiration. Such applications will be considered by the state land board 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~~10) Where conflicts appear upon leases which do not contain a preferential right to renew clause, such applications 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.

(~~10~~1) 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~~2) 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 18, 1999.

CHAPTER 85
(S.B. No. 1093)

AN ACT

RELATING TO TITLING AND REGISTRATION OF MOTOR VEHICLES; AMENDING SECTION 49-205, IDAHO CODE, TO PROVIDE THAT COUNTY ASSESSORS MAY APPOINT AGENTS TO PERFORM DUTIES RELATED TO TITLING AND REGISTRATION OF MOTOR VEHICLES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-205, Idaho Code, be, and the same is hereby amended to read as follows:

49-205. DUTIES OF LOCAL OFFICERS. (1) The assessors of the various counties of the state shall be agents of the department and shall perform duties prescribed in this title. With the concurrence of the department, a county assessor may appoint one (1) or more agents to perform the duties prescribed in chapters 4 and 5 of title 49, Idaho Code. Such agent shall post a faithful performance bond in an amount and form acceptable to the department. The assessor may negotiate for reasonable reimbursement of expenses to an agent for any duties performed by the agent under terms of agreement with the county assessor.

(2) The county assessors shall receive and file in their respective offices all instruments required by chapter 5 of this title to be filed with the county assessors, and shall maintain in their respective offices indices for certificates of title issued by the department which shall be kept alphabetically by the name of the owner.

(3) It shall be the duty of peace officers within the state of Idaho to enforce and make arrests for the violation of the provisions of this title without the necessity of procuring a warrant. It shall be the duty of authorized employees of the department to enforce compliance with the laws in accordance with section 40-511, Idaho Code.

SECTION 2. This act shall be in full force and effect on and after January 1, 2000.

Approved March 18, 1999.

CHAPTER 86
(S.B. No. 1104)

AN ACT

RELATING TO LONG-TERM LEASING BY THE BOARD; AMENDING SECTION 58-307, IDAHO CODE, TO PROVIDE ADDITIONAL LEGAL DESCRIPTIONS OF STATE ENDOWMENT LANDS TO BE COMMERCIALLY LEASED AND TO MAKE TECHNICAL CORRECTIONS.

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 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 the 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 the Boise Airport and east of Pleasant Valley Road; Public School Endowment.

(e) Two (2) parcels - Lot 14 (Pt. NESE), Lot 16 (Pt. N2SE), SWSE, Lot 17 (SESE), Section 22, Township 6 North, Range 36 East, Boise Meridian, containing one hundred twenty-seven and seventeen hundredths (127.17) acres more or less; NWSW, Pt. SWSW, Section 23, Township 6 North, Range 36 East, Boise Meridian, containing forty-eight (48) acres, more or less, located fifty (50) miles north of Idaho Falls at the junction of State Highway 28 and Interstate Highway 15.

(f) One (1) parcel - Lot 9 (Pt. NWNE, Pt. NENW), Lot 10 (Pt. SWNE, Pt. SENW), Section 12, Township 2 North, Range 37 East, Boise Meridian, containing nineteen and twenty-seven hundredths (19.27) acres, more or less, located adjacent to the U of I/ISU Center in Idaho Falls.

(g) One (1) parcel - Lots 1 and 2, Section 8, Township 2 North, Range 38 East, Boise Meridian, containing seven and seventy-seven

hundredths (7.77) acres, more or less, located on Lincoln Street in Idaho Falls.

(h) One (1) parcel - W1/2, Section 16; Lot 1 and 2 (E2NE), W2NE, Section 17, Township 3 South, Range 18 East, Boise Meridian, containing four hundred eighty and fifty-seven hundredths (480.57) acres more or less, located on State Highway 93 north of Shoshone at Shoshone Ice Caves.

(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 April preceding the date of such expiration. Such applications will be considered by the state land board 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 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.

(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 sec-

tion 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~~.~~; i~~I~~n 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 18, 1999.

CHAPTER 87
(S.B. No. 1105)

AN ACT

RELATING TO THE WOLF OVERSIGHT COMMITTEE; AMENDING SECTION 36-715, IDAHO CODE, TO EXTEND THE SUNSET DATE OF THE WOLF OVERSIGHT COMMITTEE TO DECEMBER 31, 2002.

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

SECTION 1. That Section 36-715, Idaho Code, be, and the same is hereby amended to read as follows:

36-715. DUTIES OF THE DEPARTMENT OF FISH AND GAME REGARDING THE ENDANGERED SPECIES ACT. (1) Since wolf/dog hybridizations are known to exist within Idaho and these hybrids are not protected by the United States endangered species act, a biological evaluation shall be required of the animal to determine species priority before the department of fish and game may take any action in accordance with the United States endangered species act.

(2) The department of fish and game shall not be authorized to expend funds, transfer assets or enter into a cooperative agreement with any agency, department or entity of the United States government concerning wolves unless expressly authorized by state statute except that the department is authorized to provide a representative to participate on the northern rocky mountain wolf recovery team and to participate in activities regarding nuisance wolves.

(3) If a wolf is sighted, the burden of proof concerning the reported presence of the wolf within Idaho shall rest with the observer and the department of fish and game shall take no action to enforce the United States endangered species act regarding wolves in absence of that proof.

(4) From the effective date of this act through December 31, ~~1999~~2002, the department of fish and game is authorized to work in conjunction with the wolf oversight committee, as established by the wolf EIS participation plan dated February, 1992, in the development and implementation of an Idaho wolf management plan, provided that:

(a) The department is authorized to work in conjunction with the wolf oversight committee to develop and coordinate wolf management plans with state agency officials of the states of Wyoming and Montana.

(b) Any Idaho wolf management plan so developed by the department and wolf oversight committee shall take into consideration local economies, custom, culture, and private property rights. The department and the wolf oversight committee may consult with federal entities and coordinate with state and local government entities in the development of the plan.

(c) Upon completion of an Idaho wolf management plan, the department and the wolf oversight committee shall provide a report to the senate resources and environment committee and to the house resources and conservation committee and shall provide written copies to all interested parties. When the plan is complete, the speaker of the house of representatives and the president pro tempore of the senate may authorize a joint meeting of the senate resources and environment committee and the house resources and conservation committee to be held during the interim to review the Idaho wolf management plan.

(d) Members of the wolf oversight committee shall serve without compensation, but shall be reimbursed actual expenses for attending meetings of the committee from funds provided by the department of fish and game at prevailing state rates.

Approved March 18, 1999.

CHAPTER 88
(S.B. No. 1131)

AN ACT

RELATING TO POWERS OF THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-118, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD SHALL REQUIRE TEXTBOOKS IN ELECTRONIC FORMAT FROM WHICH REPRODUCTIONS CAN BE PRODUCED.

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

SECTION 1. That Section 33-118, Idaho Code, be, and the same is hereby amended to read as follows:

33-118. COURSES OF STUDY -- CURRICULAR MATERIALS. The state board shall prescribe the minimum courses to be taught in all public elementary and secondary schools, and shall cause to be prepared and issued, such syllabi, study guides and other instructional aids as the board shall from time to time deem necessary. The board shall also determine

how and under what rules curricular materials shall be adopted for the public schools. The board shall require all publishers of textbooks approved for use to furnish the department of education with electronic format for literary and nonliterary subjects when electronic formats become available for nonliterary subjects, in a standard format approved by the board, from which reproductions can be made for use by the blind.

Approved March 18, 1999.

CHAPTER 89
(S.B. No. 1138)

AN ACT
RELATING TO PLATS AND VACATIONS; AMENDING SECTION 50-1301, IDAHO CODE, TO REVISE THE DEFINITION OF "FUNCTIONING STREET DEPARTMENT."

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

SECTION 1. That Section 50-1301, Idaho Code, be, and the same is hereby amended to read as follows:

50-1301. DEFINITIONS. The following definitions shall apply to terms used in sections 50-1301 through 50-1334, Idaho Code.

1. Easement: A right of use, falling short of ownership, and usually for a certain stated purpose;

2. Functioning street department: A city department responsible for the maintenance, construction, repair, snow removal, sanding and traffic control of a public highway or public street system ~~and~~ which qualifies such department to receive~~s~~ funds from the highway distribution account to local units of government pursuant to section 40-709, Idaho Code;

3. Idaho coordinate system: That system of coordinates established and designated by chapter 17, title 55, Idaho Code;

4. Monument: A physical structure or object that occupies the position of a corner;

5. Owner: The proprietor of the land, (having legal title);

6. Plat: The drawing, map or plan of a subdivision, cemetery, townsite or other tract of land, or a replatting of such, including certifications, descriptions and approvals;

7. Private road: A road within a subdivision plat that is not dedicated to the public and not a part of a public highway system;

8. Public highway agency: The state transportation department, any city, county, highway district or other public agency with jurisdiction over public highway systems and public rights-of-way;

9. Public land survey corner: Any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management;

10. Public right-of-way: Any land dedicated and 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;

11. Public street: A road, thoroughfare, alley, highway or bridge under the jurisdiction of a public highway agency;

12. Reference monument: A special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is known and recorded, and which serves to witness the corner;

13. Sanitary restriction: The requirement that no building or shelter which will require a water supply facility or a sewage disposal facility for people using the premises where such building or shelter is located shall be erected until written approval is first obtained from the state board of health by its administrator or his delegate approving plans and specifications either for public water and/or sewage facilities, or individual parcel water and/or sewage facilities;

14. Street: A road, thoroughfare, alley, highway or a right-of-way which may be open for public use but is not part of a public highway system nor under the jurisdiction of a public highway agency;

15. Subdivision: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of the above definition;

16. Witness corner: A monumented point usually on a lot line or boundary line of a survey, near a corner and established in situations where it is impracticable to occupy or monument the corner.

Approved March 18, 1999.

CHAPTER 90
(S.B. No. 1162)

AN ACT

RELATING TO REGISTRATION OF MOTOR VEHICLES; AMENDING SECTION 31-870, IDAHO CODE, TO PROVIDE THAT THE ANNUAL ADMINISTRATIVE FEE COLLECTED FOR REGISTRATION OF A MOTOR VEHICLE SHALL BE THE SAME FOR A VEHICLE WHICH IS REGISTERED FOR A TWO-YEAR PERIOD; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-402B, IDAHO CODE, TO PROVIDE THE OPTION OF REGISTERING CERTAIN MOTOR VEHICLES FOR A PERIOD OF TWO YEARS; AMENDING SECTION 49-452, IDAHO CODE, TO PROVIDE THAT THE EMERGENCY MEDICAL SERVICES FEE SHALL BE DOUBLED FOR MOTOR VEHICLES REGISTERED UNDER THE PROVISIONS OF SECTION 49-402B, IDAHO CODE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 31-870, Idaho Code, be, and the same is hereby amended to read as follows:

31-870. FEES FOR COUNTY SERVICES. (1) Notwithstanding any other provision of law, a board of county commissioners may impose and collect fees for those services provided by the county which would otherwise be funded by ad valorem tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered. Taxing districts other than counties may impose fees for services as provided in section 63-1311, Idaho Code.

(2) The board of county commissioners may establish and provide for the collection of a solid waste fee in accordance with a request made pursuant to this section, and such fee shall be certified and collected in the same manner provided by law for the collection of real or personal property taxes.

(3) The administrative fee authorized under the provisions of this section and collected for issuance of motor vehicle registrations pursuant to chapter 4, title 49, Idaho Code, shall be the same for any registration issued pursuant to section 49-402B, Idaho Code, and may not be doubled or in any way increased solely because of registration under that section.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-402B, Idaho Code, and to read as follows:

49-402B. OPTIONAL BIENNIAL REGISTRATION. (1) At the option of the applicant, any vehicle registered under the provisions of section 49-402(1) through (5), Idaho Code, may be registered for a period of two (2) years for a fee that is double the fee currently assessed for annual registration of the vehicle in section 49-402, Idaho Code.

(2) If any vehicle registered under a special license plate program is registered for a two (2) year period as provided in this section, the registrant shall also be required to pay the special programs fees for a two (2) year period.

(3) The additional fee collected for emergency medical services pursuant to section 49-452, Idaho Code, shall also be doubled for any registration issued under the provisions of this section.

(4) The administrative fee collected for issuance of a motor vehicle registration shall be the same as for an annual registration and shall not be doubled or in any way increased solely because of registration under the provisions of this section.

SECTION 3. That Section 49-452, Idaho Code, be, and the same is hereby amended to read as follows:

49-452. EMERGENCY MEDICAL SERVICES FEE. (1) An emergency medical services fee of one dollar and twenty-five cents ($1.25) shall be collected in addition to each motor vehicle registration fee amount col-

lected under the provisions of this chapter, with the exception of those vehicles proportionally registered under section 49-435, Idaho Code. Twenty-five cents ($.25) of the fee shall be retained by the county of residence for use in funding local emergency medical service costs. One dollar ($1.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services account established in section 39-146, Idaho Code.

(2) For vehicles registered under the provisions of section 49-402B, Idaho Code, the fee shall be two dollars and fifty cents ($2.50). Fifty cents ($.50) of the fee shall be retained by the county of residence for use in funding local emergency medical services costs. Two dollars ($2.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services account established in section 39-146, Idaho Code.

SECTION 4. This act shall be in full force and effect on and after January 1, 2000.

Approved March 18, 1999.

CHAPTER 91
(S.B. No. 1239)

AN ACT

APPROPRIATING MONEYS TO THE LOTTERY COMMISSION FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE APPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Lottery Commission in the Department of Self-Governing Agencies the following amounts, to be expended for administrative costs according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Personnel Costs	$ 2,104,400
Operating Expenditures	7,850,600
Capital Outlay	143,400
TOTAL	$10,098,400
FROM:	
State Lottery Fund	$10,098,400

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, 1999, through June 30, 2000, 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 provisions of Section 67-7428, Idaho Code.

Approved March 18, 1999.

CHAPTER 92
(S.B. No. 1240)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2000; 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 expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Personnel Costs	$2,355,000
Operating Expenditures	647,300
Capital Outlay	50,000
TOTAL	$3,052,300
FROM:	
State Regulatory Fund	$3,052,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than forty-three (43) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 18, 1999.

CHAPTER 93
(S.B. No. 1241)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1999; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department of Insurance 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INSURANCE REGULATION:				
FROM:				
Self-Governing Operating Fund	$2,612,300	$1,540,000	$125,800	$4,278,100
Federal Grant Fund	105,300	46,200		151,500
Miscellaneous Revenue Fund	10,000			10,000
TOTAL	$2,727,600	$1,586,200	$125,800	$4,439,600
II. STATE FIRE MARSHAL:				
FROM:				
Self-Governing State Fire Marshal Fund	$ 489,800	$ 263,800	$ 53,300	$ 806,900
GRAND TOTAL	$3,217,400	$1,850,000	$179,100	$5,246,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than sixty-four and one-half (64.5) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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. In addition to the appropriation made in Section 1, Chapter 35, Laws of 1998, there is hereby appropriated to the Department of Insurance the following amounts to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 1998, through June 30, 1999:

STATE FIRE MARSHAL:	
FOR:	
Personnel Costs	$46,600
FROM:	
Self-Governing State Fire Marshal Fund	$46,600

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 this act shall be in full force and effect on and after its passage and approval.

Approved March 18, 1999.

CHAPTER 94
(S.B. No. 1248)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2000; PROVIDING FOR THE RECOVERY OF BANKING SERVICES COSTS TO THE GENERAL FUND; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE TREASURER; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; PROHIBITING THE USE OF UNAPPROPRIATED FUNDS FOR PAYING PERSONNEL COSTS; 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 State Treasurer the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR LUMP SUM	TOTAL
FROM:					
General Fund	$789,700	$411,700	$2,000		$1,203,400
State Treasurer LGIP Fund				$170,800	170,800
Treasurer's Office - Professional Services Fund				269,700	269,700
TOTAL	$789,700	$411,700	$2,000	$440,500	$1,643,900

SECTION 2. The moneys assessed by the Division of Financial Management in accordance with Section 67-3531, Idaho Code, for State Treasurer banking services shall be placed in the Indirect Cost Recovery Fund. On June 30, 2000, the State Controller shall transfer the moneys in the Indirect Cost Recovery Fund, up to a maximum of $1,203,400 to the state General Fund.

SECTION 3. Of the amount appropriated for Operating Expenditures in Section 1 of this act, $341,400, or so much thereof as is necessary, is to be used solely and only for the payment of bank service fees for the period July 1, 1999, through June 30, 2000, any other provisions of law notwithstanding.

SECTION 4. There is hereby reappropriated to the State Treasurer the unexpended and unencumbered balance of any appropriation made to the State Treasurer from the Treasurer's Office LGIP Fund or the Treasurer's Office - Professional Services Fund for fiscal year 1999, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000.

SECTION 5. It is legislative intent that an amount, not to exceed $1,000 of the amount appropriated in Section 1 of this act, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State Treasurer's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 6. The State Treasurer shall not pay for personnel costs from any other funding sources outside of the appropriations made for that purpose in Section 1 of this act.

SECTION 7. In accordance with Section 67-3519, Idaho Code, the Office of the State Treasurer is authorized no more than seventeen (17) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 18, 1999.

CHAPTER 95
(H.B. No. 4)

AN ACT

RELATING TO INSURANCE CONTRACTS; AMENDING SECTION 41-1938, IDAHO CODE, TO STRIKE A PROVISION GRANTING AUTHORITY TO ISSUE VARIABLE CONTRACTS IN IDAHO AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-1938, Idaho Code, be, and the same is hereby amended to read as follows:

41-1938. VARIABLE CONTRACTS -- AUTHORITY OF INSURER TO ISSUE. ~~(1)~~ No insurer shall deliver or issue for delivery in this state contracts authorized under section 41-1936, Idaho Code, ~~of this act~~ unless it is authorized or organized to do a life insurance or annuity business in this state, and the director is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the director shall consider among other things:

(~~a~~1) The history and financial condition of the insurer;

(~~b~~2) The character, responsibility and fitness of the officers and directors of the insurer; and

(~~c~~3) The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

~~(2) An insurer which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership~~

~~with-another-life-insurer-authorized-to--transact--such--insurance--in this--state-shall-be-deemed-to-have-met-the-provisions-of-this-section if-either-it-or-the-parent-or-affiliated-insurer--meets--the--requirements-hereof.~~

Approved March 18, 1999.

CHAPTER 96
(H.B. No. 5, As Amended in the Senate)

AN ACT
RELATING TO THE INSURANCE CODE; AMENDING SECTION 41-117, IDAHO CODE, TO AUTHORIZE AN ADMINISTRATIVE PENALTY FOR VIOLATIONS OF THE INSURANCE CODE NOT GOVERNED BY SPECIFIC PENALTY PROVISIONS.

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

SECTION 1. That Section 41-117, Idaho Code, be, and the same is hereby amended to read as follows:

41-117. GENERAL PENALTY. Each violation of this code for which a greater penalty is not provided by another provision of this code or by other applicable laws of this state, shall in addition to any applicable prescribed denial, suspension, or revocation of certificate of authority or license be punishable <u>by an administrative penalty of not more than one thousand dollars ($1,000) for any individual or natural person and not more than five thousand dollars ($5,000) for any other person, imposed by the director, and</u> upon conviction by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment in the discretion of the court. Each instance of violation may be considered a separate offense.

Approved March 18, 1999.

CHAPTER 97
(H.B. No. 6)

AN ACT
RELATING TO THE INSURANCE CODE; AMENDING SECTION 41-1034, IDAHO CODE, TO PROVIDE THAT CANADIAN RESIDENTS MAY QUALIFY FOR LICENSURE; AMENDING SECTION 41-1037, IDAHO CODE, TO STRIKE SPECIFIC REQUIREMENTS OF THE APPLICATION FOR LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-1066, IDAHO CODE, TO AUTHORIZE LICENSURE OF PERSONS WHO ARE LICENSED IN AND CONDUCT BUSINESS PRINCIPALLY IN A STATE OTHER THAN THEIR STATE OF DOMICILE; AMENDING SECTION 41-1067, IDAHO CODE, TO AUTHORIZE AN INCREASE IN THE FEE FOR SERVICE; AMENDING SECTION 41-1068, IDAHO CODE, TO STRIKE AN EXEMPTION FROM APPLICATION TO LIFE OR DISABILITY INSURANCE; AND AMENDING SECTION 41-1108, IDAHO CODE, TO CORRECT A CITATION.

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

SECTION 1. That Section 41-1034, Idaho Code, be, and the same is hereby amended to read as follows:

41-1034. QUALIFICATIONS -- AGENTS OR BROKERS. For the protection of the people of this state, the director shall not issue, continue, or permit to exist any agent or broker license except in compliance with this chapter, or as to any individual not qualified therefor as follows:

(1) Must be a natural person eighteen (18) years or more of age;

(2) Must be a citizen of the United States of America or of Canada, or have applied to the United States department of immigration for permanent residency and declared to the director of the department of insurance intention to apply for citizenship. If citizenship is not granted within six (6) years of such declaration, any license issued to such person shall be revoked automatically;

(3) Must be currently domiciled in and be a bona fide resident of this state. This provision does not apply as to any person licensed as a nonresident agent or broker under section 41-1066, Idaho Code;

(4) Must be trustworthy, be of good character and reputation as to morals, integrity, financial responsibility, and must not have been convicted of or pled guilty to a felony or a misdemeanor. The misdemeanor must have been one which evidences (a) bad moral character, dishonesty, or a lack of integrity and financial responsibility, or (b) an unfitness and inability to provide acceptable service to the consuming public. The director may at his discretion waive the requirement that the individual must not have been convicted of a felony or a misdemeanor, if the director finds that the individual has been rehabilitated and is otherwise qualified to hold the license;

(5) If for a broker's license, must have had experience either as an agent, consultant, service representative, adjuster, managing general agent, or broker, or other special experience, education or training, all of sufficient content and duration as deemed by the director to be reasonably necessary for competence in fulfilling the responsibilities of a broker, and must have filed the bond required by section 41-1054, Idaho Code;

(6) Must be competent as to the business to be transacted under the license applied for, and pass to the director's satisfaction any written examination required under this chapter to test such competency;

(7) Must not be a service representative, as defined in section 41-1032(3), Idaho Code;

(8) Must intend in good faith to engage actively in the insurance business under the license with respect to the general public, and not use or intend to use the license principally for the purpose of writing controlled business as defined in section 41-1033, Idaho Code.

SECTION 2. That Section 41-1037, Idaho Code, be, and the same is hereby amended to read as follows:

41-1037. APPLICATION FOR LICENSE. (1) Written application for an agent, broker or consultant license shall be made to the director by

the applicant on forms prepared and furnished by the director, accompanied by the applicable license application and fees shown in section 41-401, Idaho Code (fee schedule). If the same are not already on file with the director in connection with a previous application, the application shall also be accompanied by the applicant's fingerprints on a standard police form as used for fingerprint purposes~~;--and--by--a recent--photograph--of--the-applicant~~. The application shall be signed ~~and-duly-sworn-to~~ by the applicant. ~~before-a-notary--public--or--other person-authorized-by-law-to-take-acknowledgements-of-deeds.~~

~~(2) The-application-form-shall-require-the-applicant-to-state:~~

~~(a)--His-full-name;~~

~~(b)--His--residences;--occupations;--and-places-of-business-during the-five-(5)-years-next-preceding-date-of-the-application;~~

~~(c)--If-for-an-agent;-broker;-or-consultant-license;-the--kind--or kinds-of-insurance-to-be-covered-by-the-license;~~

~~(d)--Whether-he-has-ever-held-a-license-to-transact-or-advise-with respect--to--any--kind--of-insurance-in-any-state;-and-whether-any such-license-has-been-refused;-suspended-or-revoked-or-any--administrative--disciplinary-action-has-been-taken-with-respect-to-such license;~~

~~(e)--What-insurance-experience;-if-any;-he-has-had;~~

~~(f)--What-instruction-in-the-kinds-of-insurance-or-contracts--proposed-to-be-solicited-or-concerned-with;-and-in-the-insurance-laws of-this-state;-he-has-had-or-expects-to-have;~~

~~(g)--Whether--any--insurer--or--general-agent-or-consultant-client claims-that-he-is-indebted-under-any-agency-contract-or--otherwise and;--if-so;-the-name-of-the-claimant;-the-nature-of-the-claim-and the-applicant's-defense-thereto;~~

~~(h)--Whether-he-has-had-a-general-agency-contract-or--agency--contract--cancelled--and-if-so-when;-by-what-insurer-or-general-agent and-the-reasons-therefor;~~

~~(i)--Whether-he-will-devote-all-or-part-of-his-efforts--to--acting as--such--agent;--broker-or-consultant;-and-if-part-only;-how-much time-he-will-devote-to-such-work;-and-in-what--other--business--or businesses-he-expects-to-be-engaged-or-employed;~~

~~(j)--Whether;--if-applicant-is-married;-the-applicant's-spouse-has ever-applied-for-or-held-a-license-to-transact-any-kind-of--insurance--in-any-state-and-whether-such-license-has-been-refused;-suspended;-or-revoked;-and~~

~~(k)--Such--other--information--as--the--director--may---reasonably require.~~

~~(3)~~ If for an agent license, the application shall be accompanied by written appointment by an authorized insurer of the applicant as agent for a kind or kinds of insurance to be transacted under the license, subject to issuance of the license.

(~~4~~3) If the applicant is a firm or corporation, as provided in section 41-1036, Idaho Code, the application shall show, in addition, the names and residence addresses of all members, officers and directors, and shall designate the name and residence address of each individual who is to exercise the license powers; and each such individual shall furnish information with respect to himself as though for an individual license.

(~~5~~4) If for agent license, the application shall also be accompa-

nied by the certificate (on a form designated and furnished by the director) of an officer or representative of the insurer proposed to be represented or of the applicant's employer (in the case of applicants for agent license) that the insurer, agent or broker has investigated, or caused an investigation to be made of, the character and business record of the applicant and the uses to be made of the license, if granted, and the findings of such investigation as to applicant's trustworthiness, integrity, financial responsibility, competence and other qualifications for the license, and whether the applicant will use the license principally for the purpose of writing controlled business, as referred to in section 41-1033, Idaho Code. In lieu of, or in addition to, the certificate of the insurer, agent, or broker provided for in this subsection, the director may, in his discretion, cause an investigation to be made of the applicant by an independent established reporting agency; and in such event the applicant, insurer, agent, or broker, as the case may be, shall pay to the director in advance an amount equal to the cost of such investigation as determined by the director.

(6<u>5</u>) No applicant for any license under this chapter shall ~~wilfully~~ <u>willfully</u> withhold or misrepresent any fact or information called for in the application form or otherwise by the director. Violation of this provision shall be a misdemeanor.

SECTION 3. That Section 41-1066, Idaho Code, be, and the same is hereby amended to read as follows:

41-1066. NONRESIDENT AGENTS, BROKERS -- SPECIAL CONDITIONS. In addition to the qualifications and requirements therefor referred to in section 41-1065, Idaho Code, the issuance of such a nonresident agent or broker license is subject to the following conditions:

(1) The applicant and licensee must at all times be qualified for and hold in the state of his domicile <u>or principal place of business</u> the license of such state as <u>an</u> ~~resident~~ insurance agent or broker covering all the kinds of insurance covered or to be covered under the Idaho nonresident license. In the case of nonresident firms and corporations, each individual member, officer or employee to be named in or registered with the director as to the Idaho license to exercise the powers thereof must either hold such a license in the <u>state of his</u> domicile ~~state~~ <u>or principal place of business</u> or have qualified as for an individual license and be named in or registered as to the license issued to the firm or corporation in the <u>state of</u> domicile ~~state~~ <u>or principal place of business.</u>

(2) The director may, in his discretion, prior to issuance of such a license, procure a report of investigation of the applicant made by an established commercial investigation and reporting agency. The cost of such investigation and report shall be paid by the applicant to the director upon notification by the director of the amount thereof. The director may, in his discretion, require the applicant to deposit with him in advance an amount estimated as being sufficient to cover the cost of any such investigation and report, and the director shall promptly refund to the applicant any portion of such a deposit which is not actually expended for the purpose for which deposited. All such reports shall be deemed to be privileged communications and

shall not be admissible in evidence in any action or proceeding. All such reports shall be the property of the state of Idaho.

(3) The licensee shall not enter the state of Idaho and solicit insurance business, inspect risks, or otherwise conduct business in this state unless similar privileges in the state of the licensee's domicile or principal place of business are granted to residents of this state holding similar nonresident licenses issued by such other state.

(4) The licensee shall be subject to all such taxes, licenses, fees, fines, penalties, deposit and bond requirements, and other material obligations, prohibitions or restrictions, including countersignature and commission requirements, as are imposed by the state of the licensee's domicile or principal place of business upon resident Idaho agents or brokers who transact or seek to transact insurance in the state of the licensee's domicile or principal place of business which are in excess of or in addition to the taxes, licenses, fees, fines, penalties, deposit and bond requirements, or other obligations, prohibitions, or restriction imposed upon the licensee by or under the laws of this state.

(5) The licensee shall transact insurance in this state or with respect to subjects of insurance resident, located, or to be performed in this state only through insurers duly authorized to transact such insurance in this state.

(6) The license is not transferable.

SECTION 4. That Section 41-1067, Idaho Code, be, and the same is hereby amended to read as follows:

41-1067. NONRESIDENT AGENTS, BROKERS -- SERVICE OF PROCESS. (1) Each licensed nonresident agent or broker shall appoint the director as his attorney to receive service of legal process issued against the agent or broker in this state upon causes of action arising within this state out of transactions under the license. Service upon the director as attorney shall constitute effective legal service upon the agent or broker.

(2) The appointment shall be irrevocable for as long as there could be any cause of action against the licensee arising out of his insurance transactions in or with respect to this state.

(3) Duplicate copies of such legal process against the licensee shall be served upon the director by a person competent to serve a summons. At the time of service the plaintiff shall pay the director ~~five~~ an appropriate fee not in excess of thirty dollars ($530.00), ~~taxable as costs in the action~~ which fee shall be determined by rule.

(4) Upon receiving such service, the director shall forthwith send one (1) of the copies of the process, by registered or certified mail with return receipt requested, to the defendant licensee at his address last of record with the director.

(5) The director shall keep a record of the day and hour of service upon him of all such legal process.

SECTION 5. That Section 41-1068, Idaho Code, be, and the same is hereby amended to read as follows:

41-1068. INSURERS MUST ACCEPT BUSINESS THROUGH LICENSED AGENTS, BROKERS ONLY. (1) No authorized insurer shall make, write, place or cause to be made, written or placed in this state any policy, duplicate policy, or insurance contract of any kind, covering a subject of insurance resident, located, or to be performed in this state through any nonresident person who is not then licensed as a nonresident agent or broker under this chapter.

(2) The director may suspend or revoke the certificate of authority of any insurer violating this section.

~~(3)--This section does not apply to life or disability insurances.~~

SECTION 6. That Section 41-1108, Idaho Code, be, and the same is hereby amended to read as follows:

41-1108. OTHER PROVISIONS APPLICABLE. The following sections of chapter 10, title 41, Idaho Code, shall, to the extent so applicable, also apply as to adjuster licenses:

(1) 41-1037(~~7~~5) (misrepresentations, etc. in application--penalty).

(2) 41-1043 (issuance, refusal of license).

(3) 41-1046 (continuation, expiration of license).

(4) 41-1076 (change of address).

(5) 41-1077 (suspension, revocation, refusal of license).

(6) 41-1078 (procedure following suspension, revocation--reinstatement).

(7) 41-1079 (return of license).

Approved March 18, 1999.

CHAPTER 98
(H.B. No. 14)

AN ACT

RELATING TO LONG-TERM CARE INSURANCE; REPEALING CHAPTER 46, TITLE 41, IDAHO CODE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 46, TITLE 41, IDAHO CODE, TO PROVIDE THE PURPOSE OF THE LONG-TERM CARE INSURANCE ACT, TO PROVIDE THE SCOPE OF THE ACT, TO PROVIDE DEFINITIONS, TO PROVIDE FOR EXTRATERRITORIAL JURISDICTION FOR GROUP LONG-TERM CARE INSURANCE, TO PROVIDE DISCLOSURE AND PERFORMANCE STANDARDS FOR LONG-TERM CARE INSURANCE, TO PROVIDE FOR INCONTESTABILITY, TO PROVIDE FOR NONFORFEITURE BENEFITS, TO PROVIDE AUTHORITY TO PROMULGATE RULES, TO PROVIDE FOR ADMINISTRATIVE PROCEDURES, TO PROVIDE FOR SEVERABILITY AND TO PROVIDE PENALTIES; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 46, 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 46, Title 41, Idaho Code, and to read as follows:

CHAPTER 46
LONG-TERM CARE INSURANCE ACT

41-4601. PURPOSE. The purpose of this chapter is to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

41-4602. SCOPE. The requirements of this chapter shall apply to policies delivered or issued for delivery in this state on or after the effective date of this chapter. This chapter is not intended to supersede the obligations of entities subject to this chapter to comply with the substance of other applicable insurance laws insofar as they do not conflict with this chapter, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance.

41-4603. DEFINITIONS. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means:

(a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(b) In the case of a group long-term care insurance policy, the proposed certificate holder.

(2) "Certificate" means, for the purposes of this chapter, any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

(3) "Director" means the director of the department of insurance of this state.

(4) "Group long-term care insurance" means a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(a) One (1) or more employers or labor organizations, or to a trust or to the trustees of a fund established by one (1) or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof, or for members or former members or a combination thereof, of the labor organizations; or

(b) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(i) Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

(ii) Has been maintained in good faith for purposes other than obtaining insurance; or

(c) An association or a trust or the trustee(s) of a fund established, created or maintained for the benefit of members of one (1) or more associations. Prior to advertising, marketing or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the director that the association or associations have at the outset a minimum of one hundred (100) persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one (1) year; and have a constitution and bylaws which provide that:

(i) The association or associations hold regular meetings not less than annually to further purposes of the members;

(ii) Except for credit unions, the association or associations collect dues or solicit contributions from members; and

(iii) The members have voting privileges and representation on the governing board and committees.

Sixty (60) days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the director makes a finding that the association or associations do not satisfy those organizational requirements.

(d) A group other than as described in paragraphs (a), (b) and (c) of this subsection, subject to a finding by the director that:

(i) The issuance of the group policy is not contrary to the best interest of the public;

(ii) The issuance of the group policy would result in economies of acquisition or administration; and

(iii) The benefits are reasonable in relation to the premiums charged.

(5) "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one (1) or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. The term shall also include qualified long-term care insurance contracts. Long-term care insurance may be issued by insurers, fraternal benefit societies, managed care organizations, or any similar organization to the extent they are otherwise authorized to issue life or health insurance. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. With regard to life insurance, this term does not include life insurance policies which accelerate the death benefit

specifically for one (1) or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and which provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Notwithstanding any other provision contained herein, any product advertised, marketed or offered as long-term care insurance shall be subject to the provisions of this chapter.

(6) "Policy" means, for the purposes of this chapter, any policy, contract, enrolled member agreement, rider or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, managed care organization, or any similar organization.

41-4604. EXTRATERRITORIAL JURISDICTION -- GROUP LONG-TERM CARE INSURANCE. No group long-term care insurance coverage may be offered to a resident of this state under a group policy issued in another state to a group described in section 41-4603(4)(d), Idaho Code, unless this state or another state having statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state has made a determination that such requirements have been met.

41-4605. DISCLOSURE AND PERFORMANCE STANDARDS FOR LONG-TERM CARE INSURANCE. (1) The director may adopt rules that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms.

(2) No long-term care insurance policy may:

(a) Be cancelled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(c) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

(3) Preexisting condition:

(a) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, shall use a definition of "preexisting condition" which is more restrictive than the following: preexisting condition means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six (6) months preceding the

effective date of coverage of an insured person.

(b) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in section 41-4603(4)(a), Idaho Code, may exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six (6) months following the effective date of coverage of an insured person.

(c) The director may extend the limitation periods set forth in paragraphs (a) and (b) of this subsection as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(d) The definition of "preexisting condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subsection (3)(b) of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subsection (3)(b) of this section.

(4) Prior hospitalization/institutionalization:

(a) No long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(i) Conditions eligibility for any benefits on a prior hospitalization requirement;

(ii) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

(iii) Conditions eligibility for any benefits other than waiver of premium, postconfinement, postacute care or recuperative benefits on a prior institutionalization requirement.

(b) (i) A long-term care insurance policy containing postconfinement, postacute care or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "limitations or conditions on eligibility for benefits" such limitations or conditions, including any required number of days of confinement.

(ii) A long-term care insurance policy or rider which conditions eligibility for noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty (30) days.

(iii) A long-term care insurance policy or rider containing a benefit advertised, marketed, or offered as a home health care or home care benefit may not condition receipt of benefits on a prior institutionalization requirement.

(5) The director may adopt rules establishing loss ratio standards for long-term care insurance policies provided that a specific

reference to long-term care insurance policies is contained in the rule.

(6) Right to return -- Free look: Long-term care insurance applicants shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in section 41-4603(4)(a), Idaho Code, the applicant is not satisfied for any reason.

(7) (a) An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means which prominently direct the attention of the recipient to the document and its purpose.

(i) The director shall prescribe a standard format, including style, arrangement and overall appearance, and the content of an outline of coverage.

(ii) In the case of agent solicitations, an agent must deliver the outline of coverage prior to the presentation of an application or enrollment form.

(iii) In the case of direct response solicitations, the outline of coverage must be presented in conjunction with any application or enrollment form.

(iv) In the case of a policy issued to a group defined in section 41-4603(4)(a), Idaho Code, an outline of coverage shall not be required to be delivered, provided that the information described in paragraphs (b)(i) through (b)(vi) of this subsection is contained in other materials relating to enrollment. Upon request, these other materials shall be made available to the director.

(b) The outline of coverage shall include:

(i) A description of the principal benefits and coverage provided in the policy;

(ii) A statement of the principal exclusions, reductions and limitations contained in the policy;

(iii) A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change premium. Continuation or conversion provisions of group coverage shall be specifically described;

(iv) A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;

(v) A description of the terms under which the policy or certificate may be returned and premium refunded; and

(vi) A brief description of the relationship of cost of care and benefits.

(8) A certificate issued pursuant to a group long-term care

insurance policy which policy is delivered or issued for delivery in this state shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions and limitations contained in the policy; and

(c) A statement that the group master policy determines governing contractual provisions.

(9) At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

(a) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(b) An illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits if any, for each covered person;

(c) Any exclusions, reductions and limitations on benefits for long-term care;

(d) A statement that any long-term care inflation protection option as defined by the long-term care insurance rule is not available under this policy.

(e) If applicable to the policy type, the summary shall also include:

(i) A disclosure of the effects of exercising other rights under the policy;

(ii) A disclosure of guarantees related to long-term care costs of insurance charges;

(iii) Current and projected maximum lifetime benefits.

(10) Any time a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. Such report shall include:

(a) Any long-term care benefits paid out during the month;

(b) An explanation of any changes in the policy, e.g. death benefits or cash values, due to long-term care benefits being paid out; and

(c) The amount of long-term care benefits existing or remaining.

(11) Any policy or rider advertised, marketed or offered as long-term care or nursing home insurance shall comply with the provisions of this chapter.

41-4606. INCONTESTABILITY PERIOD. (1) For a policy or certificate that has been in force for less than six (6) months an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is material to the acceptance for coverage.

(2) For a policy or certificate that has been in force for at

least six (6) months but less than two (2) years an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is both material to the acceptance for coverage and which pertains to the condition for which benefits are sought.

(3) After a policy or certificate has been in force for two (2) years it is not contestable upon the grounds of misrepresentation alone; such policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

(4) (a) No long-term care insurance policy or certificate may be field issued based on medical or health status.

(b) For purposes of this section, "field issued" means a policy or certificate issued by an agent or a third party administrator pursuant to the underwriting authority granted to the agent or third party administrator by an insurer.

(5) If an insurer has paid benefits under the long-term care insurance policy or certificate, the benefit payments may not be recovered by the insurer in the event that the policy or certificate is rescinded.

(6) In the event of the death of the insured, this section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation, the remaining death benefits under these policies shall be governed by section 41-1905, Idaho Code, as it pertains to incontestability. In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

41-4607. NONFORFEITURE BENEFITS. (1) Except as provided in subsection (2) of this section, a long-term care insurance policy may not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. In the event the policyholder or certificate holder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that shall be available for a specified period of time following a substantial increase in premium rates.

(2) When a group long-term care insurance policy is issued, the offer required in subsection (1) of this section shall be made to the group policyholder. However, if the policy is issued as group long-term care insurance as defined in section 41-4603(4)(d), Idaho Code, other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

(3) The director shall promulgate rules specifying the type or types of nonforfeiture benefits to be offered as part of long-term care insurance policies and certificates, the standards for nonforfeiture benefits, and the rules regarding a contingent benefit upon lapse, including a determination of the specified period of time during which a contingent benefit upon lapse will be available and the substantial premium rate increase that triggers a contingent benefit upon lapse as described in subsection (1) of this section.

41-4608. AUTHORITY TO PROMULGATE RULES. The director shall issue reasonable rules to promote premium adequacy and to protect the policyholder in the event of substantial rate increases, and to establish minimum standards for marketing practices, agent compensation, agent testing, penalties and reporting practices for long-term care insurance.

41-4609. ADMINISTRATIVE PROCEDURES. Rules adopted for the implementation and administration of this chapter shall be in accordance with the provisions of chapter 52, title 67, Idaho Code.

41-4610. SEVERABILITY. If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

41-4611. PENALTIES. In addition to any other penalties provided by the laws of this state, any insurer and any agent found to have violated any requirement of this state relating to the regulation of long-term care insurance or the marketing of such insurance shall be subject to a fine of up to three (3) times the amount of any commissions paid for each policy involved in the violation or up to ten thousand dollars ($10,000), whichever is greater.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1999.

Approved March 18, 1999.

CHAPTER 99
(H.B. No. 25)

AN ACT

RELATING TO LICENSING OF ELECTRICIANS; AMENDING SECTIONS 54-1002 AND 54-1003, IDAHO CODE, TO PROVIDE CURRENT TERMINOLOGY RELATING TO MASTER ELECTRICIANS; AMENDING SECTION 54-1003A, IDAHO CODE, TO PROVIDE CURRENT TERMINOLOGY RELATING TO MASTER ELECTRICIANS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 54-1005 AND 54-1007, IDAHO CODE, TO PROVIDE CURRENT TERMINOLOGY RELATING TO MASTER ELECTRICIANS; AND AMENDING SECTION 54-1014, IDAHO CODE, TO PROVIDE CURRENT TERMINOLOGY RELATING TO MASTER ELECTRICIANS AND TO REDUCE THE FEE FOR MASTER ELECTRICIAN LICENSE RENEWAL.

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

SECTION 1. That Section 54-1002, Idaho Code, be, and the same is hereby amended to read as follows:

54-1002. LICENSE ESSENTIAL TO ENGAGE IN BUSINESS -- LICENSURE AUTHORITY EXCLUSIVE TO THE STATE. (1) It shall be unlawful for any person, partnership, company, firm, association or corporation, to act, or attempt to act, as an electrical contractor in this state until such person, partnership, company, firm, association or corporation, shall have received a license as an electrical contractor, as herein defined, issued pursuant to the provisions of this chapter by the administrator of the division of building safety.

(2) It shall be unlawful for any person to act as a journeyman electrician in this state until such person shall have received a license as a journeyman electrician, as herein defined, issued pursuant to the provisions of this act, by the administrator of the division of building safety, provided, however, that any person who has been issued a master ~~journeyman~~ electrician's license pursuant to this chapter may act as a journeyman electrician.

(3) Licensure of electrical contractors and journeyman electricians shall be within the exclusive jurisdiction of the state pursuant to this chapter and no local jurisdiction shall have the authority to require additional licensure or to issue licenses to persons licensed under this chapter which are inconsistent with the provisions of this chapter or rules promulgated by the division of building safety. The state shall investigate all local infractions and state violations of this chapter and prosecute the same. The local jurisdictions will assist the state by requesting investigations within their jurisdictions. Nothing in this chapter shall restrict a city or county from imposing stricter public safety rules, notwithstanding any provision of Idaho Code.

SECTION 2. That Section 54-1003, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003. ADMINISTRATOR AUTHORIZED TO ISSUE LICENSE. Only the administrator of the division of building safety of the state of Idaho is authorized and empowered to conduct examinations and to pass upon the qualifications of applicants, and to grant and issue licenses to such applicants as are found to be qualified to engage in the trade, business or calling of a journeyman electrician or electrical contractor or master ~~journeyman~~ electrician in the manner and upon the terms and conditions hereinafter provided. No licenses granted hereunder shall be transferable. Licenses shall be issued upon the condition that the holder thereof shall comply with all provisions of this chapter.

SECTION 3. That Section 54-1003A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003A. DEFINITIONS. (1) Electrical Contractor. Except as provided in section 54-1016, Idaho Code, any person, partnership, company, firm, association or corporation engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing apparatus to be operated by such current, or entering into agreements to install such wires, equipment or apparatus, shall for the purpose of this act be known as an electrical

contractor.

(2) Journeyman Electrician. Except as provided in section 54-1016, Idaho Code, and ~~part~~ subsections (3), ~~and-part~~ (4) and (5) of this section, any person who personally performs or supervises the actual physical work of installing electric wiring or equipment to convey electric current, or apparatus to be operated by such current, shall, for the purpose of this act, be known as a journeyman electrician.

(3) Apprentice Electrician. Any person who, for the purpose of learning the trade of journeyman electrician, engages in the installation of electric wiring, equipment, or apparatus while under the constant on-the-job supervision of a qualified journeyman electrician shall, for the purpose of this act, be known as an apprentice electrician.

(4) Maintenance Electrician. Any person who is regularly employed to service, maintain or repair electrical apparatus, or to make minor repairs or alterations to existing electrical wires or equipment located on his employer's premises shall, for the purpose of this act, be known as a maintenance electrician.

(5) Master ~~Journeyman~~ Electrician. A person who has the necessary qualifications, training, experience and technical knowledge to plan, layout or design the installation of electrical wiring or equipment, or to supervise such planning, layout, or design, and who performs or supervises such planning, layout or design, shall, for the purpose of this act, be known as a master ~~journeyman~~ electrician.

SECTION 4. That Section 54-1005, Idaho Code, be, and the same is hereby amended to read as follows:

54-1005. RULES -- INSPECTIONS -- INSPECTION TAGS AND FEES. (1) The administrator of the division of building safety is hereby authorized and directed to enforce rules consistent with this act for the administration of this act and to effectuate the purposes thereof, and for the licensing of electrical contractors and the examination and licensing of journeyman electricians, and the examination and licensing of master ~~journeyman~~ electricians, ~~and-to-set-by-rule-the-fee-for master-journeyman-electrician-licenses,~~ and to make inspections of electrical installations referred to in section 54-1001, Idaho Code, and to issue inspection tags covering such installations, and to collect the fees established therefor.

(2) Individuals, firms, cooperatives, corporations, or municipalities selling electricity, hereinafter known as the power supplier, shall not connect with or energize any electrical installation, coming under the provisions of this act, unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag, issued by the administrator, covering the installation to be energized. Immediately after an installation has been energized, the power supplier shall deliver to the administrator or his authorized agent, the inspection tag covering such installation.

(3) It shall be unlawful for any person, partnership, company, firm, association or corporation other than a power supplier, to energize any electrical installation coming under the provisions of this act unless an application for an electrical inspection tag, covering

such installation, together with the inspection fee herein provided, has been forwarded to the administrator.

SECTION 5. That Section 54-1007, Idaho Code, be, and the same is hereby amended to read as follows:

54-1007. ISSUANCE OF LICENSES -- RECIPROCITY. (1) The administrator shall issue licenses to such persons as have by examination shown themselves to be fit, competent and qualified to engage in the trade of journeyman electrician, or master ~~journeyman~~ electrician, and to such persons, firms, partnerships, associations or corporations as have shown themselves to be fit, competent and qualified to engage in the business of electrical contracting. Any person who has worked as a journeyman electrician or as an apprentice electrician, as herein defined, for a period of not less than four (4) years, shall be considered as qualified to apply for a journeyman electrician's license in this state, provided that for each such year he is claiming to have worked as an apprentice electrician, the apprentice registered with the division of building safety as an apprentice, paid an apprentice registration fee, and submitted with his annual application for apprentice registration verification of employment and hours worked. The electrical board may, by rule, fix the apprentice registration fee, in an amount not to exceed the costs of issuing apprentice registration certificates and enforcing the apprentice registration provisions of this act, and may also by rule establish requirements relative to the manner of verification of employment and hours worked. Before such experience as an apprentice may be considered as qualifying the apprentice to take the journeyman's examination, the apprentice must also complete the required related instruction for electrical apprentices as approved by the Idaho state board for vocational education. Any person who has worked in this state for a period of not less than two (2) years as a journeyman electrician shall be considered as qualified to apply for a master ~~journeyman~~ electrician's license in this state.

(2) To the extent that other states which provide for the licensing of electricians provide for similar action, the administrator, on the recommendation of the Idaho electrical board, may grant licenses to electricians licensed by such other states, upon payment by the applicant of the required fee and upon furnishing proof to the board that the applicant has qualifications at least equal to those provided herein for applicants for written examinations. Applicants who qualify for a license under this subsection are not required to take a written examination.

SECTION 6. That Section 54-1014, Idaho Code, be, and the same is hereby amended to read as follows:

54-1014. FEES. The following fees shall be charged by the administrator of the division of building safety:

Electrical contractor's license	$125.00
Renewal of electrical contractor's license	100.00
Journeyman electrician's license	25.00
Renewal of journeyman electrician's license	15.00

Application for license	15.00
Revival of electrical contractor's license	125.00
Revival of journeyman electrician's license	25.00
Apprentice registration and working license	10.00
Specialty electrician's license	25.00
Specialty electrician's license renewal	15.00
Specialty electrician's license revival	25.00
Specialty contractor's license	125.00
Specialty contractor's license renewal	100.00
Specialty contractor's license revival	125.00
Master ~~journeyman~~ electrician's license	35.00
Master ~~journeyman~~ electrician's license renewal	~~2~~15.00
Master ~~journeyman~~ electrician's license revival	~~3~~25.00

Approved March 18, 1999.

CHAPTER 100
(H.B. No. 28)

AN ACT

RELATING TO ELECTRICIANS' LICENSES; AMENDING SECTION 54-1013, IDAHO CODE, TO PROVIDE CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF LICENSES FOR ELECTRICIANS.

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

SECTION 1. That Section 54-1013, Idaho Code, be, and the same is hereby amended to read as follows:

54-1013. RENEWAL OF LICENSES. A license once issued under this act, unless revoked or suspended as herein provided, may be renewed at any time during the month of July next following its issuance on the payment of the renewal fee herein specified, and proof of the continuing education requirements as established by the electrical board. A~~a~~ny license which has expired may be revived at any time within one (1) year from the first day of July next following its issuance, by payment of the revival fee herein specified. Certificates of competency issued prior to July 1, 1961, shall, for the purpose of this act, be considered as licenses and may be renewed or revived as herein provided.

Approved March 18, 1999.

CHAPTER 101
(H.B. No. 41)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1346, IDAHO CODE, TO PROVIDE THAT REED ACT MONEYS CREDITED WITH RESPECT

TO FEDERAL FISCAL YEARS 1999, 2000 AND 2001 SHALL BE USED SOLELY FOR THE ADMINISTRATION OF THE UNEMPLOYMENT INSURANCE PROGRAM AND ARE NOT SUBJECT TO APPROPRIATION; AMENDING SECTION 72-1350, IDAHO CODE, TO PROVIDE TAXABLE WAGE RATES FOR DEFICIT EMPLOYERS IN RATE CLASS 3 UNDER SCHEDULES VIII AND IX; AND AMENDING SECTION 72-1369, IDAHO CODE, TO PROVIDE CORRECT STATUTORY CITATIONS.

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

SECTION 1. That Section 72-1346, Idaho Code, be, and the same is hereby amended to read as follows:

72-1346. EMPLOYMENT SECURITY FUND. (1) Establishment and Control. There is established in the state treasury, separate and apart from all other funds of this state, an "Employment Security Fund," which shall be perpetually appropriated to the director to be administered pursuant to the provisions of this chapter and the social security act. This fund shall consist of all contributions collected pursuant to this chapter, payments in lieu of contributions, interest earned upon any moneys in the fund, any property or securities acquired through the use of moneys belonging to the fund, all earnings of such property or securities, moneys temporarily deposited in the clearing account, and all other moneys received for the fund from any other source.

(2) Accounts and Deposits. The state controller shall maintain within the fund three (3) separate accounts: (i) a clearing account, (ii) an unemployment trust fund account, and (iii) a benefit account. Upon receipt by the director, all moneys payable to the fund shall be promptly forwarded to the state treasurer for immediate deposit in the clearing account. After clearance, all moneys in the clearing account shall, except as otherwise provided, be deposited promptly with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund established and maintained pursuant to section 904 of the social security act (42 U.S.C. 1104), any provisions of law in this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned for the payment of benefits from this state's account in the unemployment trust fund in the treasury of the United States. Moneys in the clearing and benefit accounts may be deposited by the state treasurer under the direction of the director in any depository bank in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and benefit accounts shall not be commingled with other state funds and shall be maintained in separate accounts on the books of the depository bank. Such moneys shall be secured by the depository bank in the same manner as required by the general public depository law of this state and collateral pledged for this purpose shall be kept separate and distinct from collateral pledged to secure other funds of the state. The state treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the employment security fund.

(3) Withdrawals. Moneys requisitioned by the director through the treasurer from this state's account in the unemployment trust fund

shall be used exclusively for the payment of benefits and for refunds pursuant to section 72-1357, Idaho Code, except that Reed act moneys credited to this state's account pursuant to section 903 of the social security act (42 U.S.C. 1103), shall be used exclusively as provided in subsection (4) of this section. The director through the treasurer shall requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this state's account therein, as he deems necessary for the payment of benefits and refunds for a reasonable period. Upon receipt, such moneys shall be deposited in the benefit account. Expenditures of moneys in the benefit and clearing accounts shall not require the approval of the board of examiners or be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. The residual daily balance in the benefit account may be invested in accordance with the cash management improvement act of 1990, and earnings on those investments may be used to pay the related banking costs of maintaining the benefit account. Any earnings in excess of the related banking costs shall be returned to the state's account in the federal unemployment trust fund annually. All warrants issued for the payment of benefits and refunds shall bear the signature of the director. Upon agreement between the director and state controller, amounts in the benefit account may be transferred to a revolving account established and maintained in a depository bank from which the director may issue checks for the payment of benefits and refunds. Moneys so transferred shall be deposited subject to the same requirements as provided with respect to moneys in the clearing and benefit accounts in subsection (2) of this section. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account or revolving account after the expiration of the period for which such sums were requisitioned, may be utilized for the payment of benefits and refunds during succeeding periods, or, in the discretion of the director, shall be redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund.

(4) Reed act moneys. Reed act moneys credited to this state's account in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the social security act (42 U.S.C. 1103), may be requisitioned and used for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. Moneys may only be requisitioned and used for the payment of expenses incurred for the administration of this chapter if the expenses are incurred and the money is requisitioned after the enactment of a specific appropriation by the legislature which specifies the purposes for which such money is appropriated, the amounts appropriated therefor, and provides that:

(a) Such money may not be obligated after the close of the two (2) year period which began on the date of the enactment of the appropriation law; and

(b) The amount which may be obligated at any time may not exceed the amount by which the aggregate of the amounts transferred to the account of this state pursuant to section 903 of the social security act (42 U.S.C. 1103), exceeds the aggregate of the amounts used by this state and charged against the amounts trans-

ferred to the account of this state. For the purposes of this subsection, amounts obligated for administrative purposes pursuant to an appropriation shall be chargeable against transferred amounts at the exact time the obligation is entered into.

(c) Reed act moneys requisitioned for the payment of benefits shall be deposited in the benefit account established in this section. Reed act moneys requisitioned for the payment of administrative expenses pursuant to a specific appropriation shall be deposited in the employment security administration fund, section 72-1347, Idaho Code, except that moneys appropriated for the purchase of lands and buildings shall be deposited in the state employment security administrative and reimbursement fund in accordance with section 72-1348, Idaho Code. Money so deposited shall, until expended, remain part of the employment security fund and, if not expended, shall be promptly returned to this state's account in the unemployment trust fund.

(d) Notwithstanding paragraphs (a), (b) and (c) of this subsection, Reed act moneys credited with respect to federal fiscal years 1999, 2000 and 2001 shall be used solely for the administration of the unemployment insurance program and are not subject to appropriation by the legislature.

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. (1) 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 one hundred dollars ($100), 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 chapter.

(2) 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.

(3) 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).

(4) The ACM shall be the ratio at the top of taxable wage rate schedule V as provided in subsection (7) 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.

(5) 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 September 30, to the wages covered in the penultimate year against the taxable wage schedule ratios as provided in subsection (4) of this section.

(6) The ratios computed for each taxable wage rate schedule as

provided in subsection (4) of this section shall be placed with their appropriate schedule at the top of the columns as provided in subsection (7) of this section, and shall represent the minimum fund level required for the specific schedule to be in effect.

(7) 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	
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)	Taxable Wage Rates for Eligible Employers								
1	--	12	0.1%	0.2%	0.4%	0.8%	1.2%	1.6%	2.0%	2.2%	2.4%
2	12	24	0.2	0.4	0.6	1.0	1.4	1.8	2.2	2.4	2.6
3	24	36	0.4	0.6	0.8	1.2	1.6	2.0	2.4	2.6	2.8
4	36	48	0.6	0.8	1.0	1.4	1.8	2.2	2.6	2.8	3.0
5	48	60	0.8	1.0	1.2	1.6	2.0	2.4	2.8	3.0	3.2
6	60	72	1.0	1.2	1.4	1.8	2.2	2.6	3.0	3.2	3.4
7	72	--	1.2	1.4	1.6	2.0	2.4	2.8	3.2	3.4	3.6
Taxable Wage Rates for Standard-Rated Employers:			1.3%	1.5%	1.7%	2.1%	2.5%	2.9%	3.3%	3.5%	3.7%
Cumulative Taxable Payroll Limits											
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)	Taxable Wage Rates for Deficit Employers								
1	--	30	2.4	2.6	2.8	3.2	3.6	4.0	4.4	4.6	4.8
2	30	50	2.8	3.0	3.2	3.6	4.0	4.4	4.8	5.0	5.2
3	50	65	3.2	3.4	3.6	4.0	4.4	4.8	5.2	5.4	5.6
4	65	80	3.6	3.8	4.0	4.4	4.8	5.2	5.6	5.8	6.0
5	80	95	4.0	4.2	4.4	4.8	5.2	5.6	6.0	6.2	6.4
6	95	--	5.4	5.4	5.4	5.4	5.6	6.0	6.4	6.6	6.8

(8) Each employer will be assigned a taxable wage rate from the effective taxable wage rate schedule for eligible, standard-rated and deficit employers, based upon the employer's experience as determined under the provisions of sections 72-1319, 72-1319A, 72-1319B and 72-1351, Idaho Code.

(a) Deficit employers who have been assigned a taxable wage rate from rate class six will be assigned contribution rates equal to their taxable wage rate.

(b) All other eligible, standard-rated and deficit employers will be assigned contribution rates equal to ninety-seven percent (97%) of their taxable wage rate. Provided however, that for each calendar year a reserve tax is imposed pursuant to section 72-1347A, Idaho Code, the contribution rates for employers assigned contribution rates pursuant to this paragraph shall be eighty percent (80%) of their taxable wage rate.

(9) 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 72-1369, Idaho Code, be, and the same is hereby amended to read as follows:

72-1369. OVERPAYMENTS, COLLECTION AND WAIVER. (1) Any person who received benefits to which he was not entitled under the provisions of this chapter or under an unemployment insurance law of any state or of the federal government shall be liable to repay the benefits and the benefits shall, for the purpose of this chapter, be considered to be overpayments. Overpayments shall be repaid as follows:

(a) Any overpayment which has not been repaid may, in addition to or alternatively to any other method of collection prescribed in this chapter, including the creation of a lien as provided by section 72-1360, Idaho Code, be collected with interest thereon at the statutory rate by civil action brought in the name of the state of Idaho. In bringing such civil actions for the collection of overpayments, the director shall have all the rights and remedies provided by the laws of this state, and any person adjudged liable in such civil action for any overpayments shall pay the costs of such action. Such civil actions may be commenced within the time periods specified in this section without regard to any other statute of limitations.

(b) Collection of overpayments.

(i) Overpayments, other than those resulting from a false statement, misrepresentation, or failure to report a material

fact by the claimant, which have not been repaid or collected, may, at the discretion of the director be deducted from any future benefits payable to the claimant under the provisions of this chapter;

(ii) Overpayments resulting from a false statement, misrepresentation, or concealment of a material fact by the claimant which have not been repaid or collected shall be deducted from any benefits payable at any time in the future, without regard to any statute of limitation and such overpayments not recovered within eight (8) years from the date of the final determination establishing liability to repay may be deemed uncollectible;

(iii) A civil action, filed pursuant to ~~subsection~~ paragraph (~~1~~a) of this subsection, to collect overpayments resulting from a false statement, misrepresentation, or concealment of a material fact by the claimant must be commenced within eight (8) years from the date of the final determination establishing liability to repay;

(c) Overpayments, other than those resulting from a false statement, misrepresentation or failure to report a material fact, not recovered within five (5) years from the date of the final determination establishing liability to repay shall be deemed uncollectible, and a civil action filed pursuant to ~~subsection~~ paragraph (~~1~~a) of this subsection, to collect such overpayments must be commenced within the same five (5) year time period;

(d) The director may waive the requirement to repay an overpayment described in ~~subsection~~ paragraph (~~3~~c) of this subsection if the benefit payments were made solely as a result of department error or inadvertence, and made to a claimant who had no way of knowing that he was receiving benefits to which he was not entitled or if such payments were made solely as a result of an employer misreporting wages earned in a claimant's base period, and made to a claimant who could not reasonably have been expected to recognize an error in the wages reported.

(e) Any judgment obtained pursuant to this section shall, upon compliance with the requirements of chapter 19, title 45, Idaho Code, become a lien of the same type, duration, and priority as if it were created pursuant to section 72-1360, Idaho Code.

(2) Neither the director nor any of his agents or employees shall be liable for benefits paid to persons not entitled to the same under the provisions of this chapter if it appears that such payments have been made in good faith and that ordinary care and diligence have been used in the determination of the validity of the claim or claims under which such benefits have been paid.

Approved March 18, 1999.

CHAPTER 102
(H.B. No. 43)

AN ACT

RELATING TO MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS; REPEALING CHAPTER 44, TITLE 41, IDAHO CODE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 44, TITLE 41, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE, TO DEFINE TERMS, TO STATE THE APPLICABILITY AND SCOPE, TO PROVIDE STANDARDS FOR POLICY PROVISIONS AND AUTHORITY TO PROMULGATE RULES, TO PROVIDE LOSS RATIO STANDARDS, TO PROVIDE DISCLOSURE STANDARDS, TO PROVIDE NOTICE OF FREE EXAMINATION, TO PROVIDE FILING REQUIREMENTS FOR ADVERTISING, TO PROVIDE APPLICATION OF CHAPTER 52, TITLE 67, IDAHO CODE, TO PROVIDE PENALTIES AND TO PROVIDE SEPARABILITY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 44, 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 44, Title 41, Idaho Code, and to read as follows:

CHAPTER 44
MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

41-4401. PURPOSE. The purpose of this chapter shall be to provide reasonable standardization and simplification of terms and coverages of medicare supplement disability insurance policies and enrollee contracts of managed care organizations, to facilitate public understanding and comparison, to eliminate provisions contained in disability insurance policies and enrollee contracts of managed care organizations which may be misleading or unreasonably confusing in connection either with the purchase of such coverages or with the settlement of claims, and to provide for full disclosure in the sale of such coverages.

41-4402. DEFINITIONS. (1) "Applicant" means:

(a) In the case of an individual medicare supplement policy, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement policy, the proposed certificate holder.

(2) "Certificate" means, for the purposes of this chapter, any certificate delivered or issued for delivery in this state under a group medicare supplement policy.

(3) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(4) "Issuer" includes insurance companies, fraternal benefit societies, managed care organizations, and any other entity delivering or issuing for delivery in this state medicare supplement policies or

certificates.

(5) "Medicare" means the "Health Insurance for the Aged Act," title XVIII of the social security amendments of 1965, as then constituted or later amended.

(6) "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or an enrollee contract under a managed care organization, other than a policy issued pursuant to a contract under section 1876 of the federal social security act (42 U.S.C. section 1395 et seq.), or an issued policy under a demonstration project specified in 42 U.S.C. section 1395ss(g)(1), which is advertised, marketed or designed primarily as a supplement to reimbursements under medicare for the hospital, medical or surgical expenses of persons eligible for medicare.

(7) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

41-4403. APPLICABILITY AND SCOPE. (1) Except as otherwise specifically provided this chapter shall apply to:

(a) All medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this act; and

(b) All certificates issued under group medicare supplement policies, which certificates have been delivered or issued for delivery in this state.

(2) This chapter shall not apply to a policy of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof, for employees or former employees or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

(3) Except as otherwise specifically provided in section 41-4406(4), Idaho Code, the provisions of this chapter are not intended to prohibit or apply to insurance policies or health care benefit plans, including group conversion policies, provided to medicare eligible persons when the policies are not marketed or held to be medicare supplement policies or benefit plans.

41-4404. STANDARDS FOR POLICY PROVISIONS AND AUTHORITY TO PROMULGATE RULES. (1) No medicare supplement policy or certificate in force in this state shall contain benefits that duplicate benefits provided by medicare.

(2) Notwithstanding any other provision of law of this state, a medicare supplement policy or certificate shall not exclude or limit benefits for loss incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(3) The director may adopt reasonable rules to establish specific standards for policy provisions of medicare supplement policies and certificates. The standards shall be in addition to and in accordance with applicable laws of this state, including chapter 21, title 41,

Idaho Code, disability insurance policies. No requirement of the insurance code relating to minimum required policy benefits, other than the minimum standards contained in this chapter, shall apply to medicare supplement policies and certificates. The standards may cover, but not be limited to:

(a) Terms of renewability;
(b) Initial and subsequent conditions of eligibility;
(c) Nonduplication of coverage;
(d) Probationary periods;
(e) Benefit limitations, exceptions and reductions;
(f) Elimination periods;
(g) Requirements for replacement;
(h) Recurrent conditions;
(i) Definition of terms;
(j) Open enrollment;
(k) Attained age rating prohibited.

(4) The director may adopt reasonable rules to establish minimum standards for benefits, claims payment, marketing practices and compensation arrangements and reporting practices, for medicare supplement policies and certificates.

(5) The director may adopt from time to time reasonable rules necessary to conform medicare supplement policies and certificates to the requirements of federal law and regulations promulgated thereunder including, but not limited to:

(a) Requiring refunds or credits if the policies or certificates do not meet loss ratio requirements;
(b) Establishing a uniform methodology for calculating and reporting loss ratios;
(c) Assuring public access to all policies, premiums and loss ratio information of issuers of medicare supplement insurance;
(d) Establishing a process for approving or disapproving policy forms and certificate forms and proposed premium increases;
(e) Establishing a policy for holding public hearings prior to approval of premium increases; and
(f) Establishing standards for medicare select policies and certificates.

(6) The director may adopt reasonable rules that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the director, are unjust, unfair or unfairly discriminatory to any person insured or proposed to be insured under a medicare supplement policy or certificate.

41-4405. LOSS RATIO STANDARDS. Medicare supplement policies shall return to policyholders benefits which are reasonable in relation to the premium charged. The director may issue reasonable rules to establish minimum standards for loss ratios of medicare supplement policies on the basis of incurred claims experience, or incurred health care expenses where coverage is provided by a managed care organization on a service rather than reimbursement basis, and earned premiums in accordance with accepted actuarial principles and practices.

41-4406. DISCLOSURE STANDARDS. (1) In order to provide for full and fair disclosure in the sale of medicare supplement policies, no

medicare supplement policy or certificate shall be delivered in this state unless an outline of coverage is delivered to the applicant at the time application is made.

(2) The director may prescribe the format and content of the outline of coverage required by this section. For purposes of this section, "format" means style, arrangements and overall appearance, including such items as the size, color and prominence of type and arrangement of text and captions. The outline of coverage shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the renewal provisions, including any reservation by the issuer of a right to change premiums;

(c) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(3) The director may prescribe by rule a standard form and the contents of an informational brochure for persons eligible for medicare, which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of medicare. Except in the case of direct response insurance policies, the director may require by rule that the informational brochure be provided to any prospective insureds eligible for medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the director may require by rule that the prescribed brochure be provided upon request to any prospective insureds eligible for medicare, but in no event later than the time of policy delivery.

(4) The director may adopt rules for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not medicare supplement coverages, for all accident and sickness insurance policies sold to persons eligible for medicare, other than:

(a) Medicare supplement policies; or

(b) Disability income policies.

(5) The director may adopt reasonable rules to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, or certificates by persons eligible for medicare.

41-4407. NOTICE OF FREE EXAMINATION. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. A refund made pursuant to this section shall be paid directly to the applicant by the issuer in a timely manner.

41-4408. FILING REQUIREMENTS FOR ADVERTISING. Every issuer of medicare supplement insurance policies or certificates in this state shall provide a copy of any medicare supplement advertisement intended

for use in this state whether through written, radio or television medium to the director of the Idaho department of insurance for review or approval by the director to the extent it may be required under state law.

41-4409. ADMINISTRATIVE PROCEDURES. Rules adopted pursuant to this chapter shall be subject to the provisions of chapter 52, title 67, Idaho Code.

41-4410. PENALTIES. In addition to any other applicable penalties for violations of the insurance code, the director may require issuers violating any provision of this chapter or rules promulgated pursuant to this chapter to cease marketing any medicare supplement policy or certificate in this state which is related directly or indirectly to a violation or may require the issuer to take actions necessary to comply with the provisions of this chapter, or both.

41-4411. SEPARABILITY. If any provision of this act or the application of it to any person or circumstances is for any reason held to be invalid, the remainder of the act and the application of the provision to other persons or circumstances shall not be affected.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1999.

Approved March 18, 1999.

CHAPTER 103
(H.B. No. 53)

AN ACT

RELATING TO REMOVAL OF CIVIL OFFICERS; REPEALING SECTION 19-4115, IDAHO CODE; AMENDING SECTION 23-805, IDAHO CODE, TO STRIKE REFERENCE TO A REPEALED SECTION, TO PROVIDE A CITATION TO PROCEDURE AGAINST A CIVIL OFFICER AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 23-936, IDAHO CODE, TO STRIKE REFERENCE TO A REPEALED SECTION AND TO PROVIDE A CITATION TO PROCEDURE AGAINST A CIVIL OFFICER.

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

SECTION 1. That Section 19-4115, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 23-805, Idaho Code, be, and the same is hereby amended to read as follows:

23-805. DUTIES OF PROSECUTING ATTORNEYS, SHERIFFS, AND OTHER OFFICERS. It shall be the duty of the superintendent of the state

liquor dispensary and every prosecuting attorney, sheriff, police or other peace officer to cooperate with the department of law enforcement in the enforcement of such laws, and any such officer refusing to so cooperate or divulge any information he may have in any such prosecution shall be ~~proceeded against, and be~~ subject to ~~summary--removal from--his--office as provided by section 19-4115~~ action against him as provided in chapter 41, title 19, Idaho Code. Any such action may be brought in the name of the state of Idaho by any resident of the county, or officer of the state or county. Upon the conviction of a person for a violation of the provisions of the Idaho ~~L~~liquor ~~A~~act, or of the provisions of chapter 9, title 23, Idaho Code, the judge of the court imposing the judgment of conviction shall immediately send to the director of the department of law enforcement a statement setting forth the title of the court, the name and residence of the defendants, the nature of the offense and the fine and sentence or judgment imposed.

SECTION 3. That Section 23-936, Idaho Code, be, and the same is hereby amended to read as follows:

23-936. DUTY OF PUBLIC OFFICERS. It is hereby made the duty of the prosecuting attorneys, sheriffs, and all constables and peace officers of the counties or municipalities knowing of any violation of this act to make complaint before the proper tribunal and perform the duties of their offices with respect to the prosecution and conviction of such offenders. Any such officer knowingly refusing to inform against or prosecute any offender under the provisions of this act shall be subject to ~~removal from office in the manner provided by section--19-4115~~ action against him as provided in chapter 41, title 19, Idaho Code.

Approved March 18, 1999.

CHAPTER 104
(H.B. No. 126)

AN ACT

RELATING TO THE PUBLIC ADMINISTRATOR LAW; AMENDING SECTION 14-103, IDAHO CODE, TO PROVIDE AUTHORITY OF THE COUNTY TREASURER PRIOR TO APPOINTMENT; AMENDING SECTION 14-105, IDAHO CODE, TO REVISE PROCEDURES AND TO PROVIDE FOR DISTRIBUTION OF THE RESIDUAL; AMENDING SECTION 14-106, IDAHO CODE, TO REVISE PROCEDURES AND TO PROVIDE FOR REIMBURSEMENT TO THE COUNTY FOR CERTAIN COSTS, FEES AND EXPENSES INCURRED BY THE PUBLIC ADMINISTRATOR; AND AMENDING CHAPTER 1, TITLE 14, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 14-120, IDAHO CODE, TO PROVIDE FOR ALLOWABLE COSTS AND FEES TO BE CHARGED WHERE AN HEIR OR CREDITOR REFUSES TO ADMINISTER AN ESTATE.

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

SECTION 1. That Section 14-103, Idaho Code, be, and the same is hereby amended to read as follows:

14-103. AUTHORITY PRIOR TO APPOINTMENT -- PROCUREMENT OF LETTERS. When a county treasurer is entitled to administer an estate as public administrator, prior to appointment he is authorized to act on behalf of the estate to identify, secure, protect and take charge of all tangible and intangible assets, including incurring reasonable expenses for those purposes, provided that no disbursement from or liquidation of such assets shall be made prior to issuance of letters of administration. Whenever a public administrator takes charge of an estate which he is entitled to administer without letters of administration being issued, or by order of the court, he must, with all convenient dispatch, procure letters of administration thereon. No notice of application for letters by a public administrator is necessary, and his official bond and oath are in lieu of the personal representative's bond and oath, but when real estate is ordered to be sold, another bond may be required by the court.

SECTION 2. That Section 14-105, Idaho Code, be, and the same is hereby amended to read as follows:

14-105. INVENTORY BY PUBLIC ADMINISTRATOR -- PROCEDURES AND DISTRIBUTION OF RESIDUAL. (1) The public administrator must make and return an ~~perfect~~ inventory of all assets of estates taken into his possession~~,~~. Such inventory must include all assets present or ascertainable at the time he takes possession of the estate. He shall administer and account for the same, converting the assets into money according to the provisions of this title, subject to the control and direction of the court.

(2) When, as shown by the inventory, the estate amounts to less than one thousand dollars ($1,000), no notice to creditors or other formal proceedings by the public administrator are required. The public administrator shall pay funeral expenses, the expenses of the last sickness, administration and such other expenses as may be deemed appropriate by the public administrator including, but not limited to, those enumerated in section 14-120, Idaho Code. After the payment of ~~the funeral expenses, the expenses of the last sickness, administration, and such other~~ such expenses, ~~as may be deemed appropriate by the public administrator,~~ the court must order the residue, if any, paid as may be just to such creditors or heirs as may appear, or into the state treasury with the report of abandoned property required in section 14-517, Idaho Code, upon final distribution of the estate.

SECTION 3. That Section 14-106, Idaho Code, be, and the same is hereby amended to read as follows:

14-106. DELIVERY OF ESTATE TO EXECUTOR. If, at any time, letters testamentary or letters of administration are regularly granted to any other person on an estate of which the public administrator has charge, ~~he~~ the public administrator must, under the order of the ~~probate~~ magistrate court, account for, pay, and deliver to the executor or administrator thus appointed, all the money, property, papers and

estate of every kind in his possession or under his control. Upon such transfer and upon funds becoming available to the estate, the county shall be reimbursed immediately for costs, fees and expenses incurred by the public administrator pursuant to the provisions of sections 14-105 and 14-120, Idaho Code.

SECTION 4. That Chapter 1, Title 14, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 14-120, Idaho Code, and to read as follows:

14-120. COSTS AND FEES ALLOWED WHERE HEIR OR CREDITORS REFUSE TO ADMINISTER ESTATE. (1) When an heir or creditor of an estate competent to institute probate proceedings exists, the county treasurer shall not be required to act as public administrator unless an heir or creditor files a petition to appoint a public administrator within one (1) year of the decedent's death.

(2) All reasonable fees, costs and other expenses of administration may be charged by the public administrator against the estate whenever a decedent dies intestate with heirs or creditors competent to institute probate proceedings who refuse to administer the estate. Such reasonable fees and costs shall be paid pursuant to the provisions of section 15-3-805, Idaho Code.

(3) Reasonable fees and costs shall include, but not be limited to, the costs of the public administrator and staff and fees of the prosecuting attorney, subject to approval by the court.

(4) Reimbursement by the estate to the county for time spent by any county employee or elected official on the administration of any such estate shall be calculated at the actual rate of pay, including benefits, of the individual performing the work.

Approved March 18, 1999.

CHAPTER 105
(H.B. No. 134)

AN ACT

RELATING TO APPORTIONMENT OF ESTATE TAXES; AMENDING SECTION 15-3-916, IDAHO CODE, TO INCLUDE IDAHO ESTATE TAXES IN THE DEFINITION OF TAX.

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

SECTION 1. That Section 15-3-916, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-916. APPORTIONMENT OF ESTATE TAXES. (a) For purposes of this section:

(1) "Estate" means the gross estate of a decedent as determined for the purpose of federal estate tax;

(2) "Person" means any individual, partnership, association,

joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(3) "Person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, conservator, and trustee;

(4) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) "Tax" means the federal estate tax and the Idaho estate tax and interest and penalties imposed in addition to the tax;

(6) "Fiduciary" means personal representative or trustee.

(b) Unless the will otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose. If the decedent's will directs a method of apportionment of tax different from the method described in this code, the method described in the will controls.

(c) (1) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b) of this section, because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge him with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this code the determination of the court in respect thereto shall be prima facie correct.

(d) (1) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this act.

(2) If property held by the personal representative is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative.

(e) (1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or devise is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b) of this section, and to that extent no apportionment is made against the property. The sentence immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1954 [U.S.C., tit. 26, sec. 2053(d)], as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the three (3) months next following final determination of the tax. A personal representative or other person required to pay the tax who institutes the action within a reasonable time after the three (3) months' period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectable at a time fol-

lowing the death of the decedent but thereafter became uncollectable. If the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(h) A personal representative acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

Approved March 18, 1999.

CHAPTER 106
(H.B. No. 136)

AN ACT

RELATING TO TRESPASS; AMENDING SECTION 18-7008, IDAHO CODE, TO PROVIDE MISDEMEANOR AND CIVIL PENALTIES FOR TRESPASSING AND KILLING CERTAIN ANIMALS OR TRESPASSING WITH INTENT TO KILL CERTAIN ANIMALS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-7008, Idaho Code, be, and the same is hereby amended to read as follows:

18-7008. TRESPASS -- ACTS CONSTITUTING. A. Every person who ~~wilfully~~ willfully commits any trespass, by either:

1. Cutting down, destroying or injuring any kind of wood or timber belonging to another, standing or growing upon the lands of another; or
2. Carrying away any kind of wood or timber lying on such lands; or
3. Maliciously injuring or severing from the freehold of another, anything attached thereto, or the produce thereof; or
4. Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, stone; or
5. Digging, taking, or carrying away from any land in any of the cities of the state, laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone; or
6. ~~Wilfully~~ Willfully opening, tearing down, or otherwise

destroying any fence on the ~~inclosed~~ enclosed land of another, or opening any gate, bar, or fence of another and ~~wilfully~~ willfully leaving it open, or using the corral or corrals of another without the permission of the owner; or

7. ~~Wilfully~~ Willfully covering up or encumbering in any manner, the land or city lot of another, without written permission from the owner or custodian thereof; or

8. Every person, except under landlord-tenant relationship, who, being first notified in writing, or verbally by the owner or authorized agent of the owner of real property, to immediately depart from the same and who refuses so to depart after being so notified; or

9. Entering without permission of the owner or the owner's agent, upon the real property of another person which real property is posted with "No Trespassing" signs, is posted with a minimum of one hundred (100) square inches of fluorescent orange paint except that when metal fence posts are used, the entire post must be painted fluorescent orange, or other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or

10. Entering the property of another and, being unprovoked, intentionally and without the consent of the animal's owner, kills or injures a domestic animal not his own:

Is guilty of a misdemeanor.

B. Every person who while committing any trespass, intentionally and without consent on the animal's owner kills or injures a domestic animal of another, not including upland game birds or birds of any species not protected by law, shall be guilty of a misdemeanor. In addition to any other sentence of jail or a criminal fine imposed, a court may, for violation of this subsection or subsection A.10. of this section, impose a civil penalty in an amount up to double the value of the animal or for injuries sustained and payable to the owner of the animal.

Approved March 18, 1999.

CHAPTER 107
(H.B. No. 146, As Amended)

AN ACT

RELATING TO THE BOARD OF TAX APPEALS; AMENDING SECTION 63-511, IDAHO CODE, TO PROVIDE THAT THE COUNTY AUDITOR SHALL SUBMIT ALL APPEALS TO THE BOARD OF TAX APPEALS WITHIN THIRTY DAYS OF BEING NOTIFIED OF THE APPEAL OR BY NO LATER THAN OCTOBER 1, WHICHEVER IS LATER; AND AMENDING SECTION 63-3809, IDAHO CODE, TO PROVIDE THAT FOLLOWING THE FILING OF A TIMELY NOTICE OF APPEAL TO THE BOARD OF TAX

APPEALS FOR A PROPERTY TAX APPEAL HEARING, A HEARING WILL BE SET, CONDUCTED AND A DECISION SHALL BE RENDERED NO LATER THAN MAY 1 AND TO PROVIDE THAT AN APPEAL HEARING MAY BE DELAYED OR CONTINUED UPON THE WRITTEN AGREEMENT OF ALL PARTIES.

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. APPEALS FROM COUNTY BOARD OF EQUALIZATION. (1) Any time within thirty (30) days after mailing of notice of a decision of the board of equalization, or pronouncement of a decision announced at a hearing, an appeal of any act, order or proceeding of the board of equalization, or the failure of the board of equalization to act may be taken to the board of tax appeals. Such appeal may only be filed by the property owner, the assessor, the state tax commission or by a person aggrieved when he deems such action illegal or prejudicial to the public interest. Nothing in this section shall be construed so as to suspend the payment of property taxes pending said appeal.

(2) Notice of such appeal stating the grounds therefor shall be filed with the county auditor, who shall forthwith transmit to the board of tax appeals a copy of said notice, together with a certified copy of the minutes of the proceedings of the board of equalization resulting in such act, order or proceeding, or a certificate to be furnished by the clerk of the board that said board of equalization has failed to act in the time required by law on any complaint, protest, objection, application or petition in regard to assessment of the complainant's property, or a petition of the state tax commission. The county auditor shall also forthwith transmit all evidence taken in connection with the matter appealed. The county auditor shall submit all such appeals to the board of tax appeals within thirty (30) days of being notified of the appeal or by no later than October 1, whichever is later. The board of tax appeals may receive further evidence and will hear the appeal as provided in chapter 38, title 63, Idaho Code.

(3) Any appeal that may be taken to the board of tax appeals may, during the same time period, be taken to the district court for the county in which the property is located.

SECTION 2. That Section 63-3809, Idaho Code, be, and the same is hereby amended to read as follows:

63-3809. HEARINGS -- MATTER CONSIDERED BY BOARD TO BE OF PUBLIC IMPORTANCE. Hearing assignments will be made by the chairman.

(1) A hearing will be conducted and a recommended decision rendered by a hearing officer or by one (1) member of the board. The recommended decision shall become final when signed by at least two (2) board members.

(2) If the recommended decision fails to gain the signature of two (2) members, the chairman shall direct that a substitute recommended decision be drafted for submission to board members and which shall become final upon the signature of two (2) or more members.

(3) Prior to a final decision being rendered, if, in the opinion of one (1) or more members of the board, a matter is of sufficient importance to the public, it may be certified for consideration by the entire board either at a hearing or upon a transcript of a hearing held by one (1) of its members and recorded in any suitable manner.

(4) Following the filing of a timely notice of appeal to the board of tax appeals for a property tax appeal hearing, a hearing will be set, conducted and a decision shall be rendered no later than May 1. An appeal hearing may be delayed or continued upon written agreement of all parties.

Approved March 18, 1999.

CHAPTER 108
(H.B. No. 151)

AN ACT

RELATING TO ACCOUNTS AND REPORTS OF CONSERVATORS AND GUARDIANS; AMENDING SECTION 15-5-419, IDAHO CODE, TO PROVIDE FOR FINES AND SURCHARGES IN THE EVENT OF MISFEASANCE OR MALFEASANCE BY A CONSERVATOR OR GUARDIAN.

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

SECTION 1. That Section 15-5-419, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-419. ACCOUNTS AND REPORTS. (a) Every conservator or guardian shall submit a written annual report to the court concerning the status of the ward and of the ward's estate that has been under the guardian's or conservator's control. The guardian or conservator shall also be required to provide copies of the report to all persons listed by the court as having an interest in receiving copies of the report. The court may order more frequent reports by its own ruling or pursuant to a petition of any person interested in the ward's welfare. Every conservator must account annually, or as otherwise directed by the court, and upon his resignation or removal. On termination of the protected person's minority or disability, a conservator shall account to the court and shall account to the former protected person or his personal representative. Subject to appeal or vacation within the time permitted, an order, made upon notice and hearing, allowing an intermediate account of a conservator, adjudicates as to his liabilities concerning the matters considered in connection therewith; and an order, made upon notice and hearing, allowing a final account adjudicates as to all previously unsettled liabilities of the conservator to the protected person or his successors relating to the conservatorship. In connection with any account, the court may require a conservator to submit to a physical check of the estate in his control, to be made in any manner the court may specify.

(b) If a conservator or guardian:

(1) Makes a substantial misstatement on filings of any required

annual reports; or

(2) Is guilty of gross impropriety in handling the property of the ward; or

(3) Willfully fails to file the report required by this section, after receiving written notice of the failure to file and after a grace period of two (2) months have elapsed;

then the court may impose a fine in an amount not to exceed five thousand dollars ($5,000) on the conservator or guardian. The court may appoint a guardian ad litem for the ward on its own motion or on the motion of any interested party to represent the ward in any proceedings hereunder and may also appoint appropriate persons or entities to make investigation of the actions of the conservator or guardian. The court may also order restitution of funds misappropriated from the estate of a ward and may impose a surcharge upon the conservator or guardian responsible for such misappropriation for all damages, costs and other appropriate sums determined by the court, in addition to any fine imposed including, but not limited to, any fees and costs of the guardian ad litem. The court may take any other actions which are in the best interests of the ward and the protection of the assets of the ward. Any sums awarded hereunder shall be paid by the conservator or guardian and may not be paid by the estate of the ward. The court may enter judgment against a conservator or guardian for any or all of the foregoing, and may impose judgment against any bond of such conservator or guardian.

Approved March 18, 1999.

CHAPTER 109
(H.B. No. 160)

AN ACT

RELATING TO MILITARY AFFAIRS; AMENDING SECTION 46-714, IDAHO CODE, TO PROVIDE THAT NO CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT SPECIFIED FOR THE REQUIREMENT FOR FORMAL BIDS MAY BE LET BY THE ADJUTANT GENERAL UNTIL WRITTEN APPROVAL IS GIVEN BY THE BOARD OF EXAMINERS.

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

SECTION 1. That Section 46-714, Idaho Code, be, and the same is hereby amended to read as follows:

46-714. APPROVAL OF BOARD OF EXAMINERS. No contract in excess of the threshold amount specified for the requirement for formal bids in section 67-5711, Idaho Code, may be let by the adjutant general until written approval of the same shall be given by the board of examiners.

Approved March 18, 1999.

CHAPTER 110
(H.B. No. 161)

AN ACT

RELATING TO ARRESTS OF MEMBERS OF THE IDAHO MILITARY; AMENDING SECTION 46-1108, IDAHO CODE, TO PROVIDE IF A COMMANDER FINDS THAT PROBABLE CAUSE EXISTS THAT A MINOR OFFENSE HAS BEEN COMMITTED BY A MEMBER OF HIS COMMAND, HE MAY CAUSE THE MEMBER TO BE ARRESTED AND BROUGHT BEFORE HIM FOR THE PURPOSE OF PROCESSING NONJUDICIAL PUNISHMENT.

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

SECTION 1. That Section 46-1108, Idaho Code, be, and the same is hereby amended to read as follows:

46-1108. ARREST. Arrest of members of the Idaho military not in federal service by members of the Idaho military while acting in their military capacity is prohibited, except in the following circumstances:

(1) If any member of the Idaho military fails or refuses to report to his appointed place of duty upon adequate notice of an emergency declared by the governor, the commanding officer of the member's unit is authorized to arrest such member or cause him to be arrested and have him brought before the commanding officer at his unit headquarters. If military personnel are not available for the purpose of making the arrest, or if the commanding officer deems it advisable, he may issue a warrant, based upon a finding that probable cause exists that the member has failed or refused to report as ordered after receiving adequate notice of such order during a declared emergency, to any sheriff or peace officer authorized to serve such warrant in the same manner as other warrants of arrest and make return thereof to the commanding officer issuing the warrant.

(2) If any member of the Idaho military has had charges preferred against him under this code, and the convening authority to whom the charges have been forwarded has found that probable cause exists that the offense was committed by the accused and that the incarceration of the accused pending court-martial is required because of special circumstances found to exist which warrant such incarceration, then the convening authority is authorized to arrest such member or cause him to be arrested and have him confined pending trial. Furthermore, if a commander finds that probable cause exists that a minor offense has been committed by a member of his command, he may cause the member to be arrested and brought before him for the purpose of processing nonjudicial punishment under section 46-1107, Idaho Code. If military personnel are not available for the purpose of making the arrest, or if the convening authority deems it advisable, he may issue a warrant to any sheriff or peace officer authorized to serve such warrant in the same manner as other warrants of arrest, and said sheriff or peace officer shall effect the arrest and hold the accused in the county jail of the county in which the arrest is effected. The arresting officer shall return said warrant to the convening authority and notify him of the arrest and the location of the arrestee so that the

convening authority may further process the charges against the accused. Upon receipt of the notification of arrest, the commanding officer shall direct that the arrestee be retrieved and brought before him within twenty-four (24) hours.

(3) If any member of the Idaho military is accused of an offense against a civil authority, any other member of the Idaho military may, on request by a civil authority, arrest such accused member, but in such case, immediate steps must be taken to deliver such member forthwith to the appropriate civil authorities.

Approved March 18, 1999.

CHAPTER 111
(H.B. No. 162)

AN ACT

RELATING TO CONSTRUCTION, EXPANSION AND REHABILITATION OF ARMORIES; AMENDING SECTION 46-713, IDAHO CODE, TO PROVIDE A CORRECT STATUTORY CITATION, TO PROVIDE THAT THE ADJUTANT GENERAL IS EMPOWERED TO EXERCISE THE AUTHORITIES FOR EMERGENCY CONTRACTING WITH RESPECT TO EMERGENCIES FOR ARMORIES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 46-713, Idaho Code, be, and the same is hereby amended to read as follows:

46-713. CONSTRUCTION, EXPANSION AND REHABILITATION OF ARMORIES -- SUPERVISION BY ADJUTANT GENERAL. The adjutant general is authorized and empowered to provide or secure all plans and specifications for, to let all contracts for, and to have charge of and supervision of the construction, expansion, rehabilitation or conversion of any and all armories as provided in this act, and the powers and duties vested in the adjutant general herein are expressly exempted from the provisions of sections 57-1101-- through 57-1107, and section ~~67-2304~~ 67-5711, Idaho Code. The adjutant general is also empowered to exercise the authorities set out in section 67-5711B, Idaho Code, with respect to emergencies for armories.

Approved March 18, 1999.

CHAPTER 112
(H.B. No. 165)

AN ACT

RELATING TO STATUTES OF LIMITATIONS; AMENDING SECTION 5-214A, IDAHO CODE, TO PROVIDE THAT THE STATUTE OF LIMITATIONS FOR THE FORECLOSURE OF A MORTGAGE ON REAL PROPERTY IS FIVE YEARS FROM THE MATURITY DATE OF THE SECURED OBLIGATION, OR IF NO MATURITY DATE IS

STATED IN THE SECURED OBLIGATION, FIVE YEARS FROM THE ACCRUAL OF THE CAUSE OF ACTION GIVING RISE TO THE RIGHT OF FORECLOSURE.

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

SECTION 1. That Section 5-214A, Idaho Code, be, and the same is hereby amended to read as follows:

5-214A. ACTION TO FORECLOSE MORTGAGE ON REAL PROPERTY. ~~Within five (5) years:~~

~~1.~~ An action for the foreclosure of a mortgage on real property must be commenced within five (5) years from the ~~date of maturity, as disclosed by the public record,~~ maturity date of the obligation or indebtedness secured by such mortgage. ~~or by any indenture or other instrument supplemental thereto, as changed by extension, if any, of the time of maturity, filed for record before the expiration of said period of five (5) years. If the public record does not disclose the date of maturity~~ If the obligation or indebtedness secured by such mortgage does not state a maturity date, then the date of the ~~execution of such mortgage or lien~~ accrual of the cause of action giving rise to the right to foreclose shall be deemed the date of maturity of such obligation or indebtedness.

~~2. Such extension may be by agreement or affidavit showing the date of maturity of the obligation or indebtedness as extended describing the property embraced in the mortgage and giving the book and page or recorder's serial number where such mortgage appears of record. Such agreement or affidavit must be filed for record in the county or counties where the mortgage is recorded and the recorder shall note on the record of such mortgage the maturity date thereof as shown by such agreement or affidavit and shall also note on such record the book and page where such agreement or affidavit is recorded.~~

Approved March 18, 1999.

CHAPTER 113
(H.B. No. 175)

AN ACT

RELATING TO PAYMENT OF TAXES TO THE STATE TAX COMMISSION BY CREDIT CARD AND OTHER COMMERCIALLY ACCEPTABLE MEANS; AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-117, IDAHO CODE, TO AUTHORIZE THE STATE TAX COMMISSION TO ACCEPT PAYMENT BY CREDIT CARD, TO PROVIDE FOR PAYMENT OF FEES FROM THE PROCEEDS OF SUCH PAYMENT AND TO PROVIDE AN APPROPRIATION FOR SUCH PAYMENT.

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 63-117, Idaho Code, and to read as follows:

63-117. PAYMENT OF TAXES BY CREDIT CARD AND OTHER COMMERCIALLY ACCEPTABLE MEANS. (1) The state tax commission, in cooperation with the state treasurer, may accept payment by credit card, debit card or other commercially acceptable means from any person making any payment to the state tax commission of taxes or other amounts due under any law administered by the commission. If the payment is made by credit card, debit card, charge card, or similar method, the liability is not finally discharged and the person has not paid the tax until the department receives payment or credit from the institution responsible for making the payment or credit. Upon receipt, the amount shall be deemed paid on the date the charge was made.

(2) The commission may pay, through discount or otherwise, any fee to a financial institution or credit card company for a payment made pursuant to this section from the proceeds of the taxes or other amounts paid prior to any other distribution of the proceeds required by law. The necessary portion of the proceeds collected under this section is hereby appropriated for the purpose of paying the fee.

Approved March 18, 1999.

CHAPTER 114
(H.B. No. 181)

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING SECTION 61-121, IDAHO CODE, TO CLARIFY DEFINITIONS RELATING TO PUBLIC UTILITIES COMMISSION JURISDICTION AND EXEMPT TELECOMMUNICATIONS SERVICES; AMENDING SECTION 62-603, IDAHO CODE, TO CLARIFY DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 62-609, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 62-610B, IDAHO CODE, TO CLARIFY A DEFINITION; AMENDING SECTION 62-610F, IDAHO CODE, TO DELETE AN IMPLEMENTATION DATE AND TO ADD A NEW IMPLEMENTATION DATE; AMENDING SECTION 62-622, IDAHO CODE, TO AUTHORIZE THE COMMISSION TO DETERMINE NONECONOMIC REGULATORY REQUIREMENTS FOR ELIGIBLE TELECOMMUNICATIONS CARRIERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 61-121, Idaho Code, be, and the same is hereby amended to read as follows:

61-121. TELEPHONE CORPORATION -- TELECOMMUNICATION SERVICES. (1) The term "telephone corporation" when used in title 61, Idaho Code, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing telecommunication services for compensation within this state. Except as other-

wise provided by statute, tTelephone corporations providing radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are exempt from any requirement of title 61, or chapter 6, title 62, Idaho Code, in the provision of such services.

(2) "Telecommunication service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means (which includes message telecommunication service and access service), which originate and terminate in this state, and are offered to or for the public, or some portion thereof, for compensation. Except as otherwise provided by statute, "Ttelecommunication service" does not include the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service, surveying, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), and such services shall not be subject to the provisions of title 61, Idaho Code, or title 62, Idaho Code.

SECTION 2. That Section 62-603, Idaho Code, be, and the same is hereby amended to read as follows:

62-603. DEFINITIONS. As used in this chapter:

(1) "Basic local exchange service" means the provision of access lines to residential and small business customers with the associated transmission of two-way interactive switched voice communication within a local exchange calling area.

(2) "Basic local exchange rate" shall mean the monthly charge imposed by a telephone corporation for basic local exchange service, but shall not include any charges resulting from action by a federal agency or taxes or surcharges imposed by a governmental body which are separately itemized and billed by a telephone corporation to its customers.

(3) "Chapter" as used herein shall mean chapter 6, title 62, Idaho Code.

(4) "Commission" means the Idaho public utilities commission.

(5) "Facilities based competitor" means a local exchange carrier that offers basic local exchange service either: (a) exclusively over its own telecommunications service facilities; or (b) predominantly over its own facilities in combination with the resale of telecommunications services of another carrier.

(6) "Incumbent telephone corporation" means a telephone corporation or its successor which was providing basic local exchange service on or before February 8, 1996.

(7) "Local exchange calling area" means a geographic area encompassing one (1) or more local communities as described in maps, tar-

iffs, rate schedules, price lists, or other descriptive material filed with the commission by a telephone corporation, within which area basic local exchange rates rather than message telecommunication service rates apply.

(8) "Message telecommunication service (MTS)" means the transmission of two-way interactive switched voice communication between local exchange calling areas for which charges are made on a per-unit basis, not including wide area telecommunications service (WATS), or its equivalent, or individually negotiated contracts for telecommunication services.

(9) "Residential customers" shall mean persons to whom telecommunication services are furnished at a dwelling and which are used for personal or domestic purposes and not for business, professional or institutional purposes.

(10) "Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) Provides common carrier service to any local exchange carrier study area that does not include either:

(i) any incorporated place of ten thousand (10,000) inhabitants or more, or any part thereof, based on the most recently available population statistics of the bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the bureau of the census as of August 10, 1993;

(b) Provides telephone exchange service, including exchange access, to fewer than fifty thousand (50,000) access lines;

(c) Provides telephone exchange service to any local exchange carrier study area with fewer than one hundred thousand (100,000) access lines; or

(d) Has less than fifteen percent (15%) of its access lines in communities of more than fifty thousand (50,000) on the date of enactment of the federal telecommunications act of 1996.

(11) "Small business customers" shall mean a business entity, whether an individual, partnership, corporation or any other business form, to whom telecommunication services are furnished for occupational, professional or institutional purposes, and which business entity does not subscribe to more than five (5) access lines which are billed to a single billing location.

(12) "Telecommunications act of 1996" means the federal telecommunications act of 1996, public law no. 104-104 as enacted effective February 8, 1996.

(13) "Telecommunication service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means (which includes message telecommunication service and access service), which originate and terminate in this state, and are offered to or for the public, or some portion thereof, for compensation. Except as otherwise provided by statute, "~~T~~telecommunication service" does not include the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other program-

ming service, surveying, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), and such services shall not be subject to the provisions of title 61, Idaho Code, or title 62, Idaho Code.

(14) "Telephone corporation" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing telecommunication services for compensation within this state, provided that municipal, cooperative, or mutual nonprofit telephone companies shall be included in this definition only for the purposes of sections 62-610 and 62-617 through 62-620, Idaho Code. Except as otherwise provided by statute, t~~T~~elephone corporations providing radio paging, mobile radio telecommunications services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are exempt from any requirement of this chapter or title 61, Idaho Code, in the provision of such services; provided, that the providers of these exempted services shall have the benefits given them under section 62-608, Idaho Code.

SECTION 3. That Section 62-609, Idaho Code, be, and the same is hereby amended to read as follows:

62-609. IMPUTED AND NONDISCRIMINATORY ACCESS CHARGES -- COMMISSION AUTHORITY. (1) A telephone corporation, which provides basic local exchange service, and which also provides message telecommunications service shall impute to itself its prices of special access or private line access and switched access for the use of essential facilities used in the provision of message telecommunications service, special access or private line access services and WATS service or their equivalents. Such imputation shall be in the aggregate on a service by service basis. All other providers of message telecommunications service, special access or private line access services and WATS service or their equivalents shall impute to themselves, in the aggregate on a service by service basis, their individual cost of special or switched access or its equivalent in their pricing.

The commission shall define in an appropriate proceeding what are essential facilities for the purpose of this subsection and shall resolve any dispute which may arise under this subsection.

(2) Telecommunication services which are subject to the provisions of this chapter and which services utilize special or switched access, shall be made available by the telephone corporation for resale. No telephone corporation shall, as to its prices or charges for or the provision of such services, make or grant any preference or advantage to any telephone corporation or to a provider of services exempted from regulation under section 62-603(9~~1~~3), Idaho Code, or subject any telephone corporation or any provider of services exempted from regulation under section 62-603(9~~1~~3), Idaho Code, to any prejudice or competitive disadvantage with respect to its prices or charges for providing access to its local exchange network nor establish or

maintain any unreasonable difference as to its prices or charges for access to its local exchange network.

(3) Notwithstanding the provisions of section 62-614, Idaho Code, if, after negotiation, a dispute under this section exists between or among telephone corporations or between or among telephone corporation(s) and provider(s) of services exempted from regulation under section 62-603(9~~1~~3), Idaho Code, such dispute shall be determined by the commission upon petition of any affected telephone corporation or provider(s) of services exempted from regulation under section 62-603(9~~1~~3), Idaho Code.

Information disclosed to the commission for resolution of disputes under this section shall be provided by the telephone corporations with appropriate safeguards for the protection of business or trade secrets.

SECTION 4. That Section 62-610B, Idaho Code, be, and the same is hereby amended to read as follows:

62-610B. DEFINITIONS. For purposes of section 62-610, Idaho Code, and sections 62-610A through 62-610F, Idaho Code, the following words and phrases shall have the following meanings:

(1) "Eligible telecommunications carrier" means a telecommunications carrier designated by the commission who has the obligation to provide universal service throughout the service area for which the designation is received.

(2) "Fund" means the Idaho telecommunications universal service fund established by the commission pursuant to sections 62-610A and 62-610F, Idaho Code.

(3) ~~The~~ "~~s~~Service area" ~~served by~~ means a geographic area designated by the commission for the purpose of determining universal service obligations of eligible telecommunications carriers. In the case of a rural telephone company "service area" means the company's "study area(s)" as established by the federal communications commission and the public utilities commission. ~~In the case of a nonrural telecommunications company the service area shall be the eligible telecommunications carrier's current or commission approved service territory.~~

(4) "Support area" means a geographic area designated by the commission as a high-cost area for which eligible telecommunications carrier(s) serving such area may receive financial assistance from the universal service fund. The commission shall consider population distribution, geographic factors, cost model capabilities and other relevant considerations in making such a determination.

(5) "Telecommunications carrier" means a telephone corporation providing telecommunication services for compensation within this state, and shall, for the purposes of sections 62-610A through 62-610F, Idaho Code, include municipal, cooperative or mutual telephone companies and telecommunications companies providing wireless, cellular, personal communications services and mobile radio services for compensation.

(6) "Universal service" means basic local exchange service and other telecommunication services designated by the commission as services which should be widely available to consumers in all regions of the state at just and reasonable rates.

(7) All other terms, words or phrases shall have the meaning set forth in section 62-603, Idaho Code.

SECTION 5. That Section 62-610F, Idaho Code, be, and the same is hereby amended to read as follows:

62-610F. HIGH-COST SUPPORT -- ADMINISTRATION -- TRANSITION. (1) ~~On or before March 1, 1999~~ No later than six (6) months after the federal communications commission's implementation date of a new mechanism for determining high-cost support for nonrural carriers, or December 31, 2000, whichever occurs first, the commission shall establish a universal service fund to enable eligible telecommunications carriers to make universal service widely available to all persons within the state of Idaho at reasonable rates. Eligible telecommunication carriers receiving financial support shall use that support only for the provision, maintenance and upgrading of services and facilities for which the support is intended.

(2) The commission shall initiate a proceeding to determine and adopt the appropriate methodology and mechanisms to collect and distribute financial assistance which are specific, predictable and sufficient in conjunction with federal universal service support mechanisms to preserve and advance universal service within the state of Idaho. Revenue for the fund shall be collected through a uniform universal service fund surcharge as calculated by the commission. The surcharge shall be imposed on end users of all retail telecommunication services originating and terminating within the state of Idaho and collected by the telecommunications carrier providing telecommunication services to such end user. Disbursements from the fund shall be used to defray the costs, as determined by the commission, of providing universal service to customers within a geographic support area. Those costs shall be calculated using a forward-looking cost methodology. When providing disbursements from the fund, the commission shall take such actions as may be necessary to prevent redundant cost recovery by recipients of such funds including the reduction of access charges subject to title 61 or 62, Idaho Code.

(3) The commission shall establish procedures to administer the universal service fund and shall contract with a neutral third party for administration of the fund. The administrator shall perform the duties required by the commission including data gathering, collecting the surcharge revenues, disbursing funds, and notifying the commission of any fund violations.

(4) The commission shall develop procedures and provide for a transition period to begin no earlier than January 1, 2001, for rural telephone companies to replace funding available pursuant to section 62-610, Idaho Code, with the funding mechanism established pursuant to this section for the support of universal service.

SECTION 6. That Section 62-622, Idaho Code, be, and the same is hereby amended to read as follows:

62-622. REGULATION OF BASIC LOCAL EXCHANGE RATES, SERVICES AND PRICE LISTS. (1) The commission shall regulate the prices for basic local exchange services for incumbent telephone corporations in accor-

dance with the following provisions:

(a) At the request of the incumbent telephone corporation, the commission shall establish maximum just and reasonable rates for basic local exchange service. Maximum basic local exchange rates shall be sufficient to recover the costs incurred to provide the services. Costs shall include authorized depreciation, a reasonable portion of shared and common costs, and a reasonable profit. Authorized depreciation lives shall use forward-looking competitive market lives. Authorized depreciation lives shall be applied prospectively and to undepreciated balances.

(b) At the request of the telephone corporation, the commission may find that existing rates for local services constitute the maximum rates.

(c) The commission shall issue its order establishing maximum rates no later than one hundred eighty (180) days after the filing of the request unless the telephone corporation consents to a longer period.

(d) An incumbent telephone corporation may charge prices lower than the maximum basic local exchange rates established by the commission. Provided however, upon the petition of a nonincumbent telephone corporation, the commission shall establish a minimum price for the incumbent telephone corporation's basic local exchange service if the commission finds, by a preponderance of the evidence, that the incumbent telephone corporation's prices for basic local exchange services in the local exchange area are below the incumbent telephone corporation's average variable cost of providing such services.

(e) After the commission has established maximum basic local exchange rates, an incumbent telephone corporation may change its tariffs or price lists reflecting the availability, price, terms and conditions for local exchange service effective not less than ten (10) days after filing with the commission and giving notice to affected customers. Changes to tariffs or price lists that are for nonrecurring services and that are quoted directly to the customer when an order for service is placed, or changes that result in price reductions or new service offerings, shall be effective immediately upon filing with the commission and no other notice shall be required.

(2) The commission shall not regulate the prices for basic local exchange services for telephone corporations that were not providing such local service on or before February 8, 1996. Provided however, such telephone corporation providing basic local exchange services shall file price lists with the commission that reflect the availability, price, terms and conditions for such services. Changes to such price lists shall be effective not less than ten (10) days after filing with the commission and giving notice to affected customers. Changes to price lists that are for nonrecurring services and that are quoted directly to the customer when an order for service is placed, or changes that result in price reductions or new service offerings, shall be effective immediately upon filing with the commission and no other notice shall be required.

(3) The commission shall cease regulating basic local exchange rates in a local exchange calling area upon a showing by an incumbent

telephone corporation that effective competition exists for basic local exchange service throughout the local exchange calling area. Effective competition exists throughout a local exchange calling area when either:

(a) Actual competition from a facilities-based competitor is present for both residential and small business basic local exchange customers; or

(b) There are functionally equivalent, competitively priced local services reasonably available to both residential and small business customers from a telephone corporation unaffiliated with the incumbent telephone corporation.

(4) Telephone corporations shall not resell:

(a) A telecommunications service that is available at retail only to a category of subscribers to a different category of subscribers;

(b) A means-tested service to ineligible customers; or

(c) A category of service to circumvent switched or special access charges.

(5) The commission shall determine the noneconomic regulatory requirements for all telephone corporations providing basic local exchange service or designated as an eligible telecommunications carrier pursuant to sections 62-610A through 62-610F, Idaho Code, including, but not limited to, such matters as service quality standards, provision of access to carriers providing message telecommunications service, filing of price lists, customer notice and customer relation rules.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 18, 1999.

CHAPTER 115
(H.B. No. 209)

AN ACT

RELATING TO SMALL CLAIMS; AMENDING SECTION 1-2301A, IDAHO CODE, TO PROVIDE THAT IN AN ACTION FOR DRAWING A CHECK WITHOUT FUNDS OR INSUFFICIENT FUNDS, THE PLAINTIFF OR COLLECTION AGENCY MAY RECOVER THE AMOUNT OF THE CHECK IN ADDITION TO THE GREATER OF ONE HUNDRED DOLLARS OR THREE TIMES THE AMOUNT OF THE CHECK AND, EXCEPT AS PROVIDED IN SECTION 1-2304, IDAHO CODE, MAY RECOVER NO OTHER COSTS, FEES, CHARGES OR DAMAGES AND TO PROVIDE REQUIREMENTS FOR PROOF OF SERVICE; AND AMENDING SECTION 1-2304, IDAHO CODE, TO SPECIFY THE FEES RECOVERABLE BY THE PLAINTIFF OR A COLLECTION AGENCY IN A SMALL CLAIMS ACTION.

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

SECTION 1. That Section 1-2301A, Idaho Code, be, and the same is hereby amended to read as follows:

1-2301A. DRAWING CHECK WITHOUT FUNDS OR INSUFFICIENT FUNDS -- CIVIL LIABILITY. In any action against a person who makes any check, draft or order for the payment of money which has been dishonored for lack of funds or credit to pay the same, or because the maker has no account with the drawee, the plaintiff, or a collection agency with a permit issued to it pursuant to section 26-2229, Idaho Code, which is attempting to collect the dishonored check under a written agreement with the payee or holder of the check, may recover from the defendant ~~damages in an~~ the amount of the check, draft or order and, in addition thereto, the greater of the amount ~~equal to~~ of one hundred dollars ($100) or ~~triple~~ three (3) times the amount for which the check, draft or order is drawn~~, whichever is greater~~. Except as provided in section 1-2304, Idaho Code, the plaintiff or collection agency may recover no other costs, fees, charges or damages. However, damages recovered under the provisions of this section shall not exceed by more than five hundred dollars ($500) the value of the check, draft or order and may be awarded only if the plaintiff made written demand of the defendant for payment of the amount of the check, draft or order not less than ten (10) days before commencing the action, and if the defendant failed to tender to the plaintiff, prior to commencement of the action, an amount of money not less than the amount demanded. The written demand required by this section shall be sent to the maker by certified mail at his last known address and shall fully advise the maker of the check, draft, or order of the consequences of failure to make prompt payment under this section. The plaintiff or collection agency must show proof of service by producing a copy of a signed return receipt or affidavit of personal service.

SECTION 2. That Section 1-2304, Idaho Code, be, and the same is hereby amended to read as follows:

1-2304. FEES ~~OF OFFICER SERVING NOTICE~~ RECOVERABLE BY PLAINTIFF OR COLLECTION AGENCY. ~~The officer serving such notice shall be entitled to receive from~~ In addition to the amount of any judgment entered for the plaintiff ~~the same~~ or a collection agency, the plaintiff or the collection agency may recover the lesser of the actual fees ~~as are allowed~~ paid by the plaintiff or the collection agency for ~~other~~ service of process ~~from the district court, which sum~~ upon the defendant or twenty-five dollars ($25.00), whether service is by a public officer or other person, together with ~~the~~ court filing fees. ~~named in section 1-2303, shall be added to any judgment given the plaintiff.~~ No other costs, fees or charges shall be taxed as costs in the proceeding except as otherwise provided in rule 81 of the Idaho rules of civil procedure.

Approved March 18, 1999.

CHAPTER 116
(H.B. No. 215)

AN ACT

RELATING TO LICENSURE BY THE BOARD OF MEDICINE; AMENDING SECTION 54-1810, IDAHO CODE, TO PROVIDE THAT A PERSONAL INTERVIEW MAY BE REQUIRED BY THE BOARD AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-1811, IDAHO CODE, TO PROVIDE THAT A PERSONAL INTERVIEW MAY BE REQUIRED BY THE BOARD AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1810, Idaho Code, be, and the same is hereby amended to read as follows:

54-1810. LICENSURE BY WRITTEN EXAMINATION. ~~(1)~~ Any person seeking to be licensed to practice medicine and surgery or osteopathic medicine or osteopathic medicine and surgery in this state must successfully complete the following requirements before a license will be issued:

(~~a~~1) Each applicant must submit a completed written application to the board on forms furnished by the board which shall require proof of graduation from a medical school acceptable to the board and successful completion of a ~~post-graduate~~ postgraduate training program acceptable to the board.

(~~b~~2) Each applicant must pass an examination conducted by or acceptable to the board which shall thoroughly test the applicant's fitness to practice medicine. If an applicant fails to pass the examination on two (2) separate occasions, he shall not be eligible to take the examination for at least one (1) year, and before taking the examination again, he must make a showing to the board that he has successfully engaged in a course of study for the purpose of improving his ability to engage in the practice of medicine. Applicants who fail two (2) separate examinations in another state, territory, or district of the United States or Canada, must make the same showing of successful completion of a course of study prior to examination for licensure.

(~~c~~3) ~~Each~~ The board may require an applicant ~~shall~~ to be personally interviewed by the board or a designated committee of the board. ~~The~~ Such an interview shall be ~~conducted~~ limited to a review of the applicant's qualifications and professional credentials.

SECTION 2. That Section 54-1811, Idaho Code, be, and the same is hereby amended to read as follows:

54-1811. LICENSURE BY ENDORSEMENT. Any person seeking to be licensed to practice medicine in this state who is licensed to practice medicine in another state must successfully complete the following requirements before a license to practice medicine will be issued:

(1) Each applicant must submit a completed written application to the board on forms furnished by the board which shall require proof of

graduation from a medical school acceptable to the board and successful completion of a ~~post-graduate~~ postgraduate training program acceptable to the board and which contains proof that the applicant has any one (1) of the following qualifications:

(a) The applicant is a diplomate of the national board of medical examiners or the national board of examiners for osteopathic physicians and surgeons;

(b) The applicant holds a valid, unrevoked, unsuspended license to practice medicine and surgery, or osteopathic medicine and surgery in a state, territory or district of the United States or Canada, and the applicant demonstrates that he possesses the requisite qualifications to provide the same standard of health care as provided by licensed physicians in this state. The board may require further examination to establish such qualifications.

(2) ~~Each~~ The board may require an applicant ~~shall~~ to be personally interviewed by the board or a designated committee of the board. The interview shall be ~~conducted~~ limited to a review of the applicant's qualifications and professional credentials.

Approved March 18, 1999.

CHAPTER 117
(H.B. No. 244)

AN ACT

RELATING TO NOXIOUS WEEDS; AMENDING CHAPTER 24, TITLE 22, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 22-2411, 22-2412 AND 22-2413, IDAHO CODE, TO PROVIDE FOR DELEGATION OF AUTHORITY BY THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO OTHER INSTRUMENTALITIES OR AGENTS FOR ESTABLISHING AND MAINTAINING A UNIFORM AND REASONABLE SYSTEM OF INSPECTION AND CERTIFICATION OF CROPS, PLANTS, PLANT PARTS OR PRODUCTS THEREOF AND TO PROVIDE THE LEGAL EFFECT OF THE DELEGATION, TO PROVIDE FOR FEES CHARGED BY THE CERTIFYING AGENCY AND TO LIMIT THE LIABILITY OF THE DEPARTMENT OF AGRICULTURE.

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

SECTION 1. That Chapter 24, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 22-2411, 22-2412 and 22-2413, Idaho Code, and to read as follows:

22-2411. DELEGATION OF AUTHORITY. The director of the department of agriculture may delegate in writing its authority, or any part thereof, under this chapter to any instrumentality or entity as an agent and servant of the state whose principal purpose is to establish and maintain a uniform and reasonable system of inspection and certification of crops, plants, plant parts or products thereof. Any agent designated hereunder shall be a servant of the state of Idaho and shall be acting in an official capacity for the state of Idaho and under the supervision of the director consistent with this chapter.

The delegated instrumentality or entity as agent and servant of the state shall be an entity of the state of Idaho as provided in the tort claims act, chapter 9, title 6, Idaho Code.

22-2412. FEES CHARGED BY CERTIFYING AGENCY. Fees may be charged by the certifying agency, under schedules set forth in rules of the department for certification of crops, plants, plant parts or products thereof under this chapter, but these fees shall have a reasonable relation to the cost, and may be used only for expenses in connection with inspection and certification and improvement of inspection and certification services.

22-2413. LIABILITY OF DEPARTMENT LIMITED. The department shall not be financially responsible for debts incurred, damages inflicted, or contracts broken by the certifying agent in conducting certification work. The certifying agent shall be entitled to all the protections as provided in the tort claims act, chapter 9, title 6, Idaho Code.

Approved March 18, 1999.

CHAPTER 118
(H.B. No. 246)

AN ACT

RELATING TO THE MILITARY DIVISION; REPEALING SECTION 46-606, IDAHO CODE; AMENDING SECTION 46-607, IDAHO CODE, TO STRIKE REFERENCE TO PAYMENT UPON DISABILITY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 72-419, IDAHO CODE, TO CLARIFY THE BASE PAY TO BE USED IN DETERMINATION OF AVERAGE WEEKLY WAGE FOR WORKERS COVERED WHILE ON MILITARY DUTY.

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

SECTION 1. That Section 46-606, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 46-607, Idaho Code, be, and the same is hereby amended to read as follows:

46-607. PAY ON ACTIVE DUTY -- STATE LIABLE FOR EXPENSES AND CLAIMS. All officers and enlisted personnel of the national guard not in the service of the United States, while on duty or assembled therefor, pursuant to the orders of the governor, or any other civil officer authorized by law to make such demand on the military forces of the state in case of a state of extreme emergency, or threats thereof, or whenever called upon in aid of civil authorities, shall receive the same pay and allowances for such service as that prescribed in section 46-605, Idaho Code; and such compensation and the necessary expenses incurred in quartering, caring for, warning for duty, and transporting and subsisting the military personnel as well as the expense incurred

for pay, care and subsistence of officers and enlisted personnel ~~temporarily disabled in the line of duty, while on such duty as set forth in section 46-606,~~ shall be paid by the state.

SECTION 3. That Section 72-419, Idaho Code, be, and the same is hereby amended to read as follows:

72-419. DETERMINATION OF AVERAGE WEEKLY WAGE. Except as otherwise provided in this law, the average weekly wage of the employee at the time of the accident causing the injury or of manifestation of the occupational disease shall be taken as the basis upon which to compute compensation and shall be determined as follows:

(1) If at such time the wages are fixed by the week, the amount so fixed shall be the average weekly wage.

(2) If at such time the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve (12) and divided by fifty-two (52).

(3) If at such time the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two (52).

(4) (a) If at such time the wages are fixed by the day, hour or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by thirteen (13) his wages (not including overtime or premium pay) earned in the employ of the employer in the first, second, third or fourth period of thirteen (13) consecutive calendar weeks in the fifty-two (52) weeks immediately preceding the time of accident or manifestation of the disease.

(b) If the employee has been in the employ of the employer less than twelve (12) calendar weeks immediately preceding the accident or manifestation of the disease, his average weekly wage shall be computed under the foregoing paragraph, taking the wages (not including overtime or premium pay) for such purpose to be the amount he would have earned had he been so employed by the employer the full thirteen (13) calendar weeks immediately preceding such time and had worked, when work was available to other employees in a similar occupation.

(5) If at such time the hourly wage has not been fixed or cannot be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where such services are rendered by paid employees.

(6) In seasonal occupations that do not customarily operate throughout the entire year, the average weekly wage shall be taken to be one-fiftieth (1/50) of the total wages which the employee has earned from all occupations during the twelve (12) calendar months immediately preceding the time of the accident or manifestation of the disease.

(7) In the case of volunteer firemen, police and civil defense members or trainees, the income benefits shall be based on the average weekly wage in their regular employment.

(8) If the employee was a minor, apprentice or trainee at the time of the accident or manifestation of the disease, and it is established that under normal conditions his wages should be expected to

increase during the period of disability that fact may be considered in computing his average weekly wage.

(9) When the employee is working under concurrent contracts with two (2) or more employers and the defendant employer has knowledge of such employment prior to the injury, the employee's wages from all such employers shall be considered as if earned from the employer liable for compensation.

(10) When circumstances are such that the actual rate of pay cannot be readily ascertained, the wage shall be deemed to be the contractual, customary or usual wage in the particular employment, industry or community for the same or similar service.

(11) In the case of public employees covered under section 72-205(6), Idaho Code, the income benefits shall be based on the greater of the average weekly wage of the employee's civilian employment and pay computed for one (1) weekend drill in a month, or full-time active duty pay fixed by the month as provided in section 46-605, Idaho Code.

Approved March 18, 1999.

CHAPTER 119
(H.B. No. 255)

AN ACT

RELATING TO THE PATIENT FREEDOM OF INFORMATION ACT; AMENDING SECTION 54-4502, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 33, LAWS OF 1998, TO REDESIGNATE THE SECTION AND TO PROVIDE THAT ADVANCED PRACTICE PROFESSIONAL NURSES TO INCLUDE CERTIFIED NURSE-MIDWIVES, CLINICAL NURSE SPECIALISTS, NURSE PRACTITIONERS AND CERTIFIED REGISTERED NURSE ANESTHETISTS ARE INCLUDED IN THE DEFINITION OF PROVIDER; AMENDING SECTION 54-4503, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 33, LAWS OF 1998, TO REDESIGNATE THE SECTION AND TO REQUIRE A PERSON WHO APPLIES FOR INITIAL LICENSURE OR REGISTRATION AS A PROVIDER MUST, AT THE TIME OF LICENSURE OR REGISTRATION, FURNISH CERTAIN INFORMATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-4502, Idaho Code, as added by Section 1, Chapter 33, Laws of 1998, be, and the same is hereby amended to read as follows:

54-~~4502~~4602. DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(1) "Board" means the professional licensing and registration board, respectively, for each of the named providers.

(2) "Patient" means all past, current or future consumers of health care services.

(3) "Provider(s)" means the following licensed or registered professional health care providers: podiatrists licensed pursuant to chapter 6, title 54, Idaho Code; chiropractors licensed pursuant to

chapter 7, title 54, Idaho Code; dentists licensed pursuant to chapter 9, title 54, Idaho Code; ~~nurse-practitioners~~ advanced practice professional nurses to include certified nurse-midwives, clinical nurse specialists, nurse practitioners and certified registered nurse anesthetists licensed or registered pursuant to chapter 14, title 54, Idaho Code; optometric physicians licensed pursuant to chapter 15, title 54, Idaho Code; physicians and surgeons and osteopathic physicians and surgeons, licensed pursuant to chapter 18, title 54, Idaho Code; physicians' assistants registered pursuant to chapter 18, title 54, Idaho Code; physical therapists registered pursuant to chapter 22, title 54, Idaho Code; and psychologists licensed pursuant to chapter 23, title 54, Idaho Code.

SECTION 2. That Section 54-4503, Idaho Code, as added by Section 1, Chapter 33, Laws of 1998, be, and the same is hereby amended to read as follows:

54-~~4503~~4603. PATIENT ACCESS TO PROVIDER INFORMATION. (1) Each person who applies for initial licensure or registration as a provider must, at the time of ~~application~~ licensure or registration, and each provider who applies for license or registration renewal must, in conjunction with the renewal of a license or registration, and under procedures which shall be adopted by the board, and in addition to any other information that may be required from the applicant, furnish the following information to the board:

(a) Names and addresses of medical/professional schools or other institutions of higher learning that provider attended, including any graduate education, and dates of graduation;

(b) Speciality certifications that are recognized by the board;

(c) Appointments to faculty of any medical/professional school and indication whether provider has had a responsibility for graduate education within the most recent ten (10) years (optional);

(d) Location and type of practice for the most recent ten (10) years;

(e) Current location of provider's primary practice setting, and if more than one (1) setting, the approximate percentage of time spent at each location;

(f) The hospital(s) that serves as the provider's primary admitting facility and at which the provider has active clinical privileges in good standing;

(g) Disclosure of whether the provider participates in medicaid and medicare programs (but not necessarily accepting new patients), or has ever been barred from participation in either program;

(h) Disclosure of any translating services that may be available at the provider's practice location(s) (optional);

(i) Description of any criminal convictions for felonies or other crimes of moral turpitude within the most recent ten (10) years. For purposes of this subsection, a person shall be deemed convicted of a crime if he pled guilty or if he was found or adjudged guilty by a court of competent jurisdiction;

(j) Description of any final board disciplinary actions within the most recent ten (10) years that are considered to be public in

accordance with the provisions of chapter 3, title 9, Idaho Code;

(k) Description of any final disciplinary actions by a board from any other state including, but not limited to, revocation or suspension of license, within the most recent ten (10) years;

(l) Description of revocation or involuntary restriction of hospital privileges, or a reduction in credentialing for more than one hundred eighty (180) days, from any state, for reasons related to competence or character, that have been taken by a hospital's governing body or any other official of a hospital after procedural due process has been afforded; or the resignation from or nonrenewal of a medical staff membership, or the restriction of privileges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital, within the most recent ten (10) years;

(m) Whether the provider carries professional malpractice insurance, and if not, has ever been denied malpractice insurance;

(n) Disclosure of all malpractice court judgments and all malpractice arbitration awards in which a payment was awarded to a complaining party during the most recent ten (10) years. Pending malpractice claims shall not be disclosed by the board to patients; however, nothing herein shall be construed to prevent the board from investigating and disciplining a provider on the basis of pending malpractice claims.

(o) Disclosure of settlements of professional malpractice claims within the most recent five (5) years of continuous practice;

(i) Providers need only disclose malpractice settlements if there have been five (5) or more settlements in the most recent five (5) years of continuous practice, of fifty thousand dollars ($50,000), or more, per settlement, or if there have been more than ten (10) settlements within the most recent five (5) years of continuous practice of any dollar amount;

(ii) Settlements that result solely in an adjustment to the fee charged for a provider's services shall not be disclosed pursuant to this chapter;

(iii) Information concerning all settlements shall be accompanied by the following statement: "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of a provider. A payment in settlement of a malpractice action or claim should not be construed as creating presumption that malpractice has occurred. Malpractice histories tend to vary by speciality. Some specialities are more likely than others to be the subject of litigation.";

(iv) Nothing herein shall be construed to limit or prevent the board from providing further explanatory information regarding settlements;

(p) Percentage of ownership interest provider has in other health facilities, laboratories, equipment or therapy, except for ownership interest in the primary practice business, to which the provider's patients are, have been, or may be referred.

(2) Each profile submitted by a provider must include a statement, signed under oath, by the provider attesting to the correctness

and completeness of the information contained in the profile.

(3) The board shall not be held liable for the correctness or completeness of the information contained in the provider profiles, and shall include a disclaimer statement on all released profiles, attesting to the self-reporting nature of the program, and that the information has not been verified by the board.

(4) The board shall, at the time of issuing a new license or registration, or in conjunction with license or registration renewal, collect and maintain the information required in this chapter, as submitted by the provider, for the purpose of creating individual profiles on providers that shall be made available to the public as provided in this chapter.

(5) No state law that would otherwise prohibit, limit, or penalize disclosure of information about a provider shall apply to disclosure of information required by this chapter.

(6) If a provider fails to comply with the provisions of this chapter with full and truthful disclosure of information to the board within the time specified by the board, the board may:

(a) Fine the provider up to fifty dollars ($50.00) for each day that the provider is not in compliance with the provisions of this chapter;

(b) Take any other disciplinary action it deems appropriate, except the board may not revoke, suspend, refuse to issue or refuse to renew a provider's license or registration solely because the provider failed to comply with the provisions of this chapter.

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 18, 1999.

CHAPTER 120
(H.B. No. 260)

AN ACT

RELATING TO THE BOARD OF SCALING PRACTICES; AMENDING SECTION 38-1203, IDAHO CODE, TO ADD A FIFTH MEMBER TO THE BOARD OF SCALING PRACTICES TO REPRESENT NONINDUSTRIAL PRIVATE FOREST LANDOWNERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 38-1203, Idaho Code, be, and the same is hereby amended to read as follows:

38-1203. STATE BOARD OF SCALING PRACTICES -- MEMBERS -- TERMS. A board to be known as the "state board of scaling practices" is hereby created in the department of lands. It shall consist of the director of the department of lands and ~~four~~ <u>five</u> (~~4~~<u>5</u>) members appointed by the

governor from among nominees recommended by the organized and generally recognized forest industry associations or individuals representing nonindustrial private forest landowners provided not less than two (2) board members be appointed from the Idaho forest industry council, and not less than two (2) board members be appointed from the associated logging contractors of Idaho, inc., each association to have one (1) member from north of the Salmon river and one (1) member from south of the Salmon river. One (1) member shall be appointed to represent the interests of nonindustrial private forest landowners throughout the state. That person shall be chosen from nominees provided to the governor by the Idaho forest owner's association. The person representing nonindustrial private forest landowners shall own not less than one hundred (100) nor more than five thousand (5,000) acres of private forest land and shall not own or control a forest products manufacturing facility within the state. In choosing this person, the governor shall give preference to persons with a demonstrated history of selling timber or logs to a variety of purchasers and who have scaling or forest management experience. The members of the board shall have the qualifications required by section 38-1204, Idaho Code. The members of the board shall be appointed for a three (3) year term. Each member of the board shall take, subscribe and file the oath required by sections 59-401-- through 59-408, Idaho Code, before entering upon the duties of his office. On the expiration of the term of any member, his successor shall be appointed in like manner by the governor for a term of three (3) years and unexpired terms shall be filled for the unexpired balance of the term.

Approved March 18, 1999.

CHAPTER 121
(H.B. No. 302)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2000; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; 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 expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Personnel Costs	$ 93,700
Operating Expenditures	9,400
TOTAL	$103,100
FROM:	
General Fund	$103,100

SECTION 2. It is legislative intent that an amount, not to exceed

$1,000 of the amounts appropriated in Section 1 of this act, 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, 1999, through June 30, 2000, 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 18, 1999.

CHAPTER 122
(H.B. No. 304)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 2000; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; 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 Secretary of State, 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
General Fund	$ 408,600	$ 113,100		$ 521,700
II. CENTRALIZED UNIFORM COMMERCIAL CODE:				
FROM:				
UCC Administrative Fund	$1,035,000	$ 440,600	$38,300	$1,513,900
III. COMMISSION ON UNIFORM LAWS:				
FROM:				
General Fund		$ 16,200		$ 16,200
GRAND TOTAL	$1,443,600	$ 569,900	$38,300	$2,051,800

SECTION 2. It is legislative intent that an amount not to exceed $1,000 of the amount appropriated in Section 1 of this act, may be used at the discretion of the Secretary of State to assist in defraying expenses relating to or resulting from the discharge of the Secre-

tary of State's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Office of the Secretary of State is authorized no more than thirty-two (32) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 18, 1999.

CHAPTER 123
(H.B. No. 76, As Amended in the Senate)

AN ACT

RELATING TO COURT APPOINTMENT OF A GUARDIAN OF A MINOR; AMENDING SECTION 15-5-204, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF A GUARDIAN UPON FINDING THAT A CHILD HAS BEEN NEGLECTED, ABUSED, ABANDONED OR WHOSE PARENTS ARE UNABLE TO PROVIDE A STABLE HOME ENVIRONMENT, TO DEFINE ABANDONMENT, TO PROVIDE FOR A DETERMINATION OF THE BEST INTERESTS OF THE CHILD AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 16-1603, IDAHO CODE, TO DELETE LANGUAGE PROVIDING THAT IN CONSIDERING THE CHILD'S HOME ENVIRONMENT, THE COURT SHALL DETERMINE IF THE PARENT OR OTHER LEGAL CUSTODIAN IS UNABLE TO PROVIDE SUCH ENVIRONMENT BY REASON OF IMMATURITY OR EMOTIONAL, MENTAL OR PHYSICAL DISABILITY.

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

SECTION 1. That Section 15-5-204, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-204. COURT APPOINTMENT OF GUARDIAN OF MINOR -- CONDITIONS FOR APPOINTMENT. The court may appoint a guardian for an unmarried minor if all parental rights of custody have been terminated ~~or suspended~~ by ~~circumstances or~~ prior court order <u>or upon a finding that the child has been neglected, abused, abandoned, or whose parents are unable to provide a stable home environment. "Abandoned" means the failure of the parent to maintain a normal parental relationship with the child including, but not limited to, reasonable support or regular contact. Failure to maintain a normal parental relationship with the child without just cause for a period of six (6) months shall constitute prima facie evidence of abandonment. In all cases, the court shall consider the best interests of the child as the primary factor in the determination whether to appoint, and whom to appoint, as a guardian for such child. In determining the choice of a guardian for an unmarried minor, the advanced age of a potential guardian shall not, in and of itself, be used as a criterion of the suitability of</u>

the potential guardian so long as the potential guardian is otherwise suitable. A guardian appointed by will as provided in section 15-5-202 of this ~~P~~part whose appointment has not been prevented or nullified under section 15-5-203 of this ~~P~~part has priority over any guardian who may be appointed by the court but the court may proceed with an appointment nonetheless upon a finding that the testamentary guardian has failed to accept the testamentary appointment within thirty (30) days after notice of the guardianship proceeding.

SECTION 2. That Section 16-1603, Idaho Code, be, and the same is hereby amended to read as follows:

16-1603. JURISDICTION OF THE COURTS. Except as otherwise provided herein, the court shall have exclusive original jurisdiction in all proceedings under this chapter concerning any child living or found within the state:

(a) who is neglected, abused or abandoned by his parents, guardian or other legal custodian, or who is homeless; or

(b) whose parents or other legal custodian fails or is unable to provide a stable home environment. ~~In considering the child's home environment, the court shall determine if the parents or other legal custodian is unable to provide such environment by reason of immaturity or emotional, mental, or physical disability.~~

Approved March 19, 1999.

CHAPTER 124
(H.B. No. 110)

AN ACT

RELATING TO FALSE PRETENSES, CHEATS AND MISREPRESENTATIONS; AMENDING SECTION 18-3122, IDAHO CODE, TO DEFINE THE TERM "PERSONAL IDENTIFYING INFORMATION" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-3124, IDAHO CODE, TO PROVIDE REFERENCE TO AN FTC ACCOUNT NUMBER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 31, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3126, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL TO MISAPPROPRIATE PERSONAL IDENTIFYING INFORMATION; AMENDING SECTION 18-3126, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT CITATION; AND AMENDING SECTION 18-3127, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A CORRECT CITATION.

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

SECTION 1. That Section 18-3122, Idaho Code, be, and the same is hereby amended to read as follows:

18-3122. DEFINITIONS. The following words and phrases used in this chapter mean:

(1) "Authorized credit card merchant" means a person or organization who is authorized by an issuer to furnish money, goods, services

or anything of value upon presentation of a financial transaction card or a financial transaction card account number by a card holder, and to present valid credit card sales drafts to the issuer for payment.

(2) "Automated banking device" means any machine which, when properly activated by a financial transaction card and/or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.

(3) "Card holder" means any person or organization named on the face of a financial transaction card to whom, or for whose benefit, a financial transaction card is issued by an issuer.

(4) "Credit card sales draft" means:

(a) Any sales slip, draft, voucher or other written or electronic record of a sale of goods, services or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card account number or personal identification code; or

(b) Any evidence, however manifested, of any right or purported right to collect from a card holder funds due or purported to be due with respect to any sale or purported sale.

(5) "Expired financial transaction card" means any financial transaction card which is no longer valid because the terms agreed to have been cancelled or have elapsed.

(6) "Financial transaction card" or "FTC" means any instrument or device known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card or by any other name issued by the issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such a person or business; or any instrument or device used in providing the card holder access to a demand deposit account or a time deposit account for the purpose of making deposits of money or checks therein, or withdrawing funds in the form of money, money orders, or traveler's checks or other representative of value therefrom or transferring funds from any demand account or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing therein.

(7) "Financial transaction card account number" means the account number assigned by an issuer to a financial transaction card to identify and account for transactions involving that financial transaction card.

(8) "Issuer" means a business organization or financial institution or its duly authorized agent which issues a financial transaction card.

(9) "Personal identification code" means any numerical and/or alphabetical code assigned to the card holder of a financial transaction card by the issuer to permit the authorized electronic use of that FTC.

(10) "Personal identifying information" means the name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, checking account number, savings account number, financial

transaction card number, or personal identification code of an individual person, or any other numbers which can be used to access a person's financial resources.

(11) "Revoked financial transaction card" means an FTC which is no longer valid because permission to use it has been suspended or terminated by the issuer with actual notice having been made upon the card holder.

SECTION 2. That Section 18-3124, Idaho Code, be, and the same is hereby amended to read as follows:

18-3124. FRAUDULENT USE OF A FINANCIAL TRANSACTION CARD. It is a violation of the provisions of this section for any person with the intent to defraud:

(1) To knowingly obtain or attempt to obtain credit or to purchase or attempt to purchase any goods, property, or service, by the use of any false, fictitious, counterfeit, revoked, expired or fraudulently obtained FTC, by any FTC ~~credit~~ account number, or by the use of any FTC issued;

(2) To use an FTC to knowingly and willfully exceed the actual balance of the demand deposit account or time deposit account;

(3) To use an FTC to willfully exceed an authorized credit line in the amount of one thousand dollars ($1,000) or more, or fifty ~~per cent~~ percent (50%) of such authorized credit line, whichever is greater;

(4) To willfully deposit into his account or any other account by means of an automatic banking device, any false, forged, fictitious, altered or counterfeit check draft, money order, or any other such document;

(5) To make application for an FTC to an issuer, while knowingly making or causing to be made a false statement or report relative to his name, occupation, financial condition, assets, or to willfully and substantially ~~under-value~~ undervalue any indebtedness for the purposes of influencing the issuer to issue an FTC;

(6) To knowingly sell or attempt to sell credit card sales drafts to an authorized credit card merchant or any other person or organization, for any consideration whether at a discount or otherwise, or present or cause to be presented to the issuer or an authorized credit card merchant, for payment or collection, any credit card sales draft, or purchase or attempt to purchase any credit card sales draft for presentation to the issuer or an authorized credit card merchant for payment or collection if:

(a) Such draft is counterfeit or fictitious;

(b) The purported sale evidenced by such credit card sales draft did not take place;

(c) The purported sale was not authorized by the card holder;

(d) The items or services purported to be sold as evidenced by such credit card sales draft are not delivered or rendered to the card holder or person intended to receive them; or

(e) If purportedly delivered or rendered, such goods or services are of materially lesser value or quality from that intended by the purchaser, or are materially different from goods or services represented by the seller or his agent to the purchaser, or have

substantial discrepancies from goods or services impliedly represented by the purchase price when compared with the actual goods or services purportedly delivered or rendered.

(7) To knowingly keep or maintain in any manner carbon or other impressions or copies of credit card sales drafts, and to use such impressions or copies for the purpose of creating any fictitious or counterfeit credit sales draft, or to engage in any other activity prohibited in this section.

SECTION 3. That Chapter 31, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3126, Idaho Code, and to read as follows:

18-3126. MISAPPROPRIATION OF PERSONAL IDENTIFYING INFORMATION. It is unlawful for any person to obtain or record personal identifying information of another person without the authorization of that person, with the intent that the information be used to obtain, or attempt to obtain, credit, money, goods or services in the name of the other person without the consent of that person.

SECTION 4. That Section 18-3126, Idaho Code, be, and the same is hereby amended to read as follows:

18-312~~6~~7. RECEIVING OR POSSESSING FRAUDULENTLY OBTAINED GOODS OR SERVICES. It is unlawful for any person to receive, retain, conceal, possess or dispose of personal property, cash or other representative of value, who knows or has reason to believe the property, cash or other representative of value has been obtained by fraud as set forth in sections 18-3123, 18-3124, ~~and~~ 18-3125A and 18-3126, Idaho Code.

SECTION 5. That Section 18-3127, Idaho Code, be, and the same is hereby amended to read as follows:

18-312~~7~~8. PENALTY FOR VIOLATION. (1) Any person found guilty of a violation of section 18-3124, 18-3125, 18-3125A, ~~or~~ 18-3126 or 18-3127, Idaho Code, is guilty of a misdemeanor. In the event that the retail value of the goods obtained or attempted to be obtained through any violation of the provisions of section 18-3124, 18-3125A, ~~or~~ 18-3126 or 18-3127, Idaho Code, exceeds three hundred dollars ($300), any such violation will constitute a felony, and will be punished as provided in this section.

(2) For purposes of this section, the punishment for a misdemeanor shall be a fine of up to one thousand dollars ($1,000) or up to one (1) year in the county jail, or both such fine and imprisonment.

(3) For purposes of this section, the punishment for a felony shall be a fine of up to fifty thousand dollars ($50,000) or imprisonment in the state prison not exceeding five (5) years, or both such fine and imprisonment.

Approved March 19, 1999.

CHAPTER 125
(H.B. No. 145)

AN ACT

RELATING TO COUNTY BOND ISSUES; AMENDING SECTION 31-1903, IDAHO CODE, TO PROVIDE THAT A COUNTY MAY ISSUE BONDS FOR THE PURCHASE OF PUBLIC OPEN-SPACE LAND AND/OR EASEMENTS FOR SCENIC AND RECREATIONAL PURPOSES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-1903, Idaho Code, be, and the same is hereby amended to read as follows:

31-1903. BUILDING, ROAD, ~~AND~~ BRIDGE, AIR NAVIGATION AND OPEN-SPACE 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 purchasing public open-space land and/or easements for scenic and recreational purposes, or for any one (1) 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 purchasing public open-space land and/or easements for scenic and recreational purposes, or for any one (1) 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 trea-

sury applicable to the discharge of said indebtedness, and may issue bonds for the remainder of the indebtedness.

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 19, 1999.

CHAPTER 126
(H.B. No. 154)

AN ACT

RELATING TO PROPERTY TAX EXEMPTIONS FOR HOSPITALS; AMENDING SECTION 63-602D, IDAHO CODE, TO DEFINE HOSPITAL, TO PROVIDE A PROPERTY TAX EXEMPTION FOR CERTAIN HOSPITAL PROPERTY, TO PROVIDE FOR TAXATION OF LAND BEING PREPARED FOR USE AS A HOSPITAL BUT TO EXEMPT IMPROVEMENTS TO AND CONSTRUCTION ON THE LAND, TO DEFINE THE PHRASE "PREPARED FOR USE AS A HOSPITAL," TO PROVIDE A THREE YEAR LIMIT ON THE EXEMPTIONS PROVIDED FOR IMPROVEMENTS, TO PROVIDE AN EXEMPTION FOR THE ENTIRE REAL PROPERTY UPON COMPLETION OF CONSTRUCTION AND OBTAINING A CERTIFICATE OF OCCUPANCY, TO REQUIRE ORGANIZATION AS A NONPROFIT CORPORATION AND RECEIPT OF FEDERAL TAX EXEMPTION, TO PROVIDE FOR ISSUANCE OF AN EXEMPTION BY THE BOARD OF EQUALIZATION, TO PROVIDE FOR TAXATION OF CERTAIN PROPERTY AND TO REQUIRE CERTAIN HOSPITAL CORPORATIONS TO FILE COMMUNITY BENEFITS REPORTS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-602D, Idaho Code, be, and the same is hereby amended to read as follows:

63-602D. PROPERTY EXEMPT FROM TAXATION -- CERTAIN HOSPITALS. ~~AND REFUGE HOMES.~~ (1) For the purposes of this section, "hospital" means a hospital as defined by chapter 13, title 39, Idaho Code, and includes one (1) or more acute care, outreach, satellite, outpatient, ancillary or support facilities of such hospital whether or not any such individual facility would independently satisfy the definition of hospital.

(2) The following property is exempt from taxation: the real property owned and personal property, including medical equipment, owned or leased by a hospital corporation which is operated as a hospitals~~--and--refuge-homes,-their-furniture-and-equipment,-owned,-operated-and-controlled,-and-medical-equipment-leased,-by-any-religious-or benevolent-corporation-or-society-with~~ and the necessary grounds used therewith~~,--and--from--which-no-gain-or-profit-is-derived-by-reason-of their-operation.~~

(3) If real property, not currently exempt from taxation, is being prepared for use as a hospital, the value of the bare land only shall be taxed while the property is being prepared for use as a hos-

pital. All improvements to and construction on the real property, while it is being prepared for use as a hospital, shall be exempt from taxation. For purposes of this section, property is being "prepared for use as a hospital" if the corporation has begun construction of a hospital project as evidenced by obtaining a building permit that will, on completion, qualify such property for an exemption and, as of the assessment date, has not abandoned the construction. Construction shall not be considered abandoned if it has been delayed by causes and circumstances beyond the corporation's control or when delay is caused by an event that has occurred in the absence of the corporation's willful neglect or intentional acts, omissions or practices engaged in by the corporation for the purpose of impeding progress. Notwithstanding the foregoing, in no event shall improvements to property that is being prepared for use as a hospital qualify for an exemption from ad valorem property tax under this subsection for more than three (3) consecutive tax years; upon completion of construction and obtaining a certificate of occupancy, the entire real property shall be exempt from taxation if the corporation meets the requirements of subsection (4) of this section; provided, property already exempt or eligible for exemption shall not be affected by the provisions of this subsection.

(4) The corporation must show that the hospital:

(a) Is organized as a nonprofit corporation pursuant to chapter 3, title 30, Idaho Code, or pursuant to equivalent laws in its state of incorporation;

(b) Has received an exemption from taxation from the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code.

(5) The board of equalization shall grant an exemption to the property of any hospital corporation meeting the criteria provided in subsection (4) of this section.

(6) If a hospital corporation uses property for business purposes from which a revenue is derived which is not directly related to the hospital corporation's exempt purposes, then the property shall be assessed and taxed as any other property. If property is used in part by a hospital corporation for such purposes, then the assessor shall determine the value of the entire property and the value of the part used that is not directly related to the hospital corporation's exempt purposes. If the value of the part which is not directly related to the hospital corporation's exempt purposes is determined to be three percent (3%) or less than the value of the entire property, then the property shall remain exempt. If the value of the part which is not directly related to the hospital corporation's exempt purposes is determined to be more than three percent (3%) of the value of the entire property, then the assessor shall assess the proportionate part of the property, including the value of the real estate used for such purposes.

(7) A hospital corporation issued an exemption from property taxation pursuant to this section and operating a hospital having one hundred fifty (150) or more patient beds shall prepare a community benefits report to be filed with the board of equalization by December 31 of each year. The report shall itemize the hospital's amount of unreimbursed services for the prior year (including charity care, bad debt, and underreimbursed care covered through government programs);

special services and programs the hospital provides below its actual cost; donated time, funds, subsidies and in-kind services; additions to capital such as physical plant and equipment; and indication of the process the hospital has used to determine general community needs which coincide with the hospital's mission. The report shall be provided as a matter of community information. Neither the submission of the report nor the contents shall be a basis for the approval or denial of a corporation's property tax exemption.

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. This act shall apply retroactively for all property tax purposes commencing January 1, 1999, and shall further apply retroactively for purposes of property tax assessments, equalization proceedings, exemption proceedings, appeals and court actions which are now pending or that are commenced or arise after the effective date of this act for all tax years commencing on and after January 1, 1996, notwithstanding that the period for which an exemption is claimed is before the effective date of this act.

Approved March 19, 1999.

CHAPTER 127
(H.B. No. 155, As Amended)

AN ACT

RELATING TO A COUNCIL ON INDIAN AFFAIRS; AMENDING CHAPTER 40, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-4004, 67-4005, 67-4006 AND 67-4007, IDAHO CODE, TO CREATE A COUNCIL ON INDIAN AFFAIRS AND TO PROVIDE FOR APPOINTMENT OF MEMBERS, TO PROVIDE FOR ORGANIZATION OF THE COUNCIL, TO PROVIDE FOR COOPERATION BETWEEN GOVERNMENTS AND TO PROVIDE POWERS AND DUTIES OF THE COUNCIL.

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

SECTION 1. That Chapter 40, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTIONS, to be known and designated as Sections 67-4004, 67-4005, 67-4006 and 67-4007, Idaho Code, and to read as follows:

67-4004. COUNCIL ON INDIAN AFFAIRS CREATED -- APPOINTMENT OF MEMBERS. There is hereby created the Idaho council on Indian affairs which shall consist of ten (10) members, one (1) to be appointed by the governor, two (2) to be appointed by the president pro tempore of the senate from the members of the senate; two (2) to be appointed by the speaker of the house of representatives from the members of the house; and five (5) tribal members to be appointed by each Indian tribe with one (1) member to represent each of the various Indian tribes of the state. The five (5) Indian members shall each be members of their respective tribal councils and appointed by the tribal chairmen subject to the consent of the tribal council. A tribal member

shall serve at the will of his or her tribal government until a successor is similarly selected.

67-4005. ORGANIZATION OF COUNCIL. The council shall meet twice a year and may be called for special meetings from time to time by a majority of the council members. The council shall elect a chairperson and a vice chairperson and other officers from its members. Six (6) members constitute a quorum. The members of the council appointed by the governor shall be compensated as provided in section 59-509(h), Idaho Code. Legislative members of the council shall be compensated as provided by the citizens' committee for legislative compensation for interim legislative meetings which shall be paid from the legislative account.

67-4006. GOVERNMENTS TO COOPERATE. The tribal governments and the state government together with its political subdivisions shall cooperate to provide relevant information and assistance on any matters requested by the council and shall share the burden of operational expenses and staffing. Staffing and other costs incurred by the council shall be paid one-half (1/2) by the state government and one-half (1/2) by the tribal governments.

67-4007. POWERS AND DUTIES OF THE COUNCIL. The council shall have the following powers and duties:

(1) To monitor and review legislation and state policies which impact state/tribal relations in the areas of jurisdiction, governmental sovereignty, taxation, natural resources, economic development, and other issues where state government and tribal government interface;

(2) To advise the governor, legislature, and state departments and agencies of the nature, magnitude, and priorities of issues regarding state/tribal relations;

(3) To advise the governor, legislature, and state departments and agencies on, and assist in the development and implementation of, cooperative policies, programs, and procedures focusing on the unique relationship between tribal and state government;

(4) To establish advisory committees on special subjects or projects;

(5) To cooperate and/or facilitate contracting between tribes and individuals or state, local, and other agencies, including agencies of the federal government and of other states;

(6) To make bylaws for its own governance and procedure consistent with the laws of the state and the respective tribes.

Approved March 19, 1999.

CHAPTER 128
(H.B. No. 166)

AN ACT

RELATING TO GUARDIANSHIP; AMENDING SECTION 15-5-303, IDAHO CODE, TO PROVIDE FOR PARTICIPATION OF THE ALLEGED INCAPACITATED PERSON AND

TO PROVIDE ADDITIONAL EVALUATION; AMENDING SECTION 15-5-308, IDAHO CODE, TO GOVERN QUALIFICATIONS OF THE VISITOR AND TO SPECIFY CONTENTS OF THE REPORT; AMENDING SECTION 15-5-310, IDAHO CODE, TO GOVERN THE APPOINTMENT AND POWERS OF A TEMPORARY GUARDIAN; AND AMENDING SECTION 15-5-311, IDAHO CODE, TO ESTABLISH PREFERENCE TO THE PERSON PREFERRED BY THE INCAPACITATED PERSON FOR APPOINTMENT AS GUARDIAN.

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

SECTION 1. That Section 15-5-303, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-303. PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN OF AN INCAPACITATED PERSON. (a) The incapacitated person or any person interested in his welfare may petition for a finding of incapacity and appointment of a guardian, limited or general. It is desirable to make available the least restrictive form of guardianship to assist persons who are only partially incapable of caring for their own needs. Recognizing that every individual has unique needs and differing abilities, the public welfare should be promoted by establishing a guardianship that permits incapacitated persons to participate as fully as possible in all decisions affecting them; that assists such persons in meeting the essential requirements for their physical health and safety, in protecting their rights, in managing their financial resources, and in developing or regaining their abilities to the maximum extent possible; and that accomplishes these objectives through providing, in each case, the form of guardianship that least interferes with legal capacity of a person to act in his own behalf.

(b) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity and unless the allegedly incapacitated person has counsel of his own choice, it shall appoint an attorney to represent him in the proceeding, who shall have the powers and duties of a guardian ad litem. The person alleged to be incapacitated shall be examined by a physician or other qualified person appointed by the court who shall submit his report in writing to the court. The court may, in appropriate cases, appoint a mental health professional, defined as a psychiatrist, psychologist, gerontologist, licensed social worker, or licensed counselor, to examine the proposed ward and submit a written report to the court. The person alleged to be incapacitated also shall be interviewed by a visitor sent by the court. The visitor shall also interview the person who appears to have caused the petition to be filed and any person who is nominated to serve as guardian, and visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that he will be detained or reside if the requested appointment is made and submit his report in writing to the court. Where possible without undue delay and expenses beyond the ability to pay of the allegedly incapacitated person, the court, in formulating the judgment, may utilize the service of any public or charitable agency that offers or is willing to evaluate the condition of the allegedly incapacitated person and make recommendations to the court regarding the most appropriate form of state intervention in his affairs.

(c) Unless excused by the court for good cause, the proposed guardian shall attend the hearing. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see or hear all evidence bearing upon his condition. He is entitled to be represented by counsel, to present evidence and subpoena witnesses and documents, to ~~cross~~-examine witnesses, including the court-appointed physician, mental health professional, or other ~~qualified~~ person ~~and~~ qualified to evaluate the alleged impairment, as well as the court-appointed visitor,~~.--The issue~~ and otherwise participate in the hearing. The hearing may be ~~determined at~~ a closed hearing ~~if~~ upon the request of the person alleged to be incapacitated or his counsel ~~so--requests~~ and a showing of good cause. After appointment, the guardian shall immediately provide written notice of any proposed change in the permanent address of the ward to the court and all interested parties.

SECTION 2. That Section 15-5-308, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-308. VISITOR IN GUARDIANSHIP PROCEEDING. (1) A visitor is, with respect to guardianship proceedings, a person who is trained in law, nursing, ~~or~~ psychology, social work, or counseling or has other qualifications that make him suitable to perform the function and is an officer, employee or special appointee of the court with no personal interest in the proceedings. The visitor's report is to include the following information: a description of the nature, cause and degree of incapacity, and the basis upon which this judgment is made; a description of the needs of the person alleged to be incapacitated for care and treatment and the probable residential requirements; an evaluation of the appropriateness of the guardian or conservator whose appointment is sought and a description of the steps the proposed guardian or conservator has taken or intends to take to meet the needs of the incapacitated person; a description of the abilities of the alleged incapacitated person and a recommendation as to whether a full or limited guardianship or conservatorship should be ordered and, if limited, the visitor's recommendation of the specific areas of authority the limited guardianship or conservator should have and the limitations to be placed on the incapacitated person; any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardianship or conservatorship; an analysis of the financial status and assets of the alleged incapacitated person; identification of people with significant interest in the welfare of the alleged incapacitated person who should be informed of the proceedings; a description of the qualifications and relationship of the proposed guardian or conservator; an explanation of how the alleged incapacitated person responded to the advice of the proceedings and the right to be present at the hearing on the petition; in the case of conservatorship, a recommendation for or against a bond requirement for the proposed conservator, taking into account the financial statement of the person whose appointment is sought.

(2) Any person appointed as a visitor shall be personally immune from any liability for acts, omissions or errors in the same manner as if such person were a volunteer or director under the provisions of section 6-1605, Idaho Code.

SECTION 3. That Section 15-5-310, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-310. TEMPORARY GUARDIANS. (a) If ~~an-incapacitated-person-has no-guardian,-an-emergency-exists,~~ the court finds that a guardian is not properly performing the duties of guardian or an emergency exists such that the likely result will be substantial harm to an alleged incapacitated person's health, safety, or welfare, and that no other person appears to have authority and willingness to act in the circumstances, the court, on petition by a person interested in the alleged incapacitated person's welfare, may ~~exercise-the-power-of-a-general guardian-pending-notice-and-hearing-on-the-petition~~ appoint an emergency guardian whose authority may not exceed sixty (60) days. The emergency guardianship must be limited to only those powers absolutely necessary, or the least restrictive to the proposed ward, for the immediate health and safety of the proposed ward until such time as a full hearing may be held in the matter and the emergency guardian may exercise only those powers specified in the order. Emergency letters of guardianship shall allow the temporary guardian only such access to the proposed ward's assets as is necessary to provide and pay for the proposed ward's necessities of life, including short and long-term health care, but shall expressly deny a temporary guardian the right to have the temporary guardian's name added to any assets of the proposed ward pending a hearing on the guardianship.

(b) The court shall appoint a guardian ad litem to represent the proposed ward in all cases involving a petition for adjudication of incapacity. The alleged incapacitated person may substitute his own attorney for the guardian ad litem appointed by the court. Any attorney representing an alleged incapacitated person may not serve as guardian of the proposed ward or as counsel for the petitioner for guardianship.

(c) ~~If-an-appointed-guardian-is-not--effectively--performing--his duties--and--the-court-further-finds-that-the-welfare-of-the-incapacitated-person-requires-immediate-action,-it-may,-with-or~~ An emergency guardian may be appointed without notice~~,-appoint-a-temporary-guardian for~~ to the alleged incapacitated person ~~having-the-powers-specified-in the--order--for--a--specified-period-not-to-exceed-six-(6)-months.-The authority-of-any-permanent-guardian-previously-appointed-by-the--court is--suspended--so-long-as-a-temporary-guardian-has-authority.-A-temporary-guardian-may-be-removed-at-any-time.-A-temporary--guardian--shall make--any--report-the-court-requires.-In-other-respects-the-provisions of-this-code-concerning-guardians-apply-to-temporary-guardians~~ or his attorney only if the court finds from affidavit or other sworn testimony that the proposed ward will be substantially harmed before a hearing on the appointment can be held. If the court appoints an emergency guardian without notice to the proposed ward, the proposed ward must be given notice of the appointment within forty-eight (48) hours after the appointment. The court shall hold a hearing on the appropriateness of the appointment within five (5) days after the appointment if requested by an interested party at which time the court shall appoint a visitor to meet with the alleged incapacitated person and make a written report to the court. The court shall also appoint a physician to examine the proposed ward giving preference to

the appointment of the proposed ward's treating physician if the proposed ward has a current treating physician.

SECTION 4. That Section 15-5-311, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-311. WHO MAY BE GUARDIAN -- PRIORITIES. (a) Any competent person or a suitable institution may be appointed guardian of an incapacitated person.

(b) The person preferred by the incapacitated person shall be appointed guardian unless good cause be shown why appointment of such person is contrary to the best interests of the incapacitated person. If the incapacitated person is unable to express a preference, any previous expression, including a durable power of attorney for health care, may be considered by the court.

(c) Persons who are not disqualified have priority for appointment as guardian in the following order:

(1) the spouse of the incapacitated person;

(2) an adult child of the incapacitated person;

(3) a parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent;

(4) any relative of the incapacitated person with whom he has resided for more than six (6) months prior to the filing of the petition;

(5) a person nominated by the person who is caring for him or paying benefits to him;

(6) the person preferred by the incapacitated person. The court shall always consider the wishes expressed by an incapacitated person as to who shall be appointed guardian.

Approved March 19, 1999.

CHAPTER 129
(H.B. No. 182)

AN ACT

RELATING TO RECORDS OF BEER AND WINE LICENSEES; AMENDING SECTION 23-1006, IDAHO CODE, TO REQUIRE QUARTERLY REPORTS BY LICENSEES AND TO STRIKE REQUIREMENT FOR NOTARIZATION; AND AMENDING SECTION 23-1314, IDAHO CODE, TO REQUIRE QUARTERLY REPORTS AND TO STRIKE REQUIREMENTS FOR NOTARIZATION.

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

SECTION 1. That Section 23-1006, Idaho Code, be, and the same is hereby amended to read as follows:

23-1006. RECORDS AND RETURNS OF LICENSEES -- INVESTIGATIONS AND EXAMINATIONS. Every licensed dealer, brewer and wholesaler shall have, and notify the director of, a place of business within the state of Idaho where such licensee will and shall keep a record of his or its

imports into, and sales of beer within, the state, including the date, quantity, from whom purchased for import, the carrier or other person or means by whom or which transported for import, and the name and address of the vendee, and shall so keep such record of each such sale or import for a period of four (4) years thereafter. Such licensee shall, on or before the 15th day of ~~each month~~ April, July, October and January, make a return~~, under oath,~~ to the director of the amount of beer sold in, and imported by him into, the state of Idaho for the preceding calendar ~~month~~ quarter, which shall be upon forms furnished by the director. The director may require such additional information to be included in such returns as shall assist him in determining whether or not such licensee is complying with, or violating, this act and whether or not all taxes and license fees provided for by this act are being fully paid. The director shall have the right at any time to make an examination of each dealer's, brewer's and wholesaler's books, records and premises, make an inventory and otherwise check the accuracy of such returns, and investigate for any violation of this act, and file, and retain in his office for not less than two (2) years, a report thereof. An application for, and acceptance of a license by, a dealer, brewer, wholesaler or retailer shall constitute consent to, and be authority for, entry by the director, or his authorized agents, upon any premises related to the licensee's business, or wherein are, or should be, kept, any of the licensee's books, records, supplies or other property related to said business, and to make the inventory, check and investigations aforesaid with relation to said licensee or any other licensee.

SECTION 2. That Section 23-1314, Idaho Code, be, and the same is hereby amended to read as follows:

23-1314. RECORDS OF WINERIES, IMPORTERS AND DISTRIBUTORS -- CONTENTS -- REPORTS -- CONTENTS -- INSPECTION OF RECORDS, INVENTORY, AND PROPERTY. Every winery, distributor and importer shall have, and notify the director, of a place of business within the state of Idaho where such licensee will and shall keep a record of his or its imports into, and sales of wine within, the state, including the date, quantity, from whom purchased for import, the carrier or other person or means by whom or which transported for import, and the name and address of the purchaser, and shall so keep such record of each such sale or import for a period of four (4) years thereafter. Such licensee shall, on or before the fifteenth day of ~~each month~~ April, July, October and January, make a return~~, under oath,~~ to the director of the amount of wine sold in, and imported by him into, the state of Idaho for the preceding calendar ~~month~~ quarter, which shall be upon forms furnished by the director. The director may require such additional information to be included in such returns as shall assist him in determining whether or not such licensee is complying with this act and whether or not all taxes and fees provided for by this act are being fully paid. The director shall have the right at any time to make an examination of each winery, distributor's and importer's books, records and premises, and such other matters as may assist him in verifying the accuracy of such returns, and retain in his office for not less than two (2) years, a report thereof. An application for,

and acceptance of a license by a winery, distributor, importer or retailer shall constitute consent to, and be authority for, entry by the director or his authorized agents, upon any premises related to the licensee's business, or wherein are, or should be, kept, any of the licensee's books, records, supplies or other property related to said business, and to make the inventory, check and investigations aforesaid with relation to said licensee or any other licensee.

Approved March 19, 1999.

CHAPTER 130
(H.B. No. 191)

AN ACT

RELATING TO SALES TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622NN, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM THE TAXES IMPOSED BY THIS CHAPTER FOR THE SALE AT RETAIL, STORAGE, USE OR OTHER CONSUMPTION OF TANGIBLE PERSONAL PROPERTY WHICH IS EXCLUSIVELY USED IN OR TO MAINTAIN THE ENVIRONMENT OF, OR IS OR BECOMES A COMPONENT PART OF, A CLEAN ROOM, AND TO PROVIDE DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622NN, Idaho Code, and to read as follows:

63-3622NN. CLEAN ROOMS. (1) There is exempted from the taxes imposed by this chapter the sale at retail, storage, use or other consumption in this state of tangible personal property which is exclusively used in or to maintain the environment of, or is or becomes a component part of, a clean room, without regard to whether the property is actually contained within the clean room or whether such tangible personal property ultimately becomes affixed to or incorporated into real property.

(2) The following definitions apply to this section:

(a) "Clean room" means an environment in a defined space, within a larger building, where humidity, temperature, particulate matter and contamination are precisely and regularly controlled; and

(i) Which is a "Class 10,000" clean room or better, and

(ii) In which the primary activities are activities which qualify for the production exemption in section 63-3622D, Idaho Code, resulting in the manufacture of products which are either semiconductors, products manufactured using semiconductor manufacturing processes, or equipment used to manufacture semiconductors.

(b) "Class 10,000 clean room" means a specified area in which the concentration of airborne particulates of five-tenths (0.5) micrometers or larger is regularly maintained at a level of clean-

liness no greater than ten thousand (10,000) particles per cubic foot of air.

(c) "Semiconductor" means a small piece of semiconductor material including silicon:

(i) On which an integrated circuit is embedded, or

(ii) Which is altered in the manufacturing process by primarily using semiconductor processes.

(d) "Integrated circuit" means a complex of multiple active electronic components and their interconnections built upon a semiconductor substrate.

(e) "Semiconductor manufacturing processes" means chemical vapor deposition, plasma vapor deposition, wet and dry etch, chemical mechanical planarization or polishing and such other manufacturing processes generally recognized by the semiconductor industry as being standard processes in the industry.

(f) Property is "exclusively used" for a purpose when its use for any other purpose is insignificant or inconsequential.

SECTION 2. This act shall be in full force and effect on and after January 1, 2000.

Approved March 19, 1999.

CHAPTER 131
(H.B. No. 252)

AN ACT

RELATING TO CERTIFICATION OF EMERGENCY MEDICAL PERSONNEL; AMENDING SECTION 39-140, IDAHO CODE, TO DEFINE QUALIFICATIONS FOR AN EMERGENCY MEDICAL TECHNICIAN-INTERMEDIATE.

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

SECTION 1. That Section 39-140, Idaho Code, be, and the same is hereby amended to read as follows:

39-140. DEFINITIONS. As used in this act:

(1) "Ambulance" means any privately or publicly owned ground vehicle, nautical vessel, fixed wing aircraft or rotary wing aircraft used for, or intended to be used for the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with the provisions of this act and specifications established by the board of health and welfare.

(2) "Board of health and welfare" means the Idaho board of health and welfare.

(3) "Board of medicine" means the Idaho board of medicine as provided in chapter 18, title 54, Idaho Code.

(4) "Certified Personnel" means individuals who have completed training and successfully passed examinations for training and skills proficiency in one (1) or several levels as certified by the depart-

ment of health and welfare. These several levels of certified personnel shall include:

(a) FR -- "First Responder" (hereafter FR) means an individual certified by the EMS bureau of the Idaho department of health and welfare as a FR on the basis of successful completion of a FR course approved by the board of health and welfare and subsequent required continuing training.

(b) EMT-B -- "Emergency Medical Technician-Basic" (hereafter EMT-B) means an individual certified by the EMS bureau of the Idaho department of health and welfare on the basis of successful completion of an EMT-B course approved by the board of health and welfare and subsequent required continuing training.

(c) "Ambulance Rating" means a certification issued by the EMS bureau of the Idaho department of health and welfare to an EMT-B on the basis of successful completion of supervised infield ambulance experience as defined by the board of health and welfare.

(d) "Advanced Emergency Medical Technician-Ambulance" (hereafter advanced EMT-A) means a person who:

(i) Is certified by the EMS bureau of the Idaho department of health and welfare on the basis of successful completion of EMT-A training and in addition, has completed at least fifty (50) hours of advanced training in such techniques as intravenous fluid therapy, antishock trouser application, airway management, and subsequent required continued training; and

(ii) Has received additional training by a licensed physician:

(A) To administer drugs under written or oral authorization of a licensed physician; and

(B) To perform such other acts under written or oral authorization of a licensed physician as shall be authorized by the board of medicine; and

(iii) Has been examined and certified as an advanced EMT-A by an authorized representative of the department.

(e) "Emergency Medical Technician-Intermediate" (hereafter EMT-I) means a person who:

(i) Has completed all the requirements for certification as an EMT-I; and

(ii) Has successfully completed a course in patient care including the required training under the supervision of a licensed physician covering the scope of practice defined by the board of medicine; and

(iii) Has been examined and certified as an EMT-I by an authorized representative of the department.

(f) "Emergency Medical Technician-Paramedic" (hereafter EMT-P) means a person who:

(i) Has completed all the requirements for certification as an EMT-P; and

(ii) Has successfully completed a course in intensive patient care including the required training under the supervision of a licensed physician, including training in cardiac defibrillation, cardiac monitoring, endotracheal intubation and drug administration; and

(iii) Has been examined and certified as an EMT-P by an authorized representative of the department.

(5) "Department" means the Idaho department of health and welfare.

(6) "Emergency Medical Services" means the services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

(7) "Non-Transport Service" means a service licensed by the department of health and welfare, EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.

(8) "Non-Transport Vehicle" means any vehicle licensed by the department of health and welfare, EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons.

(9) "Supervision" means the medical direction by a licensed physician of activities provided by certified personnel affiliated with a licensed ambulance or non-transport service, including, but not limited to: establishing standing orders and protocols, reviewing performance of certified personnel, providing instructions for patient care via radio or telephone, and other oversight.

(10) "Transfer" means the transportation of a patient from one (1) medical care facility to another.

Approved March 19, 1999.

CHAPTER 132
(H.B. No. 254)

AN ACT

RELATING TO MEDICAL ASSISTANCE PROGRAM; AMENDING SECTION 56-209d, IDAHO CODE, TO PROVIDE FOR COVERAGE OF COMMUNICATION DEVICES AND TO MAKE TECHNICAL CORRECTIONS.

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~~ rules 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~~ rules 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~~ rules 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) Assistive and augmentative communication devices.

Approved March 19, 1999.

CHAPTER 133
(H.B. No. 276)

AN ACT

RELATING TO INCOME TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022N, IDAHO CODE, TO PROVIDE THAT FOR TAXABLE YEARS COMMENCING ON AND AFTER JANUARY 1, 1999, AN ADDITIONAL DEDUCTION OF ONE HUNDRED FIFTY DOLLARS SHALL BE ALLOWED IN THE CASE OF A JOINT RETURN WHERE THE STANDARD DEDUCTION IS CLAIMED; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022N, Idaho Code, and to read as follows:

63-3022N. MARRIAGE PENALTY REDUCTION. For taxable years commencing on and after January 1, 1999, an additional deduction of one hundred fifty dollars ($150) shall be allowed in the case of a joint return where the standard deduction as defined in section 63-3022, Idaho Code, is claimed.

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, 1999.

Approved March 19, 1999.

CHAPTER 134
(S.B. No. 1085)

AN ACT

RELATING TO DUCK RACES; AMENDING SECTION 67-7710, IDAHO CODE, TO PROVIDE THAT FOR DUCK RACES THERE SHALL BE NO LIMIT ON THE MAXIMUM AMOUNT OF THE VALUE OF A CASH PRIZE IF THE CASH PRIZE IS UNDERWRITTEN BY INSURANCE, TO PROVIDE IF THE DUCK RACE OFFERS A CASH PRIZE THAT IS NOT UNDERWRITTEN BY INSURANCE THE MAXIMUM PRIZE IS ONE THOUSAND DOLLARS AND TO PROVIDE THAT THERE SHALL BE NO LIMIT ON THE MAXIMUM VALUE OF MERCHANDISE USED AS A PRIZE IN A DUCK RACE IF THE MERCHANDISE IS NOT REDEEMABLE FOR CASH; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-7710, Idaho Code, be, and the same is hereby amended to read as follows:

67-7710. RAFFLES <u>AND DUCK RACES.</u> (1) It is lawful for any charitable organization to conduct raffles in accordance with the provisions of this chapter. Any charitable or nonprofit organization who conducts a raffle in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally, any person knowingly conducting a raffle in violation of any provision of this chapter may be charged under the gambling laws of the state contained in chapter 38, title 18, Idaho Code. It shall not constitute a violation of state law to advertise a charitable raffle conducted pursuant to this section. It is lawful to participate in a charitable raffle conducted pursuant to this chapter. A charitable raffle conducted lawfully pursuant to this chapter is not gambling for purposes of chapter 38, title 18, Idaho Code.

(2) Raffles shall be limited to twelve (12) per charitable organization per year.

(3) The maximum cash prize that may be offered or paid for any one (1) <u>raffle, which is not a duck race,</u> is one thousand dollars ($1,000) and if merchandise is used as a prize and it is not redeemable for cash, there shall be no limit on the maximum amount of value for the merchandise. <u>For duck races, there shall be no limit on the maximum amount of the value of a cash prize if the cash prize is underwritten by insurance. If a duck race offers a cash prize that is not underwritten by insurance, the maximum cash prize is one thousand dollars ($1,000). There shall be no limit on the maximum of value for merchandise used as a prize in a duck race if the merchandise is not redeemable for cash.</u>

(4) As used in this subsection, "net proceeds of a charitable raffle" means the gross receipts less the cost of prizes awarded. "Net proceeds of a duck race" shall mean gross receipts, less the cost of prizes awarded and the rental cost of the ducks used in the race. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the charitable organization for charitable, religious, educational, civic or other nonprofit purposes.

(5) Any licensed charitable or nonprofit organization conducting raffles pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of raffles conducted or sponsored by the charitable or nonprofit organization;

(b) The location and date at which each raffle was conducted;

(c) The gross revenues of each raffle;

(d) The fair market value of any prize given at each raffle;

(e) The amount paid in prizes at each raffle;

(f) The amount paid to the charitable organization;

(g) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission.

(6) Every charitable or nonprofit organization whose annual gross revenues exceed one hundred fifty thousand dollars ($150,000) from the operation of raffle events shall provide the state lottery with a copy of an annual report of the raffle events. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the license year.

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

Approved March 19, 1999.

CHAPTER 135
(S.B. No. 1122, As Amended)

AN ACT

RELATING TO SALE OF PETROLEUM PRODUCTS TO DISABLED PERSONS; AMENDING SECTION 71-241, IDAHO CODE, TO PROVIDE THAT ANY RETAIL OUTLET OFFERING SELF-DISPENSED MOTOR FUEL ONLY SHALL PROVIDE REFUELING ASSISTANCE UPON REQUEST OF THE DISABLED PERSON EXCEPT IF THERE IS AN ABLE-BODIED ADULT IN THE VEHICLE OR IF THERE IS ONLY ONE ATTENDANT ON DUTY AT THE RETAIL OUTLET, TO PROVIDE A PENALTY, TO REVISE THE REQUIRED NOTICE PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 71-241, Idaho Code, be, and the same is hereby amended to read as follows:

71-241. PETROLEUM PRODUCTS -- HOW SOLD -- MEASUREMENT. (1) All petroleum products shall be sold by liquid measure or by net weight in accordance with the provisions of section 71-232, Idaho Code, and in accordance with regulations to be made by the director.

(2) Sellers of motor fuel within this state shall offer to prospective purchasers the option to buy the product either by gross gallons or on the assumption that the temperature of the product is sixty degrees (60°) fahrenheit or the centigrade equivalent. This purchaser option may be exercised only on an annual basis and applied only to single deliveries of eight thousand (8,000) gallons or more or the metric equivalent. Any adjustments to volumes during the temperature compensation process shall be made in accordance with the standards set by the American society of testing materials.

(3) The department of agriculture may purchase and use measuring devices for monitoring bulk deliveries.

(4) Any retail outlet offering self-dispensed motor fuels only shall, upon request of the disabled driver, provide assistance in delivering fuel into the tank of a vehicle displaying a handicapped license or card, but this requirement shall not apply when such vehicle carries an able-bodied adult or if only one (1) attendant is on duty at the retail outlet. Disabled individuals receiving this refueling service at a self-service pump shall not be charged more than the self-service price for the fuel. Notice of the availability of this service shall be posted pursuant to the provisions of subsection (5)(b) of this section. A violation of the provisions of this subsection shall be an infraction.

(5) Any retail outlet offering both attendant-dispensed motor fuels and self-dispensed motor fuels will, during those hours that attendant-dispensed motor fuels are available, provide attendant-dispensed motor fuels at the same price as for self-dispensed motor fuels when such fuel is delivered at the self-service pump into the fuel tank of a vehicle displaying a handicapped license or card, but this requirement shall not apply when such vehicle carries an able-bodied adult.

(a) Notification of the ~~law's~~ provisions of subsections (4) and (5) of this section shall be provided, by the Idaho transportation department, to all operators of facilities offering gasoline or other motor vehicle fuels for sale, and to every person who is issued a handicapped or a disabled ~~veteran's~~ veterans registration plate, or other authorized designation.

(b) The following notice shall be provided by the Idaho transportation department and posted ~~on each pump~~ in a manner and location which is visible to any driver seeking refueling service~~:~~. The notice shall be a placard in substantially the following format, printed in black except that the international accessible symbol shall be printed in blue.

~~SERVICE TO THE DISABLED~~

~~Disabled individuals driving an automobile properly displaying a handicapped parking placard or plate, or other authorized designation, are entitled to request and receive refueling service at a self-service pump at this gas station for which they may not be charged more than the self-service price.~~

WHEN THERE ARE TWO OR MORE
EMPLOYEES ON DUTY
THIS STATION WILL

PUMP YOUR GAS
Idaho Code Section 71-241

Approved March 19, 1999.

CHAPTER 136
(S.B. No. 1130, As Amended)

AN ACT

RELATING TO ORGANIC FOODS; AMENDING SECTION 22-1102, IDAHO CODE, TO FURTHER DEFINE THE TERM "FOOD PRODUCTS" AND TO PROVIDE A DEFINITION OF "LIVESTOCK"; AMENDING SECTION 22-1102, IDAHO CODE, AS AMENDED BY SECTION 3, CHAPTER 99, LAWS OF 1994, TO FURTHER DEFINE THE TERM "FOOD PRODUCTS" AND TO PROVIDE A DEFINITION OF "LIVESTOCK"; AMENDING SECTION 22-1103, IDAHO CODE, TO PROVIDE FOR RULES FOR STANDARDS FOR LIVESTOCK PRODUCED FOR SALE AS ORGANICALLY GROWN PRODUCTS, TO PROVIDE RULES FOR RECORDS REQUIRED OF ORGANIC LIVESTOCK PRODUCERS, TO PROVIDE FOR CONSULTATION UPON PROMULGATING CERTAIN RULES AND TO PROVIDE WHEN THOSE RULES GO INTO EFFECT; AND AMENDING SECTION 22-1103, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 314, LAWS OF 1992, TO PROVIDE RULES FOR STANDARDS FOR LIVESTOCK PRODUCED FOR SALE AS ORGANICALLY GROWN PRODUCTS, TO PROVIDE RULES FOR RECORDS REQUIRED OF ORGANIC LIVESTOCK PRODUCERS, TO PROVIDE FOR CONSULTATION UPON PROMULGATING CERTAIN RULES AND TO PROVIDE WHEN THOSE RULES GO INTO EFFECT.

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

SECTION 1. That Section 22-1102, Idaho Code, be, and the same is hereby amended to read as follows:

22-1102. DEFINITIONS. In this chapter:

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Food products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, ~~and~~ apiary and apiary products, ~~but shall not include~~ poultry and poultry products, livestock and livestock products, milk and dairy products or aquaculture products.

(3) "Handler" means any person or organization who processes, packages, transports or stores organic food or nonorganic food.

(4) "Livestock" means cattle, swine, sheep, goats, ratites, domestic cervidae and bison.

(5) "Organic certification seal" means the design approved by the

director and which when imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and regulations developed in accordance with the provisions of this chapter and all other conditions of the provisions of this chapter have been met.

(~~5~~6) "Organic food" means any food product that is marketed using the term organic, or any derivative of organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides.

(~~6~~7) "Organically grown food" means food products grown in Idaho which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not less than thirty-six (36) months prior to harvest. Organically grown foods are produced under the standards and regulations established in accordance with the provisions of this chapter.

(~~7~~8) "Person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(~~8~~9) "Producer" means any person or organization who:

(a) Grows, raises or produces a food product; and

(b) Sells the food product as, or offers it for sale as, an organic food.

(~~9~~10) "Vendor" means any person who sells organic food to the consumer or another vendor.

SECTION 2. That Section 22-1102, Idaho Code, as amended by Section 3, Chapter 99, Laws of 1994, be, and the same is hereby amended to read as follows:

22-1102. DEFINITIONS. In this chapter:

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Food products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, apiary and apiary products, ~~and~~ lamb, ~~but shall not include~~ poultry and poultry products, other livestock and livestock products, milk and dairy products or aquaculture products.

(3) "Handler" means any person or organization who processes, packages, transports or stores organic food or nonorganic food.

(4) "Lamb" means a young sheep that has not reached one (1) year of age.

(5) "Livestock" means cattle, swine, sheep, goats, ratites, domestic cervidae and bison.

(6) "Organic certification seal" means the design approved by the director and which when imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and regulations developed in accordance with the provisions of this chapter and all other conditions of the provisions of this chapter have been met.

(~~6~~7) "Organic food" means any food product that is marketed using the term organic, or any derivative of organic in its labeling or

advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides.

(~~7~~8) "Organically grown food" means food products grown in Idaho which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not less than thirty-six (36) months prior to harvest. Organically grown foods are produced under the standards and regulations established in accordance with the provisions of this chapter.

(~~8~~9) "Person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

(~~9~~10) "Producer" means any person or organization who:

(a) Grows, raises or produces a food product; and

(b) Sells the food product as, or offers it for sale as, an organic food.

(~~10~~1) "Vendor" means any person who sells organic food to the consumer or another vendor.

SECTION 3. That Section 22-1103, Idaho Code, be, and the same is hereby amended to read as follows:

22-1103. ADMINISTRATION AND ENFORCEMENT -- RULES AND REGULATIONS. The administration and enforcement of the provisions of this chapter shall be under the director. The director is authorized, in conformance with chapter 52, title 67, Idaho Code, to promulgate rules and regulations concerning, but not limited to:

(1) Standards for agricultural crops and livestock produced for sale as organically grown products.

(2) Records required of organic crop and livestock producers.

(3) The number of on-site inspections, announced and unannounced.

(4) Chemical residue analysis of organically grown agricultural products and fees for conducting such analysis.

(5) Certification of private laboratories to conduct chemical residue analyses.

(6) Standards that an agricultural producer must meet to be recognized as a producer under the provisions of this chapter.

(7) Development and distribution of the organic certification seal and standards for its application for use on Idaho agricultural products.

(8) Development and implementation of labeling standards.

(9) Rules establishing organic standards for poultry and poultry products, livestock and livestock products, milk and dairy products or aquaculture products will be promulgated in consultation with the appropriate agricultural or commodity organizations, as determined by the director. No pending or temporary rule adopted by the department shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review pursuant to sections 67-5224 and 67-5291, Idaho Code.

SECTION 4. That Section 22-1103, Idaho Code, as amended by Section 2, Chapter 314, Laws of 1992, be, and the same is hereby amended to read as follows:

22-1103. ADMINISTRATION AND ENFORCEMENT -- RULES AND REGULATIONS. The administration and enforcement of the provisions of this chapter shall be under the director. The director is authorized, in conformance with chapter 52, title 67, Idaho Code, to promulgate rules and regulations concerning, but not limited to:

(1) Standards for agricultural crops and livestock produced for sale as organically grown products.

(2) Records required of organic crop and livestock producers.

(3) The number of on-site inspections, announced and unannounced.

(4) Chemical residue analysis of organically grown agricultural products and fees for conducting such analysis.

(5) Certification of private laboratories to conduct chemical residue analyses.

(6) Standards that an agricultural producer must meet to be recognized as a producer under the provisions of this chapter.

(7) Development and distribution of the organic certification seal and standards for its application for use on Idaho agricultural products.

(8) Development and implementation of labeling standards.

(9) Standards for health care and medical treatment for lambs and for the prevention and control of infectious or communicable diseases among lambs.

(10) Standards for prohibitions against denial of health care or medical treatment of lambs in order to obtain or retain organic certification.

(11) Rules establishing organic standards for poultry and poultry products, livestock and livestock products, milk and dairy products or aquaculture products will be promulgated in consultation with the appropriate agricultural or commodity organizations, as determined by the director. No pending or temporary rule adopted by the department shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review pursuant to sections 67-5224 and 67-5291, Idaho Code.

Approved March 19, 1999.

CHAPTER 137
(S.B. No. 1135)

AN ACT

RELATING TO SOIL CONSERVATION DISTRICTS AND THE SOIL CONSERVATION COMMISSION; AMENDING SECTION 22-2728, IDAHO CODE, TO REVISE LEGISLATIVE POLICY REGARDING SOIL CONSERVATION DISTRICTS AND THE SOIL CONSERVATION COMMISSION; AMENDING SECTION 22-2729, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS TO THE SOIL CONSERVATION COMMISSION REGARDING CERTAIN ACTIVITIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2730, IDAHO CODE, TO PROVIDE CORRECT NOMENCLA-

TURE FOR THE RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND, TO REVISE PURPOSES FOR THE FUND, TO PROVIDE THAT THE SOIL CONSERVATION COMMISSION SHALL ESTABLISH A LIST OF PRIORITY PROJECTS FOR CONTROL OF AGRICULTURAL NONPOINT SOURCE POLLUTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2731, IDAHO CODE, TO REVISE PURPOSES FOR ALLOCATION OF THE RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND; AMENDING SECTION 22-2732, IDAHO CODE, TO PROVIDE FOR LOANS FROM THE FUND, TO REVISE PROCEDURES FOR APPLICANTS APPLYING FOR A LOAN FROM THE FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2733, IDAHO CODE, TO PROVIDE FOR GRANTS FROM THE FUND, TO REVISE PROCEDURES FOR APPLICATION OR APPROVAL OF GRANTS FROM THE FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 27, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2734, IDAHO CODE, TO ESTABLISH A COST-SHARE PROGRAM FROM THE FUND AND TO PROVIDE PROCEDURES GOVERNING APPLICATION AND APPROVAL FROM THE FUND; AMENDING CHAPTER 27, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2735, IDAHO CODE, TO PROVIDE FOR PAYMENTS BY THE SOIL CONSERVATION COMMISSION FOR ELIGIBLE IMPROVEMENTS, PROJECTS OR PLANS, TO PROVIDE FOR AGREEMENTS AND TO PROVIDE RULES; AMENDING SECTION 39-3624, IDAHO CODE, TO DELETE REFERENCE TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 39-3625, IDAHO CODE, TO DELETE DEFINITIONS OF "SOIL CONSERVATION DISTRICT" AND "SOIL CONSERVATION COMMISSION"; AMENDING SECTION 39-3626, IDAHO CODE, TO DELETE REFERENCE TO SOIL CONSERVATION DISTRICTS, TO DELETE REFERENCE TO THE BOARD OF HEALTH AND WELFARE AND THE SOIL CONSERVATION COMMISSION ESTABLISHING A LIST OF PRIORITY PROJECTS FOR CONTROL OF AGRICULTURAL NONPOINT SOURCE POLLUTION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 39-3627, IDAHO CODE, TO DELETE REFERENCE TO CONTRACTS OR AGREEMENTS WITH SOIL CONSERVATION DISTRICTS OR THE SOIL CONSERVATION COMMISSION.

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

SECTION 1. That Section 22-2728, Idaho Code, be, and the same is hereby amended to read as follows:

22-2728. DECLARATION OF POLICY -- DESIGNATION OF SOIL CONSERVATION DISTRICTS AND SOIL CONSERVATION COMMISSION. (a) The legislature recognizes and finds:

(1) That it is essential to the general welfare of all citizens of this state and it is in the public interest that multiple use conservation improvements should be implemented on a broader scale on both public and private lands in the state;

(2) That due to numerous economic and practical problems, relating to the improvement of individual tracts of land both public and private, insufficient attention has been given to resource conservation and improvement;

(3) That rangeland and other agricultural land improvement projects of the nature contemplated by this act would enhance the economic productivity and environmental quality of the state; and

(4) That it appears to be sound public policy for the state of Idaho to provide for a revolving account to provide loans, ~~or~~ grants, and cost-share funding to the end that rangelands and

other agricultural lands within the state can be made to provide the greatest benefits to all concerned.

(b) The purposes of this act are to provide a means whereby funds, including federal, state, private, or other moneys, can be obtained and utilized for the accelerated development of water quality programs, multiple use rangeland, and other agricultural land conservation improvements in the state and to provide that these improvements, projects and programs be locally planned, coordinated, and implemented through ~~existing~~ statutory provisions pertaining to soil conservation districts and the state soil conservation commission and through the administrative direction and supervision of the ~~state soil conservation~~ commission in cooperation with the department of agriculture and appropriate federal and state agencies and the owners and operators of privately-owned lands.

SECTION 2. That Section 22-2729, Idaho Code, be, and the same is hereby amended to read as follows:

22-2729. ADDITIONAL POWERS. ~~(a)~~ In addition to the powers, functions, and duties of the soil conservation districts and state soil conservation commission previously provided for in this chapter, ~~these districts and~~ the commission shall have the following additional powers, functions, and duties:

(1) The ~~districts~~ commission shall conduct, in cooperation with appropriate federal and state agencies and the owners and operators of privately-owned rangelands and other agricultural lands in this state, conservation improvements on or in respect to these lands for the purposes of implementing conservation systems to conserve and improve natural resource conditions;

(2) The commission shall assist and advise the districts and other entities in implementing the conservation improvements and, ~~shall~~ within the funds available, may provide loans, ~~or~~ grants, and cost-share funding, or a combination of those funding sources, from the resource conservation and rangeland development ~~account~~ fund for funding of selected conservation improvements;

(3) The commission shall determine whether funds are available before approving any conservation improvements and after having made such determination shall enter into the necessary contracts for this implementation;

(4) The Idaho soil conservation commission shall be the agency for administration of funds accruing to the resource conservation and rangeland development program ~~account, and may receive up to four percent (4%) of the moneys accruing to the account to be appropriated annually for the purpose of administering loans or grants authorized pursuant to this section~~ fund;

(5) The commission shall promulgate such rules ~~and regulations~~ as are necessary to carry out the purposes of this act.

SECTION 3. That Section 22-2730, Idaho Code, be, and the same is hereby amended to read as follows:

22-2730. RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT ~~ACCOUNT~~ FUND CREATED. (~~a~~1) There is hereby created in the ~~agency asset~~ state

treasury ~~an--account~~ fund to be known as the Idaho resource conservation and rangeland development ~~account~~ fund, which shall consist of all moneys which may be appropriated to it by the legislature or made available to it from federal, private, or other sources. The state treasurer is directed to invest all unobligated moneys in the ~~account~~ fund. All interest and other income accruing from such investments shall accrue to the ~~account~~ fund. The soil conservation commission may expend from the ~~account~~ fund such sums as it shall deem necessary for any of the conservation improvements, projects and programs provided for under this act under such terms and conditions provided for in its rules and ~~regulations~~ the water quality program for agriculture.

(2) The Idaho soil conservation commission shall establish a list of priority projects for control of agricultural nonpoint source pollution. These priority lists shall be used as the method for allocation of funds granted, or loaned or cost-shared under this act.

SECTION 4. That Section 22-2731, Idaho Code, be, and the same is hereby amended to read as follows:

22-2731. ALLOCATION OF FUND. ~~(a)~~ The Idaho resource conservation and rangeland development ~~account~~ fund shall be allocated for use:

(1) By the state soil conservation commission to eligible applicants for conservation improvements which it deems to be "in the public interest" in such amounts as are necessary for the implementation of conservation measures identified in a conservation plan~~.~~;

(2) By the commission to eligible applicants for the purpose of conservation improvements on rangelands, agricultural lands, and riparian lands, which will provide environmental enhancement to soil, water, wildlife, and related resources;

(3) By the commission for the purpose of implementing the water quality program for agriculture.

SECTION 5. That Section 22-2732, Idaho Code, be, and the same is hereby amended to read as follows:

22-2732. LOANS FROM ~~ACCOUNT~~ FUND -- APPLICATION -- APPROVAL -- REPAYMENT. (a) Eligible applicants may file an application with the local soil conservation district or the state soil conservation commission for a loan from the ~~account~~ fund for the purpose of financing conservation improvement cost. Such application shall be filed in such a manner, and shall be in such form, and be accompanied by such information as may be prescribed by the commission.~~;--provided,--however, that--a~~Any such application filed with the district or the commission under the provisions of this act shall:

(1) Describe the nature and purposes of the improvements or projects.

(2) Set forth or be accompanied by a conservation plan approved by the local soil conservation district ~~which~~ or the commission that identifies the conservation improvements, or projects, together with such ~~engineering~~ technical and economic feasibility data and estimated costs ~~of construction~~ as may be required by the commission.

(3) State whether money other than that for which application is made under this act will be used for improvement costs, and whether such money is available or has been sought for this purpose.

(4) Show that the applicant holds or can acquire title to all lands or has necessary easements and rights-of-way for the improvements.

(5) Show the proposed project is feasible from ~~an---engineering~~ a technical standpoint and economically justified.

(b) Within sixty (60) days of receipt of an application, the local soil conservation district or the commission shall review and evaluate, and if it deems necessary, investigate ~~all~~ aspects of the proposed improvements. As part of such investigation, the district or the commission shall determine whether the plan for development of the conservation improvements is satisfactory. If the district or the commission determines the plan is unsatisfactory, it shall return the application to the applicant and ~~the district~~ may make such recommendations to the applicant as are considered necessary to make the plan satisfactory. If the district or the commission determines the plan ~~is~~ and application are satisfactory, it shall ~~assign a priority to the application and forward the application to the commission with a recommendation~~ be considered for funding.

(c) The commission may approve a loan for conservation improvements if after review, evaluation, and investigation if necessary, finds that:

(1) The applicant is qualified and responsible;

(2) There is reasonable assurance that the borrower can repay the loan;

(3) That money in the resource conservation and rangeland development ~~account~~ fund is available for the loan~~;~~.

~~(4) That the loan will not result in a condition whereby the applicant has a loan liability in excess of fifty thousand dollars ($50,000) pursuant to this act;~~

(d) If the commission approves a loan, the applicant shall execute a promissory note for repayment to the account of money loaned therefrom, together with interest not to exceed six percent (6%) annually as determined by the commission. The note shall further provide that repayment of the loan, together with interest thereon, shall commence not later than two (2) full years from the date the note is signed. Repayment shall be completed within the time period specified by the commission not to exceed fifteen (15) years, except that the commission may extend the time for making repayment in event of emergency or hardship. Such agreement shall also provide for such assurance of, and security for, repayment of the loan as are considered necessary by the commission.

(e) Upon approval of the loan and securing all necessary documents, the commission will make available, in approved form, project or contract funding.

(f) If an applicant fails to comply with the repayment contract, the interest in the improvement may be conveyed to a successor upon approval by the commission, which may contract with the qualified successor in interest of the original obligor for repayment of the loan, together with interest thereon, and for succession to its rights and

obligation in any contract with the commission.

SECTION 6. That Section 22-2733, Idaho Code, be, and the same is hereby amended to read as follows:

22-2733. GRANTS FROM ~~ACCOUNT~~ FUND -- APPLICATION -- APPROVAL -- GRANT AGREEMENT. (a) Eligible applicants may file an application with the local soil conservation district or the state soil conservation commission for a grant from the ~~account~~ fund for the purpose of financing ~~demonstration--project--costs--for--improving-rangeland-and riparian-areas~~ conservation improvement costs. Such application shall be filed in such a manner and shall be in such form, and be accompanied by such information as may be prescribed by the commission; provided, however, that any such application filed with the district or the commission under the provisions of this section shall:

(1) Describe the nature and purpose of the improvements or conservation plan implementation project.

(2) Set forth or be accompanied by an improvement project plan approved by the local soil conservation district ~~which~~ or the commission that identifies the practices to be applied, together with such ~~engineering~~ technical and economic feasibility data and estimated costs ~~of-construction~~ as may be required by the commission.

(3) State whether money other than that for which application is made under this section will be used for improvement project or conservation plan implementation costs, and whether such money is available or has been sought for this purpose.

(4) Show that the applicant holds or can acquire title to all lands or has necessary easements and rights-of-way to implement the project plan.

(b) Within sixty (60) days of receipt of an application, the local soil conservation district or the commission shall review and evaluate~~,~~ and, if it deems necessary, investigate all aspects of the proposed improvements, project or conservation plan. As part of such investigation, the district or the commission shall determine whether the project plan is satisfactory. If the district or the commission determines that the plan is unsatisfactory, it shall return the application to the applicant and the district or the commission may make such recommendations to the applicant as are considered necessary to make the plan satisfactory. If the district or the commission determines the plan is satisfactory, it shall ~~assign--a--priority--to--the application--and-forward-the-application-to-the-commission-with-a-recommendation~~ be considered for funding.

(c) The commission may approve a grant if after review, evaluation, and investigation if necessary, it finds that:

(1) The applicant is qualified and responsible.

(2) The improvement, project, or conservation plan demonstrates public benefits.

(3) That money in the resource conservation and rangeland development ~~account~~ fund is available for the grant.

(d) If the commission approves a grant, the ~~commission~~ applicant shall enter into an agreement covering the grant offer and acceptance of the grant for implementing the improvement, project, or conservation plan. The agreement shall be improvement, project, or conserva-

tion plan specific. The terms and conditions shall be those specified by the commission.

(e) Upon approval of the grant and securing all necessary documents, the commission will make available, in the approved form, project or contract funding.

SECTION 7. That Chapter 27, 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 22-2734, Idaho Code, and to read as follows:

22-2734. COST SHARE FROM FUND -- APPLICATION -- APPROVAL. (1) Eligible applicants may file an application with the state soil conservation commission for a cost-share contract, project, or program from the fund for the purpose of financing agricultural and grazing conservation improvements. Such application shall be filed in such a manner and shall be in such form and be accompanied by such information as may be prescribed by the commission; provided however, that any such application filed with the commission under the provisions of this act shall:

(a) Describe the nature and purposes of the improvements and projects requiring cost sharing;

(b) Set forth or be accompanied by a plan that identifies the conservation improvements or projects, together with such technical and economic feasibility data and estimated costs as may be required by the commission;

(c) State whether money other than that for which application is made under this act will be used for costs, and whether such money is available or has been sought for this purpose;

(d) Show the proposed project is feasible from a technical standpoint and is economically justified.

(2) Within sixty (60) days of receipt of an application for a cost-share project, the commission shall review and evaluate and, if it deems necessary, investigate aspects of the contract or project. As part of such investigation, the commission shall determine whether the plan for development of the conservation improvements is satisfactory. If the commission determines the plan is unsatisfactory, it shall return the application to the applicant and the appropriate agency may make such recommendations to the applicant as are considered necessary to make the plan satisfactory. If the commission determines the plan is satisfactory, it shall be considered for funding.

(3) The commission may approve a cost-share grant for conservation projects and improvements if, after review, evaluation and investigation, it finds that:

(a) The applicant is qualified and responsible;

(b) There is reasonable assurance that the applicant will adhere to contract terms;

(c) The money in the resource conservation and rangeland development fund is available for the cost-share project.

(4) Upon approval of the cost-share contract and securing all necessary documents, the commission will make funding available.

SECTION 8. That Chapter 27, 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 22-2735, Idaho Code, and to read as follows:

22-2735. PAYMENTS BY THE STATE SOIL CONSERVATION COMMISSION -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. (1) The commission may make payments not to exceed the estimated reasonable cost of an eligible improvement, project, or plan.

(2) The commission may, in the name of the state of Idaho, enter into contracts with approved applicants, and any such approved applicants may enter into a contract with the commission concerning eligible improvements, projects or plans. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

(a) An estimate of the reasonable cost of the improvements, projects, or plans as determined by the commission;

(b) The terms under which the commission may unilaterally terminate the contract and/or seek repayment from the application of sums already paid pursuant to the contract for noncompliance by the applicant with the terms and conditions of the contract and the provisions of this chapter;

(c) An agreement by the applicant binding for the life of the eligible improvements, projects or plans:

(i) To develop water quality plans for landowners and provide payments to landowners for installation of best management practices;

(ii) To determine payment rates in conjunction with the commission for best management practices;

(iii) To establish a method for administration and provisions for technical assistance to landowners in conjunction with the commission;

(iv) To allow the state to make payments up to the estimated reasonable cost for best management practices installation, technical assistance and project administration of an eligible project;

(v) To develop and to secure the approval of the commission of plans for operation of the eligible project;

(vi) To ensure that the local matching share of the cost is provided as applicable;

(vii) To assure an adequate level of landowner participation and application of best management practices to ensure water quality goals are met.

(3) The commission may enter into contracts to provide technical assistance to applicants that have entered agreements pursuant to this chapter. Any such contract may include such provisions agreed upon by the parties thereto, and shall include, in substance, the following provisions:

(a) An estimate of the reasonable cost of technical assistance;

(b) The terms under which the commission may unilaterally terminate the contract, and/or seek repayment of sums paid pursuant to the contract, for noncompliance by the applicants with the terms and conditions of the contract, the provisions of this chapter, or rules adopted pursuant thereto.

(4) The commission may enter into contracts and establish procedures to be followed in applying for eligible improvements, projects and plans herein authorized as shall be necessary for the effective administration of the water quality program for agriculture.

(5) All contracts entered into pursuant to this section shall be subject to approval by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant as provided by law on vouchers approved by the the director of the department of agriculture.

(6) All grant agreements and contracts previously entered into with the state board of health and welfare, soil conservation districts and the commission pursuant to section 39-3627, Idaho Code, for payments and administration are now to be administered and payments implemented solely by the commission.

SECTION 9. That Section 39-3624, Idaho Code, be, and the same is hereby amended to read as follows:

39-3624. DECLARATION OF POLICY -- DESIGNATION OF DIRECTOR. The legislature, recognizing that water is one (1) of the state's most valuable natural resources, has adopted water quality standards and authorized the director of the department of health and welfare to implement these standards. In order to provide and maintain maximum water quality in the state for domestic, industrial, agricultural (irrigation and stockwatering), mining, manufacturing, electric power generation, municipal, fish culture, artificial ground water recharge, transportation and recreational purposes at the earliest possible date, and to conform to the expressed intent of congress to abate pollution of ground waters, streams and lakes, the legislature declares the purpose of this act is to enhance and preserve the quality and value of the water resources of the state of Idaho and to assist in the prevention, control, abatement and monitoring of water pollution. In consequence of the benefits resulting to the public health, welfare and economy it is hereby declared to be the policy of the state of Idaho to protect this natural resource by assisting in monitoring, preventing and controlling water pollution; to support and aid technical and planning research leading to the prevention and control of water pollution, and to provide financial and technical assistance to municipalities~~,--soil-conservation-districts~~ and other agencies in the abatement and prevention of water pollution. The director of the department of health and welfare shall administer this act and nothing herein shall be construed as impairing or in any manner affecting the statutory authority or jurisdiction of municipalities in providing domestic water, sewage collection and treatment.

SECTION 10. That Section 39-3625, Idaho Code, be, and the same is hereby amended to read as follows:

39-3625. DEFINITIONS. A. "Sewage treatment works" means any facility for the purpose of collecting, treating, neutralizing or stabilizing sewage or industrial wastes of a liquid nature, including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers,

equipment and furnishings thereof and their appurtenances.

B. "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of sewage treatment works or best management practices, preliminary planning to determine the economic and engineering feasibility of sewage treatment works or best management practices, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of sewage treatment works or best management practices, and the inspection and supervision of the construction of sewage treatment works or best management practices.

C. "Eligible construction project" means a project for construction of sewage treatment works or for a project for the application of best management practices as set forth in the approved state water quality plan, in related project areas:

1. For which approval of the Idaho board of health and welfare is required under section 39-118, Idaho Code;
2. Which is, in the judgment of the Idaho board of health and welfare, eligible for water pollution abatement assistance, whether or not federal funds are then available therefor;
3. Which conforms with applicable rules of the Idaho board of health and welfare;
4. Which is, in the judgment of the Idaho board of health and welfare, necessary for the accomplishment of the state's policy of water purity as stated in section 39-3601, Idaho Code; and
5. Which is needed, in the judgment of the Idaho board of health and welfare, to correct existing water pollution problems or public health hazards and to provide reasonable reserve capacity to prevent future water pollution problems or public health hazards.

D. "Municipality" means any county, city, special service district, nonprofit corporation or other governmental entity having authority to dispose of sewage, industrial wastes, or other wastes, any Indian tribe or authorized Indian tribal organization, or any combination of two (2) or more of the foregoing acting jointly, in connection with an eligible project.

E. "Board" means the Idaho board of health and welfare.

F. "Department" means the Idaho department of health and welfare.

G. "Director" means the director of the Idaho department of health and welfare.

H. "Nondomestic wastewater" means wastewater whose source of contamination is not principally human excreta.

I. "Best management practice" means practices, techniques or measures identified in the state water quality plan which are determined to be the most effective, practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

J. ~~"Soil-conservation-district"-means-an-entity-of-state--government-as-defined-in-section-22-2717,-Idaho-Code.~~

~~K.--"Soil--conservation--commission"-means-an-agency-of-state-government-as-created-by-section-22-2718,-Idaho-Code.~~

~~L.~~ "Nonpoint source pollution" means water pollution that comes from many varied, nonspecific and diffused sources and can be

categorized by the general land disturbing activity that causes the pollution.

~~M~~K. "Training program" means any course of training established to provide sewage treatment plant operating personnel with increased knowledge to improve their ability to operate and maintain sewage treatment works.

SECTION 11. That Section 39-3626, Idaho Code, be, and the same is hereby amended to read as follows:

39-3626. AUTHORIZATION OF GRANTS AND LOANS -- DESIGNATION OF ADMINISTERING AGENCY -- RESERVATION OF FUNDS FOR OPERATIONS -- CRITERIA -- PRIORITY PROJECTS -- ELIGIBLE PROJECTS. A. The state of Idaho is hereby authorized to make grants and loans at or below market interest rates, as funds are available, to any municipality ~~or soil conservation district~~ to assist said municipality ~~or soil conservation district~~ in the construction of sewage treatment works or application of best management practices and to provide for training of treatment plant operating personnel.

B. The Idaho board of health and welfare through the department of health and welfare shall be the agency for administration of funds authorized for grants or loans under this act, and may reserve up to four percent (4%) of the moneys accruing annually to the water pollution control and wastewater facility loan accounts to be appropriated annually for the purpose of operating the water quality programs established pursuant to this chapter. The board may also reserve up to six percent (6%) of the moneys accruing annually to the water pollution control account to be appropriated annually for the purpose of conducting water quality studies including monitoring.

C. In allocating state construction grants and loans under this act, the Idaho board of health and welfare shall give consideration to water pollution control needs and protection of public health.

D. Pursuant to subsection C. the Idaho board of health and welfare shall establish a list of priority municipal sewage facility projects. ~~The Idaho board of health and welfare with the approval of the Idaho soil conservation commission shall establish a list of priority projects for control of agricultural nonpoint source pollution. These priority lists shall be used as the method for allocation of funds granted or loaned under this act.~~

SECTION 12. That Section 39-3627, Idaho Code, be, and the same is hereby amended to read as follows:

39-3627. PAYMENTS BY STATE BOARD OF HEALTH AND WELFARE -- CONTRACTS WITH MUNICIPALITIES~~, SOIL CONSERVATION DISTRICTS OR SOIL CONSERVATION COMMISSION~~ -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. A. The Idaho board of health and welfare may make payments not to exceed ninety percent (90%) of the estimated reasonable cost of an eligible construction project funded by a grant. Payments may be made which are equal to one hundred percent (100%) of the estimated reasonable cost of an eligible construction project funded by a loan.

B. The Idaho board of health and welfare may, in the name of the

state of Idaho, enter into contracts with municipalities ~~or soil--conservation--districts,~~ and any such municipality ~~or soil-conservation district~~ may enter into a contract with the Idaho board of health and welfare, concerning eligible construction projects. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

1. An estimate of the reasonable cost of the project as determined by the Idaho board of health and welfare.

2. An agreement by the municipality, binding for the actual service life of the sewage treatment works:

a. To proceed expeditiously with, and complete, the project in accordance with plans approved pursuant to section 39-118, Idaho Code.

b. To commence operation of the sewage treatment works on completion of the project, and not to discontinue operation or dispose of the sewage treatment works without the approval of the board of health and welfare.

c. To operate and maintain the sewage treatment works in accordance with applicable provisions and rules of the board.

d. To make available on an equitable basis the services of the sewage treatment works to the residents and commercial and industrial establishments of areas it was designed to serve.

e. To provide for the payment of the municipality's share of the cost of the project when the project is built using grant funds.

f. To develop and to secure the approval of the department of plans for the operation and maintenance of the sewage treatment works; and of plans and programs for the recovery of the capital costs and operating expenses of the works or system.

g. To allow the board to make loans of up to one hundred percent (100%) and supplemental grants based upon financial capability to a municipality for the estimated reasonable cost of an eligible project, which may include treatment of nondomestic wastewater.

h. To provide for the accumulation of funds through the use of taxing powers, through charges made for services, through revenue bonds, or otherwise, for the purposes of (1) capital replacement, (2) future improvement, betterment, and extension of such works occasioned by increased wastewater loadings on the works, and (3) establishing a fund dedicated solely to repayment of principal and interest of loans made subsequent to this chapter.

i. To commence annual principal and interest payments not later than one (1) year from the date construction is completed and to provide for full amortization of loans not later than twenty (20) years from the date project construction is completed.

3. The terms under which the Idaho board of health and welfare may unilaterally terminate the contract and/or seek repayment from the municipality ~~or soil-conservation--district~~ of sums already paid pursuant to the contract for noncompliance by the municipal-

ity ~~or-soil-conservation-district~~ with the terms and conditions of the contract and the provisions of this chapter.

~~4.--An-agreement-by-the-soil-conservation--district,--binding--for the-life-of-the-eligible-project:~~

~~a.--To--develop--water--quality--plans--for-landowners-in-the project-areas-and-provide-cost-share-payments--to--landowners for-installation-of-best-management-practices.~~

~~b.--To--determine--cost-share--rates--in-conjunction-with-the state-soil-conservation-commission-for-best-management--practices.~~

~~c.--In--conjunction--with-the-state-soil-conservation-commission-establish-a-method-for-project-administration-and-provisions-for-technical-assistance-to-landowners.~~

~~d.--To-allow-the-state-to-give-grants-of-up-to-ninety-percent (90%)-of-the-estimated-reasonable-cost--for--best--management practices--installation,--technical--assistance--and--project administration-of-an-eligible-project.~~

~~e.--To--develop--and-to-secure-the-approval-of-the-department and-the-state-soil-conservation-commission-of-plans-for-operation-of-the-eligible-project.~~

~~f.--To-ensure-that-the-local-matching-share-of--the--cost--of the-project-is-provided.~~

~~g.--To--assure--an--adequate-level-of-landowner-participation and-application-of-best-management-practices-to-insure--water quality-goals-are-met.~~

~~C.--The--Idaho-board-of-health-and-welfare-may,-in-the-name-of-the state-of-Idaho,-enter-into-contracts-with-the-soil--conservation--commission,-and-the-soil-conservation-commission-may-enter-into-contracts with--the--Idaho--board--of--health--and-welfare,-to-provide-technical assistance-to-soil-conservation-districts--which--have--entered--grant agreements--pursuant--to--this-chapter.--Any-such-contract-may-include such-provisions-agreed-upon-by-the-parties-thereto,-and-shall-include, in-substance,-the-following-provisions:~~

~~1.--An-estimate-of-the-reasonable-cost-of-technical-assistance--as determined-by-the-Idaho-board-of-health-and-welfare.~~

~~2.--The--terms--under--which-the-Idaho-board-of-health-and-welfare may-unilaterally-terminate-the-contract,-and/or-seek-repayment--of sums--paid-pursuant-to-the-contract,-for-noncompliance-by-the-soil conservation-commission-with-the-terms-and-conditions-of-the--contract,--the--provisions-of-this-chapter,-or-rules-adopted-pursuant thereto.~~

~~D~~C. The board may adopt rules necessary for the making and enforcing of contracts hereunder and establishing procedures to be followed in applying for state construction grants or loans or training grants herein authorized as shall be necessary for the effective administration of the grants and loans program.

~~E~~D. All contracts entered into pursuant to this section shall be subject to approval by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant as provided by law on vouchers approved by the director.

Approved March 19, 1999.

CHAPTER 138
(S.B. No. 1178)

AN ACT

RELATING TO USE OF UNUSED SICK LEAVE BY STATE EMPLOYEES; AMENDING SECTION 67-5339, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT OF SICK LEAVE THAT MAY BE COUNTED FOR DETERMINING THE MONETARY VALUE OF UNUSED SICK LEAVE FOR RETIREMENT PURPOSES FOR EMPLOYEES WITH A CERTAIN LONGEVITY AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-5339, Idaho Code, be, and the same is hereby amended to read as follows:

67-5339. USE OF UNUSED SICK LEAVE. (1) Upon separation from state employment by retirement in accordance with chapter 13, title 59 or chapter 1, title 33, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2), or the maximum amount allowed by subsection (2) ~~hereof~~ of this section, whichever is the lesser, of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement, shall be transferred from the sick leave account provided by subsection (3) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the Idaho ~~P~~public ~~E~~employees ~~R~~retirement ~~B~~board to pay premiums for such group health, accident, and life insurance programs as may be maintained by the state, to the extent of the funds credited to the employee's account pursuant to this section. Upon an employee's death, any unexpended sums remaining in the account shall revert to the sick leave account.

(2) For the purposes of determining the monetary value of unused sick leave, the maximum unused sick leave which may be considered, shall be:

(a) During the first ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be ~~one~~ two hundred ~~ninety-two~~ forty (~~19~~240) hours;

(b) During the second ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be ~~two~~ three hundred ~~forty~~ (~~24~~300) hours;

(c) During the third ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be ~~two~~ three hundred ~~eighty-eight~~ sixty (~~288~~360) hours; and

(d) Thereafter, the maximum unused sick leave which may be considered shall be ~~three~~ four hundred ~~thirty-six~~ twenty (~~336~~420) hours.

(3) Each employer in state government shall contribute to a sick

leave account maintained by the public employee retirement system exclusively for the purpose of the provisions of this section. The rate of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. All moneys payable to the sick leave account are hereby perpetually appropriated to the board, and shall not be included in its departmental budget.

SECTION 2. This act shall be in full force and effect on and after July 1, 2000.

Approved March 19, 1999.

CHAPTER 139
(H.B. No. 183)

AN ACT

RELATING TO ALLOWABLE INVESTMENTS BY THE STATE TREASURER; AMENDING SECTION 67-1210A, IDAHO CODE, TO PROVIDE THAT BONDS, DEBENTURES OR NOTES OF ANY CORPORATION ORGANIZED, CONTROLLED AND OPERATING WITHIN THE UNITED STATES WHICH HAVE AT THE TIME OF THEIR PURCHASE AN A RATING OR HIGHER BY A COMMONLY KNOWN RATING SERVICE ARE ALLOWABLE INVESTMENTS BY THE STATE TREASURER AND TO PROVIDE APPLICATION TO OTHER PUBLIC AGENCIES' ABILITY TO INVEST IN BONDS, DEBENTURES OR NOTES OF ANY CORPORATION.

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

SECTION 1. That Section 67-1210A, Idaho Code, be, and the same is hereby amended to read as follows:

67-1210A. ADDITIONAL ALLOWABLE INVESTMENTS BY THE STATE TREASURER. In addition to investments enumerated in section 67-1210, Idaho Code, the state treasurer is authorized and empowered to invest state funds or any other funds in his hands including, but not limited to, funds of any public agency invested pursuant to joint exercise of powers agreements, in prime banker's acceptances and prime commercial paper, sales and repurchase of call options, ~~and~~ securities lending agreements, and bonds, debentures or notes of any corporation organized, controlled and operating within the United States which have, at the time of their purchase, an A rating or higher by a commonly known rating service. Such securities lending agreements shall require the borrower to provide and maintain collateral (cash or securities which are authorized investments for the state treasurer) at least equal in value to the value of the securities loaned. The sale (writing) and repurchase of call options is permitted only when the state treasurer or the joint powers local government pooled fund own the securities on which the option is written.

The provisions of this section shall not be construed to enlarge the powers of other public agencies to invest in prime banker's acceptances, prime commercial paper, sales and repurchase of call options, ~~or~~ securities lending agreements, or bonds, debentures or notes of any corporation unless such investments are made by the state treasurer pursuant to a joint exercise of powers agreement.

Approved March 22, 1999.

CHAPTER 140
(H.B. No. 185, As Amended)

AN ACT

RELATING TO INVESTMENT OF IDLE MONEYS BY THE STATE TREASURER; AMENDING SECTION 67-1210, IDAHO CODE, TO DELETE FINANCING THE ADDITION TO OR RETROFIT OF AN UNDERGROUND STORAGE TANK OR UNDERGROUND STORAGE TANK SYSTEM AS A PERMISSIBLE INVESTMENT, TO PROVIDE THAT THE PURCHASE OF THE GUARANTEED PORTION OF ANY UNITED STATES SMALL BUSINESS ADMINISTRATION LOAN UNDER CERTAIN CONDITIONS IS A PERMISSIBLE INVESTMENT, AND TO PROVIDE THAT MONEY MARKET FUNDS WHOSE PORTFOLIOS CONSIST OF AN ALLOWED INVESTMENT IS A PERMISSIBLE INVESTMENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-1210, Idaho Code, be, and the same is hereby amended to read as follows:

67-1210. INVESTMENT OF IDLE MONEYS. It shall be the duty of the state treasurer to invest idle moneys in the state treasury, other than moneys in public endowment funds, in any of the following:

(a) Bonds, treasury bills, interest-bearing notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) General obligation or revenue bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(c) General obligation or revenue bonds of any county, city, metropolitan water district, municipal utility district, school district or other taxing district of this state.

(d) Notes, bonds, debentures, or other similar obligations issued by the ~~F~~farm ~~C~~credit ~~S~~system or institutions forming a part thereof under the ~~F~~farm ~~C~~credit ~~A~~act of 1971 [U.S.C., tit. 12, sections 2001-2259] and all ~~A~~acts of ~~C~~congress amendatory thereof or supplementary thereto; in bonds or debentures of the ~~F~~federal ~~H~~home ~~L~~loan ~~B~~bank ~~B~~board established under the ~~F~~federal ~~H~~home ~~L~~loan ~~B~~bank ~~A~~act [U.S.C., tit. 12, sections 1421-1449]; in bonds, debentures and other obligations of the ~~F~~federal ~~N~~national ~~M~~mortgage ~~A~~association established under the ~~N~~national ~~H~~housing ~~A~~act [U.S.C., tit. 12, sections 1701-1750g] as amended, and in the bonds of

any federal home loan bank established under said act and in other obligations issued or guaranteed by agencies or instrumentalities of the government of the state of Idaho or of the United States, including the United States small business administration guaranteed portion of any loan approved by an Idaho banking corporation and by the state treasurer ~~for the purpose of financing the addition to or retrofit of an underground storage tank or underground storage tank system~~ provided, that the purchase of the guaranteed portion of any United States small business administration loan is subject to the following conditions:

(i) The interest rate charged on the loan must be below the prime interest rate and the interest on the loan must be chargeable at a variable rate;

(ii) The interest rate of the loan is reset every three (3) years;

(iii) The maximum maturity period for the loan is ten (10) years.

(e) Bonds, notes or other similar obligations issued by public corporations of the state of Idaho including, but not limited to, the Idaho state building authority, the Idaho housing authority and the Idaho water resource board, but such investment shall not extend beyond seven (7) days.

(f) Repurchase agreements covered by any legal investment for the state of Idaho.

(g) Tax anticipation notes and registered warrants of the state of Idaho.

(h) Tax anticipation bonds or notes and income and revenue anticipation bonds or notes of taxing districts of the state of Idaho.

(i) Time deposit accounts and savings accounts in state depositories including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(j) Time deposit accounts and savings accounts of state or federal savings and loan associations located within the geographical boundaries of the state in amounts not to exceed the insurance provided by the ~~F~~federal ~~S~~savings and ~~L~~loan ~~I~~insurance ~~C~~corporation including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(k) Revenue bonds of institutions of higher education of the state of Idaho.

(l) Share, savings and deposit accounts of state and federal credit unions located within the geographical ~~boundries~~ boundaries of the state in amounts not to exceed the insurance provided by the national credit union share insurance fund and/or any other authorized deposit guaranty corporation, including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(m) Money market funds whose portfolios consist of any allowed investment as specified in this section.

The term "idle moneys" means the balance of cash and other evidences of indebtedness which are accepted by banks as cash in the ordinary course of business, in demand deposit accounts, after taking into consideration all deposits and withdrawals, on a daily basis.

The interest received on all such investments, unless otherwise specifically required by law, shall be paid into the general account of the state of Idaho. Provided, unless otherwise specifically provided by statute, any interest earned on funds received by the state pursuant to a federal law, regulation, or federal-state agreement which governs disposition of interest earned upon such funds shall be accounted for separately to give effect to the federal law, regulation, or federal-state agreement.

If the interest is to be credited to a separate account, the state treasurer shall charge the account an investment administration fee. The amount of the fee shall be determined annually by the state treasurer and submitted to the board of examiners for approval as stipulated in section 67-3524, Idaho Code. The fee shall be expressed as an annual percentage of the average daily balance of the account, including separate investments, if any, of that account. The fee shall be charged monthly in an amount approximately one-twelfth (1/12) of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the account for which the investment administration services are rendered.

The state treasurer shall charge an investment administration fee to each such state fund or account, including the general account, which receives investment income from investments administered by the office of state treasurer. The investment administration fee shall be determined annually by the state treasurer and submitted to the board of examiners for approval, as stipulated in section 67-3524, Idaho Code. The fee shall be expressed as an annual percentage of the average daily balance of the fund or account, including separate investments, if any, of that fund or account. The fee shall be charged monthly in an amount approximately one-twelfth (1/12) of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the fund or account for which the investment administration services are rendered.

The term "to invest" means to use the idle moneys in the state treasury to buy, sell, including selling before maturity at either a gain or a loss, retain, or exchange any of the investments described in this section, considering the probable safety of the capital, the probable income to be derived, and the liquidity of the assets.

Approved March 22, 1999.

CHAPTER 141
(S.B. No. 1118)

AN ACT

RELATING TO PERSONS OR ENTITIES QUALIFIED TO HOLD A LIQUOR BY THE DRINK LICENSE; AMENDING SECTION 23-910, IDAHO CODE, TO PROVIDE AN EXCEPTION TO OFFICERS, AGENTS OR EMPLOYEES OF A DISTILLERY, WINERY, BREWERY OR ANY WHOLESALER OR JOBBER OF LIQUOR OR MALT BEVERAGES UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 23-911, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE RESTRICTIONS ON MANUFAC-

TURERS, TRANSPORTERS OR DISTILLERS OF LIQUOR UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 23-912, IDAHO CODE, TO PROVIDE CONDITIONS WHERE A MANUFACTURER, RECTIFIER, WHOLESALER, STOCKHOLDER, SHAREHOLDER, PARTNER OR THE OWNER OF ANY INTEREST IN ANY CORPORATION, ASSOCIATION OR PARTNERSHIP FINANCIALLY INTERESTED IN THE MANUFACTURE, TRANSPORTATION OR SALE OF LIQUOR MAY HOLD AN INTEREST IN A LICENSED PREMISE.

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

SECTION 1. That Section 23-910, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

poration licensed under the provisions of this act and whose license was revoked.

(4) Any officer, agent, or employee of any distillery, winery, brewery, or any wholesaler, or jobber, of liquor or malt beverages except as provided in section 23-912, Idaho Code. This prohibition shall not apply to officers, agents, or employees of any winery operating a golf course on the same premises as the winery.

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

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

SECTION 2. That Section 23-911, Idaho Code, be, and the same is hereby amended to read as follows:

23-911. RESTRICTIONS ON MANUFACTURERS, TRANSPORTERS OR DISTILLERS. Except as provided in section 23-912, Idaho Code, nNo manufacturer, rectifier, wholesaler, stockholder, shareholder, partner, or the owner of any other interest in any corporations, association or partnership financially interested in the manufacture, transportation or sale of liquor shall furnish, give, rent, lend or sell any equipment or fixtures directly or indirectly, or through a subsidiary or affiliate or by any officer, director, or firm member of the industry or otherwise furnish financial aid to any person engaged in the sale of liquor hereunder and no licensee hereunder shall receive or be the beneficiary of any of the benefits hereby prohibited.

SECTION 3. That Section 23-912, Idaho Code, be, and the same is hereby amended to read as follows:

23-912. RESTRICTIONS OF PERSONS INTERESTED IN PREMISES. (1) Except as provided in subsection (2) of this section, nNo manufacturer, rectifier, wholesaler, stockholder, shareholder, partner or the owner of any other interest in any corporation, association or partnership financially interested in the manufacture, transportation (except public carriers) or sale of liquor shall hold any interest in any premise licensed hereunder for the sale of liquor or receive any rental or remuneration from any such premise.

(2) A manufacturer, rectifier, wholesaler, stockholder, shareholder, partner or the owner of any interest in any corporation, association or partnership financially interested in the manufacture, transportation or sale of liquor may hold interest in a licensed premises if the licensed premises serves food cooked on the site of the licensed premises, and the person or entity can show through recordkeeping that no more than fifty percent (50%) of the gross revenue to the licensed premises is derived from the sale of alcoholic beverages on-site. The owner of the licensed premises pursuant to this subsection shall comply with and be subject to all other rules, regulations or other provisions of law which apply to manufacturers, rectifiers, wholesalers, stockholders, shareholders, partners or the owners of any interest in any corporation, association or partnership financially interested in the manufacture, transportation or sale of liquor save

and except as such rules, regulations or laws may restrict such sales at the licensed premises. The holder of a license pursuant to this section shall not be disqualified from holding a beer license, a retail wine license or wine by the drink license for the sale of beer or wine at the licensed premises on the grounds that the licensee is also a manufacturer, wholesaler, stockholder, shareholder, partner or the owner of any interest in any corporation, association or partnership financially interested in the manufacture, transportation or sale of liquor, beer or wine. This subsection shall not be deemed to grant a license for the retail sale of liquor by the drink and the license must be obtained through normal lawful means.

Approved March 22, 1999.

CHAPTER 142
(S.B. No. 1144)

AN ACT

RELATING TO ALCOHOL AND DRUG-FREE WORKPLACES; AMENDING SECTION 72-1701, IDAHO CODE, TO PROVIDE FURTHER LEGISLATIVE INTENT; AND AMENDING CHAPTER 17, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1716, IDAHO CODE, TO PROVIDE FOR IMPLEMENTATION OF AN ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM AND QUALIFICATION OF AN EMPLOYER PREMIUM REDUCTION ON WORKER'S COMPENSATION INSURANCE.

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

SECTION 1. That Section 72-1701, Idaho Code, be, and the same is hereby amended to read as follows:

72-1701. PURPOSE AND INTENT OF ACT. (1) The purpose of this act is to promote alcohol and drug-free workplaces and otherwise support private employers in their efforts to eliminate substance abuse in the workplace, and thereby enhance workplace safety and increase productivity. This act establishes voluntary drug and alcohol testing guidelines for private employers that, when complied with, will find an employee who tests positive for drugs or alcohol at fault, and will constitute misconduct under the employment security law as provided in section 72-1366, Idaho Code, thus resulting in the denial of unemployment benefits.

(2) It is the further purpose of this act to promote alcohol and drug-free workplaces in order that employers in this state be afforded the opportunity to maximize their levels of productivity, enhance their competitive positions in the marketplace and reach their desired levels of success without experiencing the cost delays and tragedies associated with work-related accidents resulting from substance abuse by employees.

SECTION 2. That Chapter 17, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1716, Idaho Code, and to read as follows:

72-1716. IMPLEMENTATION OF ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM -- QUALIFICATION OF EMPLOYER PREMIUM REDUCTION. For each policy of worker's compensation insurance issued or renewed in the state on or after July 1, 1999, a reduction in the premium for the policy may be granted if the insurer determines the insured has established and maintains an alcohol and drug-free workplace program that complies with the requirements of sections 72-1701 through 72-1715, Idaho Code.

Approved March 22, 1999.

CHAPTER 143
(S.B. No. 1216)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732, IDAHO CODE, TO EXCLUDE TRAFFICKING IN METHAMPHETAMINE AND/OR AMPHETAMINE BY MANUFACTURING VIOLATIONS FROM THE PENALTIES TO BE IMPOSED FOR CERTAIN CONTROLLED SUBSTANCE FELONIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2732B, IDAHO CODE, TO PROVIDE PENALTIES FOR TRAFFICKING IN METHAMPHETAMINE AND/OR AMPHETAMINE BY MANUFACTURING AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 18-7803, IDAHO CODE, TO DELETE OBSOLETE CODE REFERENCES, PROVIDE CORRECT CODE REFERENCES AND TO INCLUDE TRAFFICKING IN CONTROLLED SUBSTANCES WITHIN THE DEFINITION OF RACKETEERING.

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

SECTION 1. That Section 37-2732, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by this chapter, it is unlawful for any person to manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(A) a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, <u>except as provided for in section 37-2732B(a)(3),</u> is guilty of a felony and upon conviction may be imprisoned for a term of years not to exceed life imprisonment, or fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other controlled substance which is a nonnarcotic drug classified in schedule I, or a controlled substance classified in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dol-

lars ($10,000), or both;

(D) a substance classified in schedules V and VI, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(A) a counterfeit substance classified in schedule I which is a narcotic drug, or a counterfeit substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than fifteen (15) years, fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other counterfeit substance classified in schedule I which is a nonnarcotic drug contained in schedule I or a counterfeit substance contained in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a counterfeit substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a counterfeit substance classified in schedules V and VI or a noncontrolled counterfeit substance, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.

(1) Any person who violates this subsection and has in his possession a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than seven (7) years, or fined not more than fifteen thousand dollars ($15,000), or both.

(2) Any person who violates this subsection and has in his possession lysergic acid diethylamide is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars ($5,000) or both.

(3) Any person who violates this subsection and has in his possession a controlled substance which is a nonnarcotic drug classified in schedule I except lysergic acid diethylamide, or a controlled substance classified in schedules III, IV, V and VI is guilty of a misdemeanor and upon conviction thereof may be imprisoned for not more than one (1) year, or fined not more than one thousand dollars ($1,000), or both.

(d) It shall be unlawful for any person to be present at or on premises of any place where he knows illegal controlled substances are

being manufactured or cultivated, or are being held for distribution, transportation, delivery, administration, use, or to be given away. A violation of this section shall deem those persons guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars ($300) and not more than ninety (90) days in the county jail, or both.

(e) If any person is found to possess marijuana, which for the purposes of this subsection shall be restricted to all parts of the plants of the genus Cannabis, including the extract or any preparation of cannabis which contains tetrahydrocannabinal, in an amount greater than three (3) ounces net weight, it shall be a felony and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars ($10,000), or both.

(f) If two (2) or more persons conspire to commit any offense defined in this act, said persons shall be punishable by a fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(g) (1) It is unlawful for any person to manufacture or distribute a "simulated controlled substance," or to possess with intent to distribute, a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) and not more than one (1) year in the county jail, or both.

(2) It is unlawful for any person to possess a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300) and not more than six (6) months in the county jail, or both.

(h) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale simulated controlled substances. Any person who violates this subsection is guilty of a misdemeanor and shall be punished in the same manner as prescribed in subsection (g) of this section.

(i) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in section 37-2701(z), Idaho Code, in the course of professional practice or research.

(j) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

(k) Upon conviction of a felony violation under this chapter or upon conviction of a felony pursuant to the "racketeering act," section 18-7804, Idaho Code, or the money laundering and illegal investment provisions of section 18-8201, Idaho Code, the court may order restitution for costs incurred by law enforcement agencies in investi-

gating the violation. Law enforcement agencies shall include, but not be limited to, the department of law enforcement, county and city law enforcement agencies, the office of the attorney general and county and city prosecuting attorney offices. Costs shall include, but not be limited to, those incurred for the purchase of evidence, travel and per diem for law enforcement officers and witnesses throughout the course of the investigation, hearings and trials, and any other investigative or prosecution expenses actually incurred, including regular salaries of employees. In the case of reimbursement to the department of law enforcement, those moneys shall be paid to the department of law enforcement for deposit into the drug enforcement donation account created in section 57-816, Idaho Code. In the case of reimbursement to the office of the attorney general, those moneys shall be paid to the general account. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 2. 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 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 or attempts to manufacture methamphetamine and/or amphetamine is guilty of a felony which shall be known as "trafficking in methamphetamine and/or amphetamine by manufacturing." Any person convicted of attempted trafficking in methamphetamine and/or amphetamine by manufacturing shall be sentenced to a mandatory minimum fixed term of imprisonment of two (2) years and not to exceed fifteen (15) years imprisonment and fined not less than ten thousand dollars ($10,000). Any person convicted of trafficking in methamphetamine and/or amphetamine by manufacturing shall be sentenced to a mandatory minimum fixed term of imprisonment of five (5) years and not to exceed life imprisonment and fined not less than twenty-five thousand dollars ($25,000). The maximum number of years of imprisonment for trafficking in methamphetamine and/or amphetamine by manufacturing shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).

(4) 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 amphetamine or of any mixture or substance containing a detectable amount of methamphetamine or amphetamine is guilty of a felony, which felony shall be known as "trafficking in methamphetamine or amphetamine." 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 or amphetamine shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).

(~~4~~5) 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 or amphetamine (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 or amphetamine." 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 or amphetamine shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).

(~~5~~6) 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 fifteen (15) years and fined not less than twenty-five thousand dollars ($25,000).

(D) The maximum number of years of imprisonment for traf-

ficking in heroin shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).

(~~6~~7) 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~~8) 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. Further, the court shall not retain jurisdiction.

(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 3. That Section 18-7803, Idaho Code, be, and the same is hereby amended to read as follows:

18-7803. DEFINITIONS. As used in this chapter, (a) "Racketeering" means any act which is chargeable or indictable under the following sections of the Idaho Code or which are equivalent acts chargeable or indictable as equivalent crimes under the laws of any other jurisdiction:

(1) Homicide (section 18-4001, Idaho Code);

(2) ~~Larceny,~~ ~~r~~Robbery, ~~extortion,~~ burglary, ~~embezzlement,~~ theft, forgery, counterfeiting, and related crimes (sections 18-1401, 18-1405, ~~18-2401,~~ ~~18-2402,~~ 18-2403, 18-2404~~7~~, ~~18-2405,~~ ~~18-2406,~~ ~~18-2801,~~ ~~18-2804,~~ ~~18-2806,~~ ~~18-2807,~~ ~~18-2808,~~ 18-31~~15~~23, 18-31~~16~~24, 18-3125, 18-3601, 18-3602, 18-3603, 18-3605, 18-3606, 18-3607, 18-3609, 18-3610, 18-3614, 18-3615, 18-3618, ~~18-4604,~~ ~~18-4612,~~ ~~18-4613,~~ 18-4630, 18-6501, and 49-~~420~~518, Idaho Code);

(3) Kidnapping (section 18-4501, Idaho Code);

(4) Prostitution (sections 18-5601, 18-5602, 18-5603, 18-5604, 18-5605, 18-5606, ~~18-5607,~~ 18-5608, and 18-5609, ~~and 18-5610,~~ Idaho Code);

(5) Arson (sections 18-801, 18-802, 18-803, 18-804, and 18-~~7003~~805, Idaho Code);

(6) Assault (sections 18-908 and 18-4015, Idaho Code);

(7) Lotteries and gambling (sections 18-3801, 18-3802, 18-3809, 18-4902, 18-4903, 18-4904, 18-4905, 18-4906, and 18-4908, Idaho Code);

(8) Indecency and obscenity (sections 18-1515, 18-1518, 18-4103, 18-4103A, 18-4104, 18-4105, 18-4105A, and 18-4107, Idaho Code);

(9) Poisoning (sections 18-4014 and 18-5501, Idaho Code);

(10) Fraudulent practices, false pretenses, insurance fraud, ~~credit~~ financial transaction card crimes and fraud generally

(sections 18-2403, 18-2706, 18-3002, 18-3101, ~~18-3102, 18-3103, 18-3104, 18-3113, 18-3121, 18-3701,~~ 18-~~3702~~124, 18-3125, 18-3126, 18-~~3706~~713, 41-293, 41-294, and 41-1306, ~~41-1325, and 41-1326,~~ Idaho Code);

(11) Alcoholic beverages (sections 23-602, 23-606, 23-610, 23-703, 23-905, 23-914, 23-928, 23-934 and 23-938, Idaho Code);

(12) Cigarette taxes (sections 63-2505 and 63-2512(b), Idaho Code);

(13) Securities (sections 30-1403, 30-1403A, 30-1404, 30-1405, 30-1406, 30-1438, and 30-1439, Idaho Code);

(14) Horseracing (section 54-2512, Idaho Code);

(15) Interest and usurious practices (sections 28-~~3~~45-~~3~~401 and 28-~~3~~45-~~3~~402, Idaho Code);

(16) Corporations (sections 18-1901, 18-1902, 18-1903, 18-1904, 18-1905, 18-1906, and 30-1510, Idaho Code);

(17) Perjury (sections 18-5401 and 18-5410, Idaho Code);

(18) Bribery and corrupt influence (sections 18-1352 and 18-1353, Idaho Code);

(19) Monopolies and combinations (section 18-5201, Idaho Code);

(20) Controlled substances (sections 37-2732(a), (b), (c), (e) and (f), 37-2732B, 37-2734 and 37-2734B, Idaho Code);

(21) Motor vehicles (sections 49-228, 49-231, 49-232 and 49-518, Idaho Code).

(b) "Person" means any individual or entity capable of holding a legal or beneficial interest in property;

(c) "Enterprise" means any sole proprietorship, partnership, corporation, business, labor union, association or other legal entity or any group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities; and

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one (1) of such incidents occurred after the effective date of this act and that the last of such incidents occurred within five (5) years after a prior incident of racketeering conduct.

Approved March 22, 1999.

CHAPTER 144
(S.B. No. 1004)

AN ACT

RELATING TO THE LIABILITY OF AN OWNER OF A MOTOR VEHICLE FOR DRIVING NEGLIGENCE OF A MINOR UNDER SIXTEEN YEARS OF AGE; AMENDING SECTION 49-2416, IDAHO CODE, TO CLARIFY THAT THE TERM "MINOR" MEANS A PERSON UNDER SIXTEEN YEARS OF AGE.

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

SECTION 1. That Section 49-2416, Idaho Code, be, and the same is hereby amended to read as follows:

49-2416. OWNER LIABLE FOR NEGLIGENCE OF MINOR UNDER SIXTEEN. Every owner of a motor vehicle causing or knowingly permitting a minor under the age of sixteen (16) years to drive the vehicle upon a highway, and any person who gives or furnishes a motor vehicle to a minor under the age of sixteen (16) years, shall be jointly and severally liable with the minor for any damage caused by the negligence of the minor in driving the vehicle.

Approved March 23, 1999.

CHAPTER 145
(S.B. No. 1005)

AN ACT
RELATING TO THE ETHICS IN GOVERNMENT ACT OF 1990; AMENDING SECTION 59-703, IDAHO CODE, TO CHANGE THE DEFINED TERM "ADMINISTRATIVE ACTION" TO "OFFICIAL ACTION" AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 59-703, Idaho Code, be, and the same is hereby amended to read as follows:

59-703. DEFINITIONS. For purposes of this chapter:

(1) "~~Administrative~~Official action" means any decision on, or proposal, consideration, enactment, defeat, or making of any rule, regulation, rate-making proceeding or policy action or nonaction by a governmental body or any other policy matter which is within the official jurisdiction of the governmental body.

(2) "Business" means any undertaking operated for economic gain, including, but not limited to, a corporation, partnership, trust, proprietorship, firm, association or joint venture.

(3) "Business with which a public official is associated" means any business of which the public official or member of his household is a director, officer, owner, partner, employee or holder of stock over five thousand dollars ($5,000) or more at fair market value.

(4) "Conflict of interest" means any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position;

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's

household or business with which the person is associated, is a member or is engaged;

(c) Any interest which the person has by virtue of his profession, trade or occupation where his interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;

(d) Any action by a public official upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

(5) "Economic gain" means increase in pecuniary value from sources other than lawful compensation as a public official.

(6) "Governmental entity" means:

(a) The state of Idaho and all agencies, commissions and other governmental bodies of the state; and

(b) Counties and municipalities of the state of Idaho, all other political subdivisions including, but not limited to, highway districts, planning and zoning commissions or governmental bodies not specifically mentioned in this chapter.

(7) "Members of a household" means the spouse and dependent children of the public official and/or persons whom the public official is legally obligated to support.

(8) "Person" means an individual, proprietorship, partnership, association, trust, estate, business trust, group or corporation, whether operated for profit or not, and any other legal entity, or agent or servant thereof, or a governmental entity.

(9) "Public office" means any position in which the normal and usual duties are conducted on behalf of a governmental entity.

(10) "Public official" means any person holding public office in the following capacity:

(a) As an elected public official meaning any person holding public office of a governmental entity by virtue of an elected process, including persons appointed to a vacant elected office of a governmental entity, excluding members of the judiciary; or

(b) As an elected legislative public official meaning any person holding public office as a legislator; or

(c) As an appointed public official meaning any person holding public office of a governmental entity by virtue of formal appointment as required by law; or

(d) As an employed public official meaning any person holding public office of a governmental entity by virtue of employment, or a person employed by a governmental entity on a consultive basis.

Approved March 23, 1999.

CHAPTER 146
(S.B. No. 1006)

AN ACT

RELATING TO MOTOR VEHICLE ACCIDENTS; AMENDING SECTION 49-1303, IDAHO CODE, TO PROVIDE THAT THE DRIVER OF A VEHICLE COLLIDING WITH AN

UNATTENDED VEHICLE SHALL LEAVE IDENTIFYING INFORMATION IN OR ON THE VEHICLE STRUCK IF THE OWNER OR OPERATOR OF THE VEHICLE CANNOT BE LOCATED.

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

SECTION 1. That Section 49-1303, Idaho Code, be, and the same is hereby amended to read as follows:

49-1303. DUTY UPON STRIKING UNATTENDED VEHICLE. The driver of any vehicle which collides with any unattended vehicle shall immediately stop, and then and there either locate and notify the operator or owner of the vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle, or shall leave in a conspicuous place in <u>or on</u> the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking, along with a statement of the circumstances.

Approved March 23, 1999.

CHAPTER 147
(S.B. No. 1007)

AN ACT

RELATING TO THEFT; AMENDING SECTION 18-2402, IDAHO CODE, TO PROVIDE THAT WHEN THE VALUE OF STOLEN PROPERTY CANNOT BE SATISFACTORILY ASCERTAINED, THE VALUE SHALL BE DEEMED TO BE ONE THOUSAND DOLLARS OR LESS.

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

SECTION 1. That Section 18-2402, Idaho Code, be, and the same is hereby amended to read as follows:

18-2402. DEFINITIONS. The following definitions are applicable to this chapter:

(1) "Appropriate." To "appropriate" property of another to oneself or a third person means:

(a) To exercise control over it, or to aid a third person to exercise control over it, permanently or for so extended a period or under such circumstances as to acquire the major portion of its economic value or benefit; or

(b) To dispose of the property for the benefit of oneself or a third person.

(2) "Deception" means knowingly to:

(a) Create or confirm another's impression which is false and which the offender does not believe to be true; or

(b) Fail to correct a false impression which the offender previously has created or confirmed; or

(c) Prevent another from acquiring information pertinent to the disposition of the property involved; or

(d) Sell or otherwise transfer or encumber property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promise performance which the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(3) "Deprive." To "deprive" another of property means:

(a) To withhold it or cause it to be withheld from him permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him; or

(b) To dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and

(b) In relation to labor or services, to secure the performance thereof.

(5) "Obtains or exerts control" over property, includes, but is not limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to, or interest in, or possession of property.

(6) "Owner." When property is taken, obtained or withheld by one (1) person from another person, an owner thereof means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.

(7) "Person" means an individual, corporation, association, public or private corporation, city or other municipality, county, state agency or the state of Idaho.

(8) "Property" means anything of value. Property includes real estate, money, commercial instruments, admission or transportation tickets, written instruments representing or embodying rights concerning anything of value, labor or services, or otherwise of value to the owner; things growing on, affixed to, or found on land, or part of or affixed to any building; electricity, gas, steam, and water; birds, animals and fish, which ordinarily are kept in a state of confinement; food and drink; samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes or models thereof, or any other articles, materials, devices, substances and whole or partial copies, descriptions, photographs, prototypes or models thereof which constitute, represent, evidence, reflect or record a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention, or improvement.

(9) "Service" includes, but is not limited to, labor, professional service, transportation service, the supplying of hotel accommodations, restaurant services, entertainment, (a communication system) the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. A ticket or equivalent instrument which evidences a right to

receive a service is not in itself service but constitutes property within the meaning of subsection (8) of this section.

(10) "Stolen property" means property over which control has been obtained by theft.

(11) "Value." The value of property shall be ascertained as follows:

(a) Except as otherwise specified in this section, value means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime.

(b) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

1. The value of an instrument constituting an evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.

2. The value of a ticket or equivalent instrument which evidences a right to receive a transportation, entertainment or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon the value shall be deemed the price of such ticket or equivalent instrument which the issuer charges the general public.

3. The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in paragraphs (a) and (b) of this subsection, its value shall be deemed to be ~~three hundred~~ one thousand dollars ($~~3~~1,000) or less.

(d) For the purpose of establishing value of any written instrument, the interest of any owner or owners entitled to part or all of the property represented by such instrument, by reason of such instrument, may be shown, even if another owner may be named in the complaint, information or indictment.

Approved March 23, 1999.

CHAPTER 148
(S.B. No. 1008)

AN ACT

RELATING TO THE IDAHO COURT OF APPEALS; AMENDING SECTION 1-2405, IDAHO CODE, TO ALLOW A RETIRED DISTRICT JUDGE TO SIT WITH THE COURT OF APPEALS ON A CASE THAT ORIGINATED IN HIS JUDICIAL DISTRICT, TO PROVIDE CORRECT NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 1-2405, Idaho Code, be, and the same is hereby amended to read as follows:

1-2405. INTERIM AND SUPPLEMENTAL MEMBERSHIP OF COURT OF APPEALS. (1) Commencing July 1, 1981, until funds have been appropriated for, and the governor has filled by appointment, three (3) positions on the Idaho court of appeals, and continuing thereafter as needed, the supreme court may provide for the assignment of active or retired district judges, retired justices of the supreme court and retired ~~justices~~ judges of the court of appeals to serve on a panel of the court of appeals. Assignments may be made for a time certain, for a term of court, or specifically for one (1) or more cases on the docket of the court of appeals.

(2) An active or retired district judge may not be assigned to hear cases in which he participated while serving on the district court, nor ~~to~~ may an active district judge hear cases which originated in his judicial district.

(3) Active district judges serving on the court of appeals shall be entitled to no additional compensation, but shall be reimbursed for expenses, as provided by section 1-711, Idaho Code. Compensation for retired justices or judges serving on the court of appeals shall be paid in the same manner provided for such temporary service on the supreme court.

Approved March 23, 1999.

CHAPTER 149
(S.B. No. 1010, As Amended in the House)

AN ACT

RELATING TO CHILD SUPPORT; AMENDING SECTION 32-706A, IDAHO CODE, TO EXTEND THE SUNSET CLAUSE ON THE AUTHORITY TO ADOPT CHILD SUPPORT GUIDELINES.

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

SECTION 1. That Section 32-706A, Idaho Code, be, and the same is hereby amended to read as follows:

32-706A. PURPOSE -- AUTHORIZATION TO ADOPT GUIDELINES -- GUIDELINES TO BE PRESUMPTIVE. A. The purpose of this act is to provide compliance with recent federal action whereby the congress of the United States has enacted 42 USC 667 as amended by public law 100-485, 102 STAT 2343, which measure requires that, effective October 13, 1989, as a condition to having a state plan for the receipt of federal aid for dependent children funds approved, a state must establish child support guidelines, which are to have a rebuttable presumption of being the correct amount for purposes of setting the level of child support, unless in a particular case the court finds, under criteria estab-

lished by the legislature of the state that application of the guidelines would be unjust or inappropriate. In addition, the purpose of this act is to recognize and give presumptive effect to the child support guidelines which have been adopted by the supreme court of the state of Idaho, to be effective on and after April 1, 1989, which guidelines have been declared by the supreme court to be advisory, as an aid for the litigants and the courts to evaluate the needs of the children and the resources of the parents in determining the appropriate level of child support.

B. The legislature hereby authorizes and encourages the supreme court of the state of Idaho to adopt and to periodically review for modification, guidelines to promote uniform and adequate child support awards, to supplement the factors set forth in section 32-706, Idaho Code, to be used as an aid and a structure for litigants and courts to evaluate the individual circumstances of the needs of children and the resources of parents, in determining the levels of child support, and in evaluating the evidentiary circumstances of each individual case.

C. In arriving at the amount to be ordered as child support, the court, in addition to considering the factors described in section 32-706, Idaho Code, shall also apply the guidelines adopted by the supreme court of the state of Idaho on January 27, 1989, and as those guidelines are from time to time amended. There shall be a rebuttable presumption that the amount of the award which would result from the application of the guidelines is the amount of child support to be awarded, unless evidence is presented in a particular case which indicates that an application of the guidelines would be unjust or inappropriate. If the court determines that circumstances exist to permit a departure from the guidelines, the judge making the determination shall make a written or specific finding on the record that the application of the guidelines would be unjust or inappropriate in the particular case before the court.

D. The provisions of this section shall be null, void and of no force and effect on and after July 1, ~~1999~~ 2000.

Approved March 23, 1999.

CHAPTER 150
(S.B. No. 1017)

AN ACT

RELATING TO THE BOARD OF PSYCHOLOGIST EXAMINERS; AMENDING SECTION 54-2304, IDAHO CODE, TO INCREASE THE SIZE OF THE BOARD AND INCREASE THE LENGTH OF TERM OF BOARD MEMBERS; REPEALING SECTION 54-2308, IDAHO CODE; AND AMENDING SECTION 54-2315, IDAHO CODE, TO AUTHORIZE AN INCREASE IN THE FEE FOR LICENSE RENEWAL.

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

SECTION 1. That Section 54-2304, Idaho Code, be, and the same is hereby amended to read as follows:

54-2304. ESTABLISHMENT OF BOARD OF PSYCHOLOGIST EXAMINERS. There

is hereby created in the department of self-governing agencies, an Idaho state board of psychologist examiners as follows:

(a) Said board shall consist of ~~three~~ four (~~3~~4) licensed psychologist members and one (1) public member who is not a practitioner or spouse of a practitioner in any health care field and who is not a convicted felon and who has not been an applicant for licensure as a psychologist, who are citizens of the United States, residents of the state of Idaho, and appointed by the governor for ~~three~~ four (~~3~~4) year terms. The psychologist members' terms shall be staggered such that only one (1) term expires June 30 of each year.

(b) Each psychologist board member shall be licensed under this act.

(c) When the term of each psychologist member of the board ends, the governor shall appoint his successor for a term of ~~three~~ four (~~3~~4) years from a list of eligible candidates for board membership submitted to the governor by the president of the Idaho psychological association. Any vacancy occurring on the board shall be filled by the governor, from a list of all eligible candidates for board membership, by appointment for the unexpired term. The governor may give consideration to recommendations from any source in making appointments of the public member to a full or unexpired term. The governor may remove any board member for misconduct, incompetency, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon.

(d) At all times, the board shall have at least one (1) member who is engaged primarily in rendering services in psychology and at least one (1) member who is engaged primarily in teaching, training, or research in psychology.

(e) No board member shall serve more than two (2) consecutive terms.

(f) Each board member shall be compensated as provided by section 59-509(n), Idaho Code.

(g) The board shall annually in the month of July, hold a meeting, and elect a chairman and vice chairman. The board shall meet at such other times as deemed necessary and advisable by the chairman, or by a majority of its members, or by the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board shall constitute a quorum at any meeting or hearing.

SECTION 2. That Section 54-2308, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 54-2315, Idaho Code, be, and the same is hereby amended to read as follows:

54-2315. ADMINISTRATION BY BUREAU OF OCCUPATIONAL LICENSES -- FEE FOR RENEWAL OF LICENSE. This act shall be administered by the bureau of occupational licenses. The fee for renewal of license shall be a fee as established by board rule not to exceed two hundred twenty-five dollars ($2~~00~~25) per annum.

Approved March 23, 1999.

CHAPTER 151
(S.B. No. 1018)

AN ACT

RELATING TO THE STATE BOARD OF OPTOMETRY; AMENDING SECTION 54-1506, IDAHO CODE, TO AUTHORIZE AN INCREASE IN THE FEE FOR LICENSE RENEWAL AND TO STRIKE OBSOLETE LANGUAGE; AND AMENDING SECTION 54-1509, IDAHO CODE, TO CLARIFY AUTHORITY OF THE BOARD TO GOVERN LICENSURE BY ENDORSEMENT TO PERSONS LICENSED IN ANOTHER STATE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1506, Idaho Code, be, and the same is hereby amended to read as follows:

54-1506. STATE BOARD OF OPTOMETRY FUND -- CREATION. (1) All fees of any kind collected under the provisions of this act and all fees collected from optometrists in or out of the state of Idaho by law, except those fees required by subsection (2) of this section and section 54-1523, Idaho Code, shall be deposited in the state treasury to the credit of a separate fund to be known as the state board of optometry fund and all such moneys deposited into such fund are hereby appropriated to carrying out the purpose and objects of this act and to pay salaries, fees, costs and expenses incurred in connection with the purpose and objects of this act. ~~The--funds--collected--shall--be immediately--available--in--the-fiscal-year-1972-1973-of-the-1971-1973 biennium,-the-provisions-of-the-budget-law-notwithstanding.~~ The funds collected shall remain perpetually in the state board of optometry fund from one biennium to the next. The moneys and funds in the state board of optometry fund shall be paid out upon warrants drawn by the state controller upon presentation of proper vouchers approved by the state board of optometry or its executive secretary acting within his delegated authority. Moneys paid from this fund are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code (Standard Travel Pay and Allowance Act of 1949).

(2) The annual fee for renewal of a license shall be established by board rule, not to exceed ~~seventy-five~~ one hundred dollars (~~$75.~~100), which shall be paid to the bureau of occupational licenses, and to pay salaries, fees, costs and expenses incurred in connection with the purposes and objects of this act.

SECTION 2. That Section 54-1509, Idaho Code, be, and the same is hereby amended to read as follows:

54-1509. STATE BOARD OF OPTOMETRY -- POWERS AND DUTIES. In order to protect the public in the practice of optometry, better enable members of the public to fix professional responsibility and further safeguard the doctor-patient relationship, the state board of optometry shall have the following powers and duties:

1. To make and prescribe rules ~~and-regulations~~ for a fair and wholly impartial method of examination of candidates to practice

optometry.

2. To make and prescribe rules ~~and regulations~~ defining for the optometrists what shall constitute a school, college or university or department of a university or other institution reputable and in good standing and to determine the reputability and good standing of a school, college or university or department of a university or other institution by reference to a compliance with such rules. ~~and--regulations;~~

3. To make and prescribe rules to establish a standard of preliminary education deemed requisite to admission to a school, college or university and to require satisfactory proof of the enforcement of such standards by schools, colleges and universities.

4. To make and prescribe rules governing the relicensing of persons applying for a license to practice optometry in the state of Idaho after a failure to maintain a license for a period in excess of five (5) years.

5. To ~~pass upon the qualifications and fitness of applicants--for reciprocal--licenses--to--practice--optometry in Idaho and to make and prescribe rules governing the granting of reciprocal~~ establish by rule the qualifications necessary to grant a licens~~e~~s to practice optometry in Idaho by endorsement to persons licensed in other states.

6. To conduct examinations to ascertain the qualifications and fitness of applicants to practice optometry.

7. To make and prescribe rules governing the minimum amount and kind of continuing education in optometry to be required annually of each optometrist seeking relicense to practice optometry in the state of Idaho.

8. To make, prescribe and promulgate rules ~~and--regulations~~ prescribing a code of ethics and standards of professional conduct in practice for the purpose of regulating and governing the practice of optometry by licensed optometrists within the state of Idaho and to change and modify its rules ~~and regulations~~ or prescribe new rules ~~and regulations~~ in order to improve the practice of optometry for the benefit of the people of the state of Idaho.

9. To make, prescribe and promulgate rules governing the listing and identification of charges for materials and for professional services provided to members of the public by persons licensed to practice optometry in Idaho.

10. To make, prescribe and promulgate rules ~~and--regulations~~ regarding the establishment of "branch offices" in the state of Idaho by persons licensed to practice optometry.

11. To make, prescribe and promulgate rules ~~and--regulations~~ regarding advertising by optometrists licensed to practice in Idaho.

12. To make, prescribe and promulgate rules defining "gross incompetence" as grounds for suspension or revocation of an optometrist's license as provided in section 54-1510, Idaho Code.

13. To make, prescribe and promulgate rules ~~and regulations~~ governing the verification by an optometrist of the accuracy in compounding and the quality of the workmanship and materials used by any person, firm or corporation in the course of filling or compounding the optometrist's prescriptions for vision aids of any type prior to delivery by the optometrist.

14. To make, prescribe and promulgate rules governing the issuance

and release of prescriptions or copies of prescriptions by optometrists out of the office of the optometrist.

15. To make, prescribe and promulgate rules governing the type and kind of records to be kept by each optometrist pertaining to all patients examined or for whom he has adapted optical accessories.

16. To make, prescribe and promulgate such other rules ~~and regulations~~ required by this act or necessary or desirable for its enforcement and administration.

17. The state board of optometry shall have the power to administer oaths, take depositions of witnesses in and out of the state of Idaho in the manner of civil cases, require the attendance of such witnesses and the production of such books, records and papers as it may desire at any hearing before it or deposition authorized by it, pertaining in any manner to any matters of which it has authority to investigate and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a civil case is returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in civil cases. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court, or any judge thereof, of any county in this state in which the proceeding is held upon application of the board, to compel obedience in proceedings for contempt as in the case of disobedience of the requirements of any subpoena issued from such court or for refusal to testify therein. The licensed person accused in such proceeding shall have the same right of subpoena upon making application to the board as set out in this act.

18. The state board of optometry shall have the power to hire attorneys, investigators, hearing officers or other employees for carrying out the purpose of this act or to promote the interests of the profession of optometry in Idaho from funds available in the fund established by this act or from any other available funds.

19. To authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest.

Approved March 23, 1999.

CHAPTER 152
(S.B. No. 1019)

AN ACT

RELATING TO THE IDAHO COUNSELOR LICENSING BOARD; AMENDING SECTION 54-3405, IDAHO CODE, TO STRIKE OBSOLETE LANGUAGE AND TO PROHIBIT LICENSURE OF CERTAIN INDIVIDUALS SANCTIONED BY ANOTHER LICENSING ENTITY; AMENDING SECTION 54-3408, IDAHO CODE, TO STRIKE LANGUAGE GOVERNING LICENSURE OF CERTAIN INDIVIDUALS SANCTIONED BY ANOTHER LICENSING ENTITY; AND AMENDING SECTION 54-3411, IDAHO CODE, TO ESTABLISH THE EXAMINATION FEE TO BE CHARGED.

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

SECTION 1. That Section 54-3405, Idaho Code, be, and the same is hereby amended to read as follows:

54-3405. QUALIFICATIONS FOR LICENSURE. Licensure as a "licensed professional counselor" shall be restricted to persons who have successfully completed each of the following requirements:

(1) A planned graduate program of sixty (60) semester hours which is primarily counseling in nature, six (6) semester hours of which are earned in an advanced counseling practicum, and including a graduate degree in a counseling field from an accredited university or college offering a graduate program in counseling.

(2) An examination if required by the board's ~~regulations~~ rules.

(3) One thousand (1,000) hours of supervised experience in counseling acceptable to the board.

~~Within-the-period-from-the-effective-date-of--this--chapter--until July-1,-1983,-an-applicant-shall-be-exempt-from-the-provisions-of-this section:~~

~~(1)--Who--holds--at--least--a--master's--degree-in-counseling-or-a related-field-from-an-accredited-college-or-university;~~

~~(2)--Who,-if-required-by-the-board,-passes-an-examination-in-counseling-skills-and/or-knowledge;~~

~~(3)--Who-has-supervised-counseling-experience--acceptable--to--the board;~~

(4) A license or conditional license will not be allowed an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field. Such an individual may not be licensed under this chapter unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.

SECTION 2. That Section 54-3408, Idaho Code, be, and the same is hereby amended to read as follows:

54-3408. CERTAIN ACTS PROHIBITED. The following acts shall be unlawful and punishable as a misdemeanor:

(1) The violation of any of the provisions of this chapter and any rules promulgated pursuant thereto;

(2) A person representing himself to be a licensed counselor or licensed professional counselor without having first complied with the provisions of this chapter;

(3) A person who shall practice or attempt to offer to practice professional counseling, as defined in this chapter, without having at the time of so doing, a valid, unexpired, unrevoked and unsuspended license or conditional license issued under this chapter or the laws of Idaho or any other state governing mental health professionals;

~~(4)--A-license-or-conditional-license-will-not-be-allowed-an-individual--whose-license,-certification,-or-registration-has-been-revoked or-suspended-in-this-or-any-other-state--and--in--this--or--any--other related-field.-Such-an-individual-may-not-be-licensed-under-this-chapter--unless--the-period-of-revocation-or-suspension-has-been-completed~~

~~and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.~~

SECTION 3. That Section 54-3411, Idaho Code, be, and the same is hereby amended to read as follows:

54-3411. FEES ON LICENSURE. The board shall establish fees for licensure under the provisions of this chapter as follows:

(1) The fee for applications not to exceed one hundred dollars ($100).

(2) The fee for examination, when required, ~~not to exceed fifty dollars ($50.00)~~ equal to that charged by the national examining entity.

(3) The fee for reciprocity not to exceed one hundred dollars ($100).

(4) The fee for the original license not to exceed one hundred dollars ($100).

(5) The fee for annual renewal not to exceed sixty dollars ($60.00).

(6) Fees under subsections (2) or (3) of this section shall be in addition to the application fee.

(7) All fees paid pursuant to this section shall be nonrefundable.

Approved March 23, 1999.

CHAPTER 153
(S.B. No. 1020)

AN ACT
RELATING TO THE IDAHO BOARD OF PODIATRY; AMENDING SECTION 54-607, IDAHO CODE, TO INCREASE THE MAXIMUM FEE FOR RENEWAL OF LICENSURE.

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

SECTION 1. That Section 54-607, Idaho Code, be, and the same is hereby amended to read as follows:

54-607. LICENSES -- ISSUANCE -- RENEWALS -- DISPLAY. If the applicant shall pass a satisfactory examination, and shall show that he is a person of good moral character and he possesses the qualifications required by this chapter to entitle him to a license as a podiatrist, he shall be entitled to a license authorizing him to practice podiatry within the state of Idaho. Said successful applicant shall be issued his license by the board upon payment of the original license fee which shall be the same fee as required for renewal.

All licenses to practice podiatry shall expire on the 30th day of June of each year; all licensed podiatrists are entitled to and shall renew their licenses on or before the 1st day of July of each year; and shall make application therefor, accompanied by an annual renewal license fee established by board rule not to exceed one hundred ~~fifty~~

seventy-five dollars ($175~~0~~) for podiatrists. Payment of fees herein provided, and satisfactory evidence of having complied with continued education requirements as established by board rules are a condition precedent for issuance of a license.

Every person to whom a license is granted shall have such license displayed continuously in a conspicuous part of his office wherein his practice of podiatry is conducted.

The board shall keep on file a register of all applicants for license, rejected applicants, and licensees.

The fee for reinstatement of a license shall be as provided in section 67-2614, Idaho Code. All fees shall be paid to the bureau of occupational licenses.

Approved March 23, 1999.

CHAPTER 154
(S.B. No. 1028)

AN ACT

RELATING TO THE PEACE OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING SECTION 19-5102, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE AND TO INCLUDE THE DIRECTOR OF THE DEPARTMENT OF JUVENILE CORRECTIONS OR HIS DESIGNEE AS A MEMBER OF THE COUNCIL; AND AMENDING SECTION 19-5109, IDAHO CODE, TO AUTHORIZE THE COUNCIL, UPON RECOMMENDATION OF THE JUVENILE TRAINING COUNCIL, TO IMPLEMENT MINIMUM BASIC TRAINING FOR JUVENILE PROBATION OFFICERS AND MINIMUM TRAINING AND CERTIFICATION STANDARDS FOR JUVENILE DETENTION OFFICERS.

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

SECTION 1. That Section 19-5102, Idaho Code, be, and the same is hereby amended to read as follows:

19-5102. COUNCIL ESTABLISHED -- CHAIRMAN -- MEMBERS. There is hereby established in the department of law enforcement the Idaho ~~police~~ peace officer standards and training council. The chairman of the council shall be appointed by the governor and shall be a voting member of the council which shall be composed of the following members, and which shall reflect a reasonable geographic balance throughout the state:

(a) Three (3) city chiefs of police or their designees;

(b) Three (3) county sheriffs or their designees;

(c) The director of the department of law enforcement or his designee;

(d) A county prosecuting attorney or his designee;

(e) The attorney general or his designee;

(f) The special agent in charge of the Idaho division of the federal bureau of investigation or his designee;

(g) The director of the department of correction or his designee;

(h) The director of the fish and game department or his designee; ~~and~~

(i) The director of the department of juvenile corrections or his designee; and

(j) In addition, there shall be advisory to the council, as ex officio nonvoting members of the council, the executive directors of the Idaho association of counties and association of Idaho cities.

SECTION 2. That Section 19-5109, Idaho Code, be, and the same is hereby amended to read as follows:

19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND EMPLOYMENT OF PEACE OFFICERS -- CERTIFICATION -- PENALTIES. (a) It shall be the duty of and the council shall have the power:

(1) To establish the requirements of minimum basic training which peace officers shall complete in order to be eligible for permanent employment as peace officers, and the time within which such basic training must be completed.

(2) To establish the requirements of minimum education and training standards for employment as a peace officer in probationary, temporary, part-time, and/or emergency positions.

(3) To establish the length of time a peace officer may serve in a probationary, temporary, and/or emergency position.

(4) To approve, deny approval or revoke the approval of any institution or school established by the state or any political subdivision or any other party for the training of peace officers.

(5) To establish the minimum requirements of courses of study, attendance, equipment, facilities of all approved schools, and the scholastic requirement, experience and training of instructors at all approved schools.

(6) To establish such other requirements for employment, retention and promotion of peace officers, including minimum age, physical and mental standards, citizenship, moral character, experience and such other matters as relate to the competence and reliability of peace officers.

(7) To certify peace officers as having completed all requirements established by the council in order to be eligible for permanent employment as peace officers in this state.

(8) To receive and file for record copies of merit regulations or local ordinances passed by any political subdivision.

(9) To maintain permanent files and transcripts for all peace officers certified by the council to include any additional courses or advance courses of instruction successfully completed by such peace officers while employed in this state.

(10) To receive applications for financial assistance from the state and from political subdivisions and disburse available state funds to the state and to political subdivisions for salaries and allowable living expenses or any part thereof, as authorized by the council, incurred while in attendance at approved training programs and schools. The annual reimbursements authorized by this section shall not exceed the funds available for such purpose and authorized by section 31-3201B, Idaho Code.

(11) To allow a ~~police~~ peace officer of a federally recognized Indian tribe within the boundaries of this state to attend the peace officer standards and training academy if said ~~police~~ peace

officer meets minimum physical and educational requirements of the academy. The Indian tribal law enforcement agency shall reimburse the peace officer standards and training academy for the officer's training. Upon satisfactory completion of the peace officer standards and training academy, the tribal ~~police~~ peace officer shall receive a certificate of satisfactorily completing the academy.

(b) After January 1, 1974, any peace officer as defined in section 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected official, any deputy sheriff working as a detention officer in the county jail, or serving civil process, the superintendent of the Idaho state police, or any person serving under a temporary commission with any law enforcement agency in times of natural or man-caused disaster declared to be an emergency by the board of county commissioners or by the governor of the state of Idaho, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, or any peace officer acting under a special deputy commission from the department of law enforcement, shall be certified by the council within one (1) year of employment; provided, however, that the council may establish criteria different than that required of other peace officers for certification of city police chiefs or administrators within state agencies having law enforcement powers, who, because of the number of full-time peace officers they supervise, have duties which are primarily administrative. Any such chief of police or state agency administrator employed in such capacity prior to July 1, 1987, shall be exempt from certification.

(c) No peace officer shall have or exercise any power granted by any statute of this state to peace officers unless such person shall have been certified by the council within one (1) year of the date upon which such person commenced employment as a peace officer, except in cases where the council, for good cause and in writing, has granted additional time to complete such training. The council may decertify any officer who pleads guilty or is found guilty, regardless of the form of judgment or withheld judgment of:

(1) Any felony or offense which would be a felony if committed in this state;

(2) Any misdemeanor;

(3) Any unlawful use, possession, sale or delivery of any controlled substance; or who

(4) Willfully or otherwise falsifies or omits any information to obtain any certified status; or who

(5) Violates any of the standards of conduct as established by the council's code of ethics, as adopted and amended by the council.

All proceedings taken by the council shall be done in accordance with chapter 52, title 67, Idaho Code.

(d) Any law enforcement agency as defined in section 19-5101(c), Idaho Code, in which any peace officer shall resign as a result of any disciplinary action or in which a peace officer's employment is terminated as a result of any disciplinary action, shall, within thirty (30) days of such action, make a report to the council.

(e) The council shall, pursuant to the requirements of this section, establish minimum basic training and certification standards for

county detention officers that can be completed within one (1) year of employment as a county detention officer.

(f) The council may, upon recommendation of the juvenile training council and pursuant to the requirements of this section, implement minimum basic training for juvenile probation officers and implement minimum training and certification standards for juvenile detention officers.

Approved March 23, 1999.

CHAPTER 155
(S.B. No. 1029)

AN ACT

RELATING TO JUVENILE CORRECTIONS; AMENDING SECTION 20-520, IDAHO CODE, TO INCREASE THE CHARGE ASSESSED FOR EACH PETITION FILED AGAINST A JUVENILE ADJUDICATED TO BE WITHIN THE PURVIEW OF THE JUVENILE CORRECTIONS ACT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 20-542, IDAHO CODE, TO ALLOW FUNDS IN THE JUVENILE CORRECTIONS ACCOUNT TO BE USED TO COORDINATE TRAINING FOR JUVENILE DETENTION OFFICERS AND/OR JUVENILE PROBATION OFFICERS.

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

SECTION 1. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will 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, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the 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 sentence the juvenile as follows:

(a) Place the juvenile on formal probation for a period not to exceed three (3) years from the date of the order;

(b) Sentence the juvenile to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of section 922(x) of title 18, United States Code, or the court finds that the juvenile has violated the court's decree imposing the sentence as provided below.

If the court, after notice and hearing, finds that a juvenile has violated the court's decree imposing the sentence under circumstances that brings the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile to detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile has been adjudicated as an habitual status offender;

(d) If the juvenile has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the juvenile to detention for a period not to exceed one hundred eighty (180) days for each unlawful or criminal act;

(e) Whenever a court commits a juvenile to a period of detention it shall notify the school district where the detention facility is located. No 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 an adjudication has been made that the juvenile is an habitual status offender;

(f) Commit the juvenile to detention and suspend the sentence on specific probationary conditions;

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

(~~i~~gh) The court may order that the 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 juvenile in a hospital or other suitable facility;

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

(~~k~~ij) The court may make any other reasonable order which is in the best interest of the juvenile or is required for the protection of the public, except that no person under the age of eighteen (18) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section

20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(~~i~~j~~k~~) An order under the provisions of this section for probation or placement of a juvenile with an individual or an agency may provide a schedule for review of the case by the court;

(~~km~~l) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

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

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

(~~pn~~o) The court shall assess a ~~ten~~ twenty dollar ($~~1~~20.00) charge against the juvenile for every petition filed where there has been an adjudication that the 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 juvenile corrections account which is created in section 20-542, Idaho Code;

(~~qo~~p) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile for every petition filed where there has been an adjudication that the 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;

(~~pq~~) Commit the juvenile to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile's twenty-first birthday, unless extended jurisdiction is necessary to complete the competency development and accountability goals of the department;

(r) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the 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 juvenile resides or is committed, or by an appointed agent. When committing a 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 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 juvenile's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210,

Idaho Code.

(4) Any parent, legal guardian or custodian violating any order of the court entered against the person under the provisions of this chapter shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

SECTION 2. That Section 20-542, Idaho Code, be, and the same is hereby amended to read as follows:

20-542. JUVENILE CORRECTIONS ACCOUNT -- CREATION. There is hereby created in the state treasury, the juvenile corrections account. Moneys in the account shall be utilized by the department for construction and administration of facilities under the jurisdiction of the department of juvenile corrections, for assistance to a county or series of counties in constructing, contracting for or administering detention facilities for juveniles, to coordinate training for juvenile detention officers and/or juvenile probation officers, and for alternative programs designed to help juveniles avoid the traditional juvenile corrections system. All moneys in the account may be expended only pursuant to appropriation by the legislature.

Approved March 23, 1999.

CHAPTER 156
(S.B. No. 1040, As Amended, As Amended in the House)

AN ACT

RELATING TO THE DUTY TO GIVE INFORMATION IN AN ACCIDENT INVOLVING DAMAGE TO A VEHICLE; AMENDING SECTION 49-1302, IDAHO CODE, TO PROVIDE FOR INFORMATION TO BE EXHIBITED, TO PROVIDE WHEN A POLICE OFFICER SHALL FACILITATE THE EXCHANGE OF INFORMATION, AND TO PROVIDE CRIMINAL PENALTIES FOR FAILING TO GIVE INFORMATION OR PROVIDING FALSE INFORMATION REGARDING AN ACCIDENT INVOLVING DAMAGE TO A VEHICLE.

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

SECTION 1. That Section 49-1302, Idaho Code, be, and the same is hereby amended to read as follows:

49-1302. DUTY TO GIVE INFORMATION IN ACCIDENT INVOLVING DAMAGE TO A VEHICLE. (1) The driver of any vehicle involved in an accident resulting in damage to any vehicle which is driven or attended by any person shall, at the scene of the accident, give his name, address~~, the--name--of-his-insurance-agent-or-company-if-he-has-automobile-liability-insurance,-and-the-motor-vehicle--registration--number--of--the vehicle-he-is-driving.-If~~ and, if available, at the scene of the accident, he shall exhibit his driver's license, proof of registration and certificate or proof of liability insurance to the person struck or to the driver or person attending any vehicle collided with.

(2) If a police officer is present, that officer shall make all reasonable efforts to facilitate the exchange of the required informa-

tion provided by subsection (1) of this section between the parties involved.

(3) Any person who willfully fails to provide the information required to be given by subsection (1) of this section or who knowingly provides false information of the type required by this section shall be guilty of a misdemeanor.

Approved March 23, 1999.

CHAPTER 157
(S.B. No. 1043, As Amended, As Amended)

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE STATE APPELLATE PUBLIC DEFENDER; AMENDING SECTION 19-870, IDAHO CODE, TO ESTABLISH PARAMETERS GOVERNING THE APPOINTMENT OF THE STATE APPELLATE PUBLIC DEFENDER TO CASES; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 19-870, Idaho Code, be, and the same is hereby amended to read as follows:

19-870. POWERS AND DUTIES. (1) Subject to the provisions of subsection (2) of this section, the state appellate public defender, upon appointment by the court, shall provide representation for indigent defendants in felony criminal actions in the following cases:

(a) Appeals from convictions in district court, where the appellant was convicted on or after September 1, 1998;

(b) Appeals from the district court in post-conviction relief proceedings brought pursuant to the uniform post-conviction procedure act, chapter 49, title 19, Idaho Code, where the denial of the post-conviction relief occurred on or after September 1, 1998;

(c) Appeals from the district court in habeas corpus proceedings brought pursuant to chapter 42, title 19, Idaho Code, where the petition was denied on or after September 1, 1998;

(d) Post-conviction relief proceedings in district court in capital cases where the appellant was sentenced on or after September 1, 1998, or where the court has appointed the state appellate public defender or the state appellate public defender has accepted the request by the court for representation in the case and such event occurred on or after July 1, 1998, but before March 1, 1999.

(2) The services of the state appellate public defender shall be available only to those counties participating in the capital crimes defense fund established pursuant to section 19-863A, Idaho Code.

(3) The state appellate public defender may employ deputy state appellate public defenders and other employees necessary to carry out the responsibilities of the office. The state appellate public defender, in his discretion, may contract with private attorneys to provide representation on a case-by-case basis when such contracts

would conserve budgetary resources.

(a) A deputy state appellate public defender must be licensed to practice law in the state of Idaho and possess any other qualifications required by the state appellate public defender.

(b) The state appellate public defender shall fix the compensation of all employees of the office and they shall serve at his pleasure.

(c) The state appellate public defender, deputy state appellate public defenders and all employees of the office of the state appellate public defender shall be nonclassified employees, pursuant to section 67-5303, Idaho Code.

(4) The state appellate public defender shall have any and all other powers and duties necessary to carry out the purposes of this act, including the authority to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 1998.

Approved March 23, 1999.

CHAPTER 158
(S.B. No. 1047)

AN ACT

RELATING TO ANIMALS; AMENDING SECTION 25-1910, IDAHO CODE, TO PROVIDE CIVIL AND CRIMINAL DAMAGES UPON THEFT OR UNLAWFUL DESTRUCTION OF FURBEARING ANIMALS USED FOR COMMERCIAL PURPOSES OR RECORDS PERTAINING THERETO.

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

SECTION 1. That Section 25-1910, Idaho Code, be, and the same is hereby amended to read as follows:

25-1910. CIVIL DAMAGES AND OTHER PENALTIES UPON THEFT OR UNLAWFUL DESTRUCTION OF FURBEARING ANIMALS RAISED FOR COMMERCIAL PURPOSES OR LIVESTOCK. (1) In addition to the criminal penalties that may be imposed upon a person convicted of theft or unlawful destruction of furbearing animals raised for commercial purposes or livestock, the court shall assess civil damages against the defendant in any amount necessary to fully compensate the owner of the furbearing animals raised for commercial purposes or livestock for his loss, which amount shall be paid to the owner, and any amount necessary to fully compensate any trade association which has paid out rewards which led to the arrest and conviction of the defendant in the particular case, which amount shall be paid to the trade association.

(2) Any person who intentionally and without permission of the owner releases any furbearing animals raised for commercial purposes

is guilty of a felony and the court may assess civil damages against the defendant in any amount necessary to compensate the owner of the furbearing animals raised for commercial purposes. Additionally, any person who intentionally destroys or conspires to destroy any paper or electronic record of a furbearing animal raised for commercial purposes shall be guilty of a felony and the court may assess civil damages against the defendant in any amount necessary to compensate the owner of the furbearing animals raised for commercial purposes.

Approved March 23, 1999.

CHAPTER 159
(S.B. No. 1050)

AN ACT

RELATING TO CHILDREN AND VULNERABLE ADULTS; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1522, IDAHO CODE, TO PROVIDE A CRIMINAL OFFENSE FOR UNAUTHORIZED ENTRY OF A SCHOOL BUS.

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

SECTION 1. That Chapter 15, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-1522, Idaho Code, and to read as follows:

18-1522. UNAUTHORIZED SCHOOL BUS ENTRY -- NOTICE. (1) A person shall be guilty of a misdemeanor if that person:

(a) Enters a school bus with intent to commit a crime;

(b) Enters a school bus and disrupts or interferes with the driver; or

(c) Enters a school bus and refuses to disembark after being ordered to do so by the driver.

(2) School districts shall place notices at the entrance to school buses which warn against unauthorized school bus entry.

Approved March 23, 1999.

CHAPTER 160
(S.B. No. 1057)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1361, IDAHO CODE, TO INCREASE THE VALUE OF THE LUMP SUM DEATH BENEFIT PAYABLE TO THE BENEFICIARIES OF VESTED MEMBERS TO AN AMOUNT COMPARABLE TO THE OPTIONAL SPOUSAL ANNUITY; AND AMENDING SECTION 59-1351, IDAHO CODE, TO PROVIDE A CORRECT CITATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 59-1361, Idaho Code, be, and the same is hereby amended to read as follows:

59-1361. COMPUTATION OF DEATH BENEFITS -- METHOD OF PAYMENT -- OPTIONAL DEATH BENEFIT. (1) The death benefit of an active or inactive member not vested at time of death shall equal the excess, if any, of the member's accumulated contributions at the time the benefit becomes payable over the aggregate of all ~~retirement allowance~~ benefit payments ever made to the ~~deceased~~ member. ~~upon the death of the member, the contingent annuitant, and the optional death benefit recipient, if any.~~

(2) The death benefit of an early or service retired member shall equal the excess, if any, of the member's accumulated contributions at the time the member retired over the aggregate of all retirement allowance payments ever made to the ~~deceased~~ member, the member's named contingent annuitant, and the optional death benefit recipient, if any.

(3) The death benefit of a vested member who, at the time of death is either active, inactive, or a disability retiree, shall equal the excess, if any, of two hundred percent (200%) of the member's accumulated contributions at the time of death over the aggregate of all benefit payments ever made to the member and the optional death benefit recipient, if any.

(~~2~~4) The death benefit, if any, will be paid to the member's designated beneficiary who is surviving the member at the time the benefit becomes payable~~; otherwise, it~~. If no beneficiary has been designated or the designated beneficiary has predeceased the member, the death benefit will be paid to the surviving spouse, and if there is no surviving spouse it will be paid in accordance with the laws of descent and distribution of the state of Idaho as they may then be in effect. The beneficiary may waive any death benefit otherwise payable and have it paid to the member's surviving spouse.

(~~3~~5) ~~Upon the death~~ When the surviving spouse of a vested member ~~who has at least five (5) years of credited service and is: (a) active; (b) inactive; or (c) a disability retired member; his beneficiary may waive any death benefit otherwise payable and have it paid to the member's surviving spouse, whereupon~~ is entitled to a death benefit under subsection (3) of this section, the surviving spouse may elect either an allowance as provided in option 1 under section 59-1351, Idaho Code, or a one (1) time lump sum death benefit payment as provided in subsection (~~1~~3) of this section. The initial retirement allowance upon which such optional retirement allowance is based shall be calculated as if the member had retired immediately before his death. If the member is not then eligible to receive a service or early retirement allowance, such initial retirement allowance shall equal the actuarial equivalent of the retirement allowance payable when the member would first be eligible for ~~vested~~ early retirement, calculated as if he had separated from service immediately before his death.

SECTION 2. That Section 59-1351, Idaho Code, be, and the same is hereby amended to read as follows:

59-1351. CONVERSION OF SERVICE RETIREMENT OR EARLY RETIREMENT OR VESTED RETIREMENT ALLOWANCES INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The service retirement allowance, the early retirement allowance or the vested retirement allowance of a member who, at time of retirement, so elects shall be converted into an optional retirement allowance which is the actuarial equivalent of such other allowance. The optional retirement allowance may take one (1) of the forms listed below and shall be in lieu of all other benefits under this chapter except that the provisions of section 59-1361(~~1~~2), Idaho Code, shall be applicable:

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of such reduced retirement allowance during the lifetime of the member's named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the lifetime of the member's named contingent annuitant.

(c) Option 3, which is available only if the member retires before the date of the social security normal retirement age for that member, provides an increased retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming payable at such date as estimated by the board.

(d) Option 4, which is available only if the member retires before the date of the social security normal retirement age for that member, provides either an adjusted option 1 (option 4A) or option 2 (option 4B) retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming payable at such date as estimated by the board. The adjusted retirement allowance shall be paid to the retired member during the member's lifetime and the appropriate continuation amount of the adjusted allowance to the member's named contingent annuitant for life thereafter.

(2) Should the named contingent annuitant under option 1 or option 2 predecease a member retiring on or after October 1, 1992, upon notification to the board the member's benefit on the first day of the month following the death of the contingent annuitant will thereafter become an allowance calculated pursuant to section 59-1342 or 59-1346, Idaho Code, whichever was applicable on the date of retirement, in addition to any ~~post-retirement~~ postretirement allowance adjustments which may have accrued from that time. Should the named contingent annuitant predecease the member under option 4, upon notification to the board, the member's benefit on the first day of the month following the contingent annuitant's death will thereafter become the option 3 allowance to which the member would have been entitled as of the date of the annuitant's death. The benefit changes under this subsection shall be available only to members whose last

contribution was made after the effective date of this act.

(3) Option 1 or 2 may not be chosen if initial payments of less than twenty dollars ($20.00) per month would result.

(4) Application for any optional retirement allowance shall be in writing, duly executed and filed with the board. Such application shall contain all information required by the board, including such proofs of age as are deemed necessary by the board.

(5) A retirement option elected at the time of retirement as provided for in this section may not be changed except by written notice to the retirement board no later than five (5) business days after the receipt of the first retirement allowance.

(6) Not later than one (1) year after the marriage of a retired member, the member may elect option 1, 2 or 4 to become effective one (1) year after the date of such election, provided the member's spouse is named as a contingent annuitant, and either:

(a) The member was not married at the time of the member's retirement; or

(b) The member earlier elected option 1, 2, 4A or 4B, having named the member's spouse as contingent annuitant, and said spouse has died. The retirement allowance to be converted in such a case is that currently being paid.

Approved March 23, 1999.

CHAPTER 161
(S.B. No. 1066)

AN ACT

RELATING TO THE IDAHO BOARD OF NURSING HOME ADMINISTRATORS; AMENDING SECTION 54-1601, IDAHO CODE, TO STRIKE REFERENCES TO PROVISIONAL LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1602, IDAHO CODE, TO STRIKE REFERENCE TO PROVISIONAL LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1604, IDAHO CODE, TO STRIKE REFERENCE TO REGISTRATION AND TO PROVIDE FOR RENEWAL OF LICENSES; AMENDING SECTION 54-1605, IDAHO CODE, TO STRIKE OBSOLETE REQUIREMENTS AND TO REQUIRE COMPLETION OF ADMINISTRATOR-IN-TRAINING PROGRAM; AMENDING SECTION 54-1607, IDAHO CODE, TO STRIKE REFERENCE TO PROVISIONAL LICENSE, TO AUTHORIZE A TEMPORARY LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1608, IDAHO CODE, TO GOVERN RENEWAL OF LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1610, IDAHO CODE, TO GOVERN APPLICATION OF THE ADMINISTRATOR-IN-TRAINING PROVISIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1611, IDAHO CODE, TO STRIKE REFERENCE TO REGISTRATION; AMENDING SECTION 54-1612, IDAHO CODE, TO STRIKE REFERENCE TO REGISTRATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1613, IDAHO CODE, TO STRIKE REFERENCE TO REGISTRATION; AND REPEALING SECTION 54-1615, IDAHO CODE.

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

SECTION 1. That Section 54-1601, Idaho Code, be, and the same is hereby amended to read as follows:

54-1601. DEFINITIONS. (1) As used in this act, unless otherwise stated, the following terms shall have the respective meanings hereinafter set forth or indicated:

(2) "Board" means the board of examiners of nursing home administrators of the state of Idaho.

(3) "Examiner" means a member of the board of examiners of nursing home administrators of the state of Idaho.

(4) "Executive secretary" means the secretary of the board of examiners of nursing home administrators of the state of Idaho.

(5) "Nursing home administrator" means any individual responsible for planning, organizing, directing, and controlling the operation of a nursing home, or who in fact performs such functions, whether or not such functions are shared by one (1) or more other persons.

~~(6) "Provisional license" means a temporary license issued to a provisional nursing home administrator under and pursuant to the provisions of this act.~~

~~(7) "Provisional nursing home administrator" means an individual who has been licensed as such under and pursuant to the provisions of this act.~~

~~(8)~~ "Nursing home administrator-in-training" means an individual registered as such under and pursuant to the provisions of this act.

(~~9~~7) "Practice of nursing home administration" means that planning, organizing, directing, and control of the operation of a nursing home.

(~~10~~8) "Health care facility" means any institution or facility which supplies all of the functional needs of an individual in need of residence care and defined as such for licensing purposes under state law or pursuant to the rules for nursing homes, hospitals, residential care homes, whether proprietary or nonprofit, and shall include, but not be limited to, health care facilities owned or administered by the state government or any agency or political subdivisions thereof.

SECTION 2. That Section 54-1602, Idaho Code, be, and the same is hereby amended to read as follows:

54-1602. SUPERVISION BY LICENSED ADMINISTRATOR REQUI~~RED~~ PRACTICE BY UNLICENSED PERSON PROHIBITED. ~~--PROVISIONAL LICENSE. Effective July 1, 1970, n~~ No nursing home in the state shall be operated unless it is under the supervision of an administrator who holds a Currently valid nursing home administrator's license ~~and registration, or provisional license,~~ issued pursuant to this act. No person shall practice or offer to practice nursing home administration in this state or use any title, sign, card, or device to indicate that he is a nursing home administrator unless such person shall have been duly licensed ~~and registered~~ as a nursing home administrator ~~or licensed as a provisional nursing home administrator~~ as required by this act.

SECTION 3. That Section 54-1604, Idaho Code, be, and the same is hereby amended to read as follows:

54-1604. FUNCTIONS AND DUTIES OF BOARD -- FEE FOR LICENSE APPLICANTS -- RULES. ~~AND--REGULATIONS.~~ (1) It shall be the functions and duties of such board to:

(a) Develop, impose, and enforce standards consistent with this act which shall be met by individuals in order to receive and retain a license as a nursing home administrator which standard shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(c) Issue licenses ~~and-registrations~~ to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses ~~and-registrations~~ previously issued by the board in any case where the individual holding any such license ~~or-registration~~ is determined substantially to have failed to conform to the requirements of such standards;

(d) Establish and carry out procedures designated to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(e) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the board charging that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(f) Conduct a continuing study and investigation of administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such;

(g) The fee to be paid by applicants for licenses, ~~recertification--of-registration~~ renewal of licenses and applicants seeking a reciprocal endorsement of a license issued by the proper authorities in another state, shall be set by board rule in an amount not to exceed eighty-five dollars ($85.00).

(2) The board or any committee or member thereof or any hearing officer designated by such board, acting in an official capacity, shall have powers and duties as provided by law.

Such board shall not be bound by the strict rules of evidence in the conduct of its proceedings but any determinations made shall be founded upon sufficient legal evidence to sustain them.

(3) The board shall also have the authority to make rules not inconsistent with law as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the "Social Security Act," the federal rules promulgated thereunder, and other pertinent federal requirements.

SECTION 4. That Section 54-1605, Idaho Code, be, and the same is

hereby amended to read as follows:

54-1605. QUALIFICATIONS FOR EXAMINATION FOR LICENSE. (1) The board shall admit to examination for licensure as a nursing home administrator any candidate who pays a fee as determined by the board, ~~and~~ submits evidence of good moral character and suitability prescribed by the board, and is at least twenty-one (21) years old except~~:~~

~~(a)--That-on-and-after-July-1,-1970,-no-applicant-for-license-as-a nursing-home-administrator-shall-be--admitted--to--such--licensing examination--nor-shall-such-applicant-be-entitled-to-or-be-granted a-license-as-a-nursing-home-administrator--unless--such--applicant shall--submit-written-evidence,-on-forms-provided-for-such-purpose by-the-board,-that-he-has-successfully-completed-a-course-of-study and-has-been-graduated-from-a-high-school-approved-and--recognized by--the--educational-authorities-of-the-state-in-which-such-school is-located,-or-a-political-division-thereof--or--has--submitted--a certificate-indicating-that-he-has-obtained-high-school-or-secondary-school-equivalency,-such-certificate-being-duly-certified-by-a state--educational--authority-or-a-political-division-thereof,-and except-that-he-shall-have-complied-with-the-provisions-of--subsection-(2)-of-this-section.~~

~~(b)--That-on-or-after-January-1,-1975,-no-applicant-for-license-as a--nursing--home-administrator-shall-be-admitted-to-such-licensing examination,-nor-shall-such-applicant-be-entitled-to-or-be-granted a-license-as-a-nursing-home-administrator,-unless--such--applicant shall--submit-written-evidence,-on-forms-provided-for-such-purpose by-the-board,-that-he-has-successfully-completed-two-(2)-years--of college--level--study--after--high--school--study-in-an-accredited institution-of-higher-learning-and-except-that-he-shall-have--complied-with-the-provisions-of-subsection-(2)-of-this-section.~~

~~(c)--That--on--or--after--January--1,--1980,~~ that no applicant for license as a nursing home administrator shall be admitted to such licensing examination nor shall such applicant be entitled to or be granted a license as a nursing home administrator unless such applicant shall submit written evidence, on forms provided for such purpose by the board, that he has successfully completed a course of study for a baccalaureate degree and has been awarded such degree from an accredited institution of higher learning or its equivalent as provided in subsection (3) of this section~~,-and except-that-he-shall-have-complied-with-the-provisions-of--subsection-(2)-of-this-section.~~

~~(2)--On--and--after--July-1,-1970,-each-applicant-who-has-not-completed-a-regular-course-of-study-or-program-in-an-accredited--institution-of--higher-learning,-which-course-of-study-or-program-shall-have been-approved-by-the-board-as-being-adequate-academic-preparation-for nursing-home-administration,-shall-in-addition-to-meeting-the-requirements--of--subsection-(1)(a)-of-this-section-submit-evidence-satisfactory-to-the-board--that--he-has--successfully--completed--specialized courses--or-a-program-of-study-in-the-area-of-nursing-home-administration-as-required-and-approved-by-the-rules-of-the-board.~~

(2) Additionally, the applicant shall have completed an administrator-in-training program as described in section 54-1610,

Idaho Code.

(3) A candidate who applies for examination under and pursuant to subsection (1)~~(b) or (c)~~ of this section, in lieu of the educational requirements provided for therein, may submit evidence satisfactory to the board that such applicant has obtained two (2) years of satisfactory practical experience in ~~nursing--home--administration--or--in--a related--health-administration-area~~ management in a health care facility for each year of required posthigh school education.

SECTION 5. That Section 54-1607, Idaho Code, be, and the same is hereby amended to read as follows:

54-1607. ISSUANCE OF LICENSE -- EXEMPTION -- EDUCATIONAL PROGRAMS -- ADMINISTRATION OF FEDERAL FUNDS BY BOARD. (1) An applicant for a license as a nursing home administrator who has successfully complied with the requirements of section 54-1605, Idaho Code, and the standards provided for therein, has passed the examination provided for in section 54-1606, Idaho Code, and, where applicable, has complied with the requirements of section 54-1610, Idaho Code, shall be issued a license, on a form provided for that purpose by the board, certifying that such applicant has met the requirements of the laws and rules entitling him to serve, act, practice, and otherwise hold himself out as a duly licensed nursing home administrator; provided, however, nothing in this act or the rules ~~and regulations~~ thereunder shall be construed to require an applicant for a license as a nursing home administrator, ~~or a provisional license,~~ who is certified by a recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions.

(2) ~~(a)--The board shall issue a provisional license to any--individual--applying therefor who has served as a nursing home administrator for all of the calendar year immediately preceding July--1,--1970, meets--the standards of the board and of this article relating to good character, suitability, age, and citizenship, and has paid the fee--as set--by the board. No license shall be issued under this section prior to April 1, 1970.~~

~~(b)--Such provisional license shall terminate two (2)--years--from date--of--issuance or at midnight, June 30, 1972, whichever is earlier, but shall be subject to the payment of the annual fee,--and--shall--be canceled--and--be--of no legal force or effect thereafter; except that if, prior to the expiration of such provisional license,--such--provisional nursing home administrator shall have passed a qualifying examination and otherwise complied with the provisions of section 54-1605, as--required--by the board, a nursing home administrator license shall be issued to him.~~

~~(c)--A provisional license may not be issued to any--person--after June 30, 1972.~~

~~(3)~~ Any license issued by the board under or pursuant to the provisions of this section shall be under the hand and seal of the chair-

man and executive secretary of the board.

(~~4~~3) If the board finds that programs of training and instruction conducted within the state are not sufficient in number or content to enable applicants for nursing home administrators' licenses and nursing home administrators to meet requirements established pursuant to this act, it shall institute and conduct or arrange with others to conduct one (1) or more such programs, and shall make provision for their accessibility to appropriate residents of this state. The board may approve programs conducted within and without this state as sufficient to meet education and training requirements established pursuant to this act. For purposes of this subsection, the board shall have the authority to receive and disburse federal funds received pursuant to requirements of the "social security act."

(4) Pending issuance of a license, the board may issue a temporary license for a period not exceeding one (1) year, without examination to an applicant who files a written application, who is otherwise qualified, and who is applying to fill a vacancy on an emergency basis.

SECTION 6. That Section 54-1608, Idaho Code, be, and the same is hereby amended to read as follows:

54-1608. ~~CERTIFICATE--OF-REGISTRATION---~~ ATTENDANCE AT CONTINUING EDUCATION PROGRAM -- REVOCATION OR SUSPENSION ~~--~~ RENEWAL OF LAPSED ~~REGISTRATIONS~~ LICENSES. ~~---REGISTER-OF-APPLICATIONS.~~ (1) Every individual who holds a valid license as a nursing home administrator issued by the board under section 54-1607 (1), Idaho Code, shall ~~immediately--upon-issuance-thereof-be-deemed-registered-with-the-board-and be-issued-a-certificate-of-registration.-Thereafter,--such--individual shall~~ annually be required to apply to the board for a ~~recertification of--registration~~ renewal of license and report any facts requested by the board on forms provided for such purpose. A license not timely renewed shall be canceled immediately.

(2) Upon making an application for a ~~recertification-of-registration~~ renewal of license, such individual shall pay an annual ~~registration~~ license fee, and at the same time shall submit evidence satisfactory to the board that during the twelve- (12) month period immediately preceding such application for ~~recertification--of--registration~~ renewal of license he has successfully attended a continuing education program or course of study as may be provided in the rules of the board.

(3) Upon receipt of such application for ~~recertification-of--registration~~ renewal of license, the ~~registration~~ license fee, and the evidence required with respect to continuing education, the board shall issue a ~~recertification-of-registration~~ renewal of license to such nursing home administrator.

(4) The licensed ~~of-a~~ nursing home administrator who fails to comply with the provisions of this section, and who continues to act as a nursing home administrator, shall be ~~suspended-or-revoked~~ subject to discipline by the board, in accordance with the provisions of this act.

(5) A nursing home administrator who has been duly licensed ~~and registered~~ in this state and whose license shall not have been revoked

or suspended, and whose ~~registration~~ license has expired for a period of not longer than five (5) years, may ~~reregister~~ renew his license within the state upon complying with the provisions of this section for ~~recertification-of-registration~~ renewal of license and also filing with the board an affidavit in accordance with the rules of the board, and payment of a twenty-five dollar ($25.00) reinstatement fee together with fees for back years.

(6) A nursing home administrator whose license has been expired for five (5) or more years, must reapply for licensure under the provisions of section 54-1605, Idaho Code.

~~(7)--The--board--shall-maintain-a-register-of-all-applications-for licensing-and-registration-of-nursing-home-administrators,-which--register--shall--show:--The--place-of-residence,-name-and-address-of-each applicant,-the-name-and-address-of-employer-or-business-connection--of each--applicant,-the-date-of-application,-complete-information-of-educational-and-experiential-qualifications,--the--action--taken--by--the board,--the--serial-number-of-the-license-and-of-registration-certificates-issued-to-the-applicant,-the-date-on-which--the--board--reviewed and--acted--upon-the-application,-and-such-other-pertinent-information as-the-board-may-deem-necessary.~~

SECTION 7. That Section 54-1610, Idaho Code, be, and the same is hereby amended to read as follows:

54-1610. ADMINISTRATORS-IN-TRAINING -- TEMPORARY PERMITS -- EXAMINATION AFTER ONE YEAR -- QUARTERLY REPORTS -- EXCEPTIONS. ~~---EMERGENCY-PERMITS.~~ (1) ~~After-July-1,-1972,-e~~Every applicant for a nursing home administrator license who shall have otherwise qualified under the provisions of section 54-1606~~5~~, Idaho Code, ~~shall--be--granted--a temporary--permit--upon-application-to-the-board-and~~ shall serve for a one (1) year period under the direct supervision of a duly licensed ~~and-registered~~ nursing home administrator in accordance with the rules of the board. At the expiration of the one-year-in-training period said applicant shall be eligible to take the examination.

(2) The nursing home administrator-in-training shall submit quarterly reports on forms provided therefor by the board.

(3) This section shall not apply to any individual who has successfully completed a course of study for a master's degree in health administration ~~or-in-a-related-health-care-field~~ related to long-term care, or who has successfully completed a course of study for a master's degree in health administration and has one (1) year management experience in long-term care and who has been awarded such degree from an accredited institution of higher learning.

(4) Every nursing home administrator-in-training shall register the fact of such training with the board in accordance with the rules and on forms provided therefor by the board.

~~(5)--Pending--issuance--of-a-license,-the-board-may-issue-a-temporary-permit-for-a-period-not-exceeding-one-(1)-year,-without--examination--to--an-applicant-who-files-a-written-application-for-a-temporary permit-and-who-is-otherwise-qualified-but-does-not-meet-the-experience requirements-or-who-is-applying-to-fill--a--vacancy--on--an--emergency basis.~~

SECTION 8. That Section 54-1611, Idaho Code, be, and the same is hereby amended to read as follows:

54-1611. MISDEMEANORS LISTED -- PENALTIES. (1) It shall be a misdemeanor for any person to:

(a) Sell or fraudulently obtain or furnish any license or aid or abet therein; or

(b) Practice as a nursing home administrator under cover of any license ~~or registration~~ illegally or fraudulently obtained or unlawfully issued; or

(c) Practice as a nursing home administrator or use in connection with his or her name any designation tending to imply that he or she is a nursing home administrator unless duly licensed ~~and registered~~ to so practice under the provisions of this act; or

(d) Practice as a nursing home administrator during the time his or her license ~~or registration~~ issued under the provisions of this article shall be suspended or revoked; or

(e) Otherwise violate any of the provisions of this act.

(2) Such misdemeanor shall be punishable by a fine of not more than five hundred dollars ($500) or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment.

SECTION 9. That Section 54-1612, Idaho Code, be, and the same is hereby amended to read as follows:

54-1612. REVOCATION OR SUSPENSION OF LICENSE, ~~OR REGISTRATION,~~ REPRIMAND, CENSURE, OR OTHER DISCIPLINE. (1) The license ~~or registration~~ of any person practicing or offering to practice nursing home administration~~, or the license of a provisional nursing home administrator,~~ may be revoked or suspended, or such licensee may be reprimanded, censured, or otherwise disciplined in accordance with the provisions of this section upon decision and after due hearing in any of the following cases:

(a) Upon proof that such licensee is reasonably unfit to operate a nursing home.

(b) Upon proof that such licensee has ~~wilfully~~ willfully or repeatedly violated any of the provisions of this act or the rules enacted in accordance with, or ~~wilfully~~ willfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the home in which he is the administrator.

(c) Upon proof that such licensee is guilty of fraud or deceit in the practice of nursing home administration or related activities, or in his or her admission to such practice.

(2) The board, or a hearing officer designated by it shall have jurisdiction to hear all charges brought under the provisions of this section against persons licensed ~~and registered~~ as nursing home administrators~~, or licensed as provisional nursing home administrators~~, and upon such hearings shall determine such charges upon their merits. If the board determines that such person is guilty of the charges, the board may revoke his or her license, ~~and registration,~~ suspend him or her from practice, or reprimand, censure, or otherwise discipline such licensee.

(3) Proceedings under this section shall be initiated by filing with the board, charges in writing and under oath. The board on its own motion may conduct an investigation and initiate charges. The procedures for notification and the hearing on such charges, unless dismissed by the board as unfounded or trivial, shall be conducted pursuant to the provisions of chapter 52, title 67, Idaho Code.

SECTION 10. That Section 54-1613, Idaho Code, be, and the same is hereby amended to read as follows:

54-1613. REISSUANCE OF REVOKED LICENSE. ~~OR REGISTRATION.~~ (1) The board may, in its discretion, reissue a license ~~or registration~~ to any person whose license ~~or registration~~ has been revoked.

(2) Application for the reissuance of a license ~~or registration~~ shall be made in such manner as the board may direct in accordance with its rules.

SECTION 11. That Section 54-1615, Idaho Code, be, and the same is hereby repealed.

Approved March 23, 1999.

CHAPTER 162
(S.B. No. 1070)

AN ACT

RELATING TO THE REAL ESTATE APPRAISER BOARD; AMENDING SECTION 54-4106, IDAHO CODE, TO INCREASE THE TERMS OF BOARD MEMBERS TO STAGGER EXPIRATION OF TERMS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-4106, Idaho Code, be, and the same is hereby amended to read as follows:

54-4106. REAL ESTATE APPRAISERS -- REAL ESTATE APPRAISER BOARD -- POWERS AND DUTIES -- COMPENSATION. (1) There is hereby created in the department of self-governing agencies, a real estate appraiser board, hereinafter referred to as the "board," which shall administer the provisions of this chapter. The board shall consist of five (5) members to be appointed by the governor as follows:

(a) One (1) from the northern district consisting of the counties of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai and Bonner; one (1) from the southeastern district consisting of the counties of Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Power and Bannock; one (1) from the southwestern district consisting of the counties of Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams and Valley; one (1) from the south central district consisting of the counties of Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Mini-

doka and Twin Falls; and one (1) from the state at large;

(b) On July 1, 1990, the governor shall appoint the members of the board, each of whom shall be a real estate appraiser with not less than five (5) years' experience in the real estate appraisal business in Idaho. ~~The initial appointments shall be for a term of three (3) years. After July 1, 1991, appointments to the board shall be made so as to appoint a board member from the northern district for a three (3) year term and a board member from the south central district for a four (4) year term~~ As of July 1, 1999, the board appointment from the state at large is extended for a period of two (2) years and the board appointment from the south central district is extended for a period of one (1) year. Each regular appointment thereafter, other than an appointment to fill an unexpired term, shall be for a term of four (4) years and each board member shall hold office until a successor is appointed and qualified. Upon the death, resignation or removal of any member of the board, the governor shall appoint a state licensed or state certified real estate appraiser to fill the unexpired term. Appointments to fill any vacancy other than that resulting from the expiration of a term shall be made for the unexpired term. After July 1, 1991, new board members shall be required to be state licensed or certified real estate appraisers with not less than five (5) years experience in the real estate appraisal business in Idaho;

(c) Within fifteen (15) days after the appointment of the members of the board, the board shall call a meeting and organize by the election of a chairman. Thereafter the chairman may call meetings of the board whenever he deems it advisable but if he refuses to call a meeting upon written demand of the other four (4) members of the board, then such members may call such meeting. Reasonable notice shall be given in writing by mail of such meeting.

(2) The board shall have, in addition to the powers conferred elsewhere in this chapter, the following powers and duties:

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

(b) To adopt, pursuant to the administrative procedure act, such rules as the board, in its discretion, deems necessary for the administration and enforcement of this chapter, and any such rules deemed necessary by the board to keep the Idaho real estate appraisers act in compliance with federal law, rule, regulation or policy;

(c) To conduct investigations into violations of the provisions of this chapter;

(d) To receive applications for and issue licenses or certificates to real estate appraisers pursuant to this chapter;

(e) To hold meetings, hearings and examinations at such places and at such times as it shall designate;

(f) To collect, deposit and disburse application and other fees, as required by this chapter or federal law;

(g) To maintain a register of all state licensed or certified residential and state certified general real estate appraisers; and

(h) To censure a state licensed or certified appraiser or suspend

or revoke appraisal licenses or certificates as provided in this chapter, subject to the provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

(3) Each member of the board of real estate appraisers shall be compensated as provided in section 59-509(m), Idaho Code.

Approved March 23, 1999.

CHAPTER 163
(S.B. No. 1071)

AN ACT

RELATING TO THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 67-2602, IDAHO CODE, TO PROVIDE THAT MEMBERS OF BOARDS CONTRACTING WITH THE BUREAU SHALL HOLD OFFICE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED.

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

SECTION 1. That Section 67-2602, Idaho Code, be, and the same is hereby amended to read as follows:

67-2602. BUREAU OF OCCUPATIONAL LICENSES. (1) The bureau of occupational licenses created in the department of self-governing agencies by section 67-2601, Idaho Code, shall be empowered, by written agreement between the bureau and each agency for which it provides administrative or other services as provided by law, to provide such services for the board of architectural examiners, board of barber examiners, board of chiropractic physicians, board of cosmetology, counselor licensing board, board of environmental health specialist examiners, state board of denturitry, board of hearing aid dealers and fitters, board of landscape architects, board of morticians, board of examiners of nursing home administrators, board of optometry, board of podiatrists, board of psychologist examiners, real estate appraiser board, board of examiners of residential care facility administrators, board of social work examiners and such other professional and occupational licensing boards or commodity commissions as may request such services. The bureau may charge a reasonable fee for such services provided any agency not otherwise provided for by law and shall maintain proper accounting methods for all funds under its jurisdiction.

(2) Notwithstanding the statutes governing specific boards, for any board that contracts with the bureau of occupational licenses, each board member shall hold office until a successor has been duly appointed and qualified.

Approved March 23, 1999.

CHAPTER 164
(S.B. No. 1072)

AN ACT
RELATING TO THE IDAHO BOARD OF CHIROPRACTIC PHYSICIANS; AMENDING SECTION 54-706, IDAHO CODE, TO CLARIFY THE PROCESS FOR NOMINATION TO THE BOARD.

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

SECTION 1. That Section 54-706, Idaho Code, be, and the same is hereby amended to read as follows:

54-706. STATE BOARD OF CHIROPRACTIC PHYSICIANS CREATED. (1) There is hereby established in the department of self-governing agencies a state board of chiropractic physicians to be composed of five (5) members. Members of the board of chiropractic examiners, as it exists on the effective date of this act are hereby confirmed as members of the board for the terms to which they were originally appointed. The additional members shall be appointed by the governor, with one (1) member appointed for a term of one (1) year and one (1) member for a term of two (2) years. Thereafter, as each member's term expires, the subsequent appointment shall be for a term of three (3) years. No person may be appointed for more than two (2) consecutive terms.

(2) The board shall be appointed by the governor, and shall consist of four (4) physicians who are licensed to practice chiropractic in this state, and each of whom shall have been engaged continuously in the practice of chiropractic within the state of Idaho for a period of not less than three (3) years prior to his appointment. ~~Whenever--a term--of-a-physician-member-of-the-board-expires-or-the-office-becomes vacant~~ Sixty (60) days prior to the expiration of the regular term of a member of the board, or upon the occurrence or declaration of a vacancy in the membership of the board, a notice of such vacancy shall be sent by the board to each licensed physician within the state. During the following thirty (30) days, the board shall receive petitions for nominations for physicians to be appointed to fill said vacancies and, in the event such petitions shall be signed by not less than ten (10) physicians licensed to practice within the state, said petitions shall be forwarded by the board to the governor. The governor shall within fifteen (15) days following receipt of said petitions appoint a physician to fill said vacancy from among the persons nominated by petition as hereinbefore set forth. Appointments to fill vacancies occurring for some other reason than expiration of a term for which a member was appointed, shall be made in the same manner as set forth for the unexpired term. The governor may remove any member of the board found guilty of malfeasance, misfeasance or nonfeasance.

(3) The governor shall appoint a representative of the public as one (1) member of the board who shall be designated as the public member. The public member of the board shall be a resident of the state of Idaho who has attained the age of twenty-one (21) years, and shall not be nor shall ever have been a physician, the spouse of a physician, a person licensed under the laws of any state to practice a

healing art, or a person who has or has had a material financial interest in providing health care services.

(4) The board shall elect a chairman from its membership. The members of the board, except for state employees, shall be compensated as provided by section 59-509(n), Idaho Code. Three (3) members of the board shall constitute a quorum, and the board may act by virtue of a majority vote of members present at a meeting.

Approved March 23, 1999.

CHAPTER 165
(S.B. No. 1075)

AN ACT

RELATING TO SCHOOL FUNDS; AMENDING SECTION 33-705, IDAHO CODE, TO INCLUDE RECEIPTS FROM VENDING MACHINES ON SCHOOL PROPERTY IN FUNDS TO BE ACCOUNTED FOR BY THE BOARD OF TRUSTEES.

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

SECTION 1. That Section 33-705, Idaho Code, be, and the same is hereby amended to read as follows:

33-705. ACTIVITY FUNDS. 1. The board of trustees of each school district, including specially chartered districts, shall create a fund or funds for the purpose of controlling and accounting for the receipts, deposits, expenditures, assets, liabilities and fund balances arising from the following transactions:

(a) Admission charges for interscholastic activities.

(b) The sale of yearbooks and annuals.

(c) Student fee collections which are used to provide more than one (1) activity or benefit to all of the students of a school or school building.

(d) Receipts from vending machines located on school property.

2. For each fund created the board of trustees shall promulgate policies:

(a) Describing with reasonable certainty the nature and type of expenditures which may be made therefrom.

(b) Setting forth the requirements for the expenditures and withdrawal of such moneys.

3. The treasurer of the district shall provide accounting procedures for the receipt, deposit, expenditure and withdrawal of such moneys and procedures for monthly reporting to the board of trustees of the transactions, assets, liabilities and fund balance for each such fund.

4. For other activity or student funds including, but not limited to, custodial funds, the board of trustees may create a separate fund or funds and promulgate policies to provide for accounting and control thereof.

5. Nothing in this section limits the power of the board of trustees of any school district from promulgating policies or imposing

further controls, requirements, accounting and reporting procedures with respect to any funds or moneys of the district or moneys which it holds as custodian for the students.

6. Disbursements from any of the funds created under this section shall be made by regular bank check signed by the treasurer or assistant treasurer of the district and countersigned by the chairman or vice chairman of the board of trustees or other employee of the district designated by the board of trustees.

Approved March 23, 1999.

CHAPTER 166
(S.B. No. 1099)

AN ACT

RELATING TO THE PUBLIC CONTRACTS BOND ACT; AMENDING SECTION 54-1926, IDAHO CODE, TO PROVIDE THAT NO PERFORMANCE OR PAYMENT BOND FURNISHED BY A CONTRACTOR FOR A PUBLIC WORKS PROJECT MAY BE LESS THAN EIGHTY-FIVE PERCENT OF THE CONTRACT AMOUNT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1926, Idaho Code, be, and the same is hereby amended to read as follows:

54-1926. PERFORMANCE AND PAYMENT BONDS REQUIRED OF CONTRACTORS FOR PUBLIC BUILDINGS AND PUBLIC WORKS OF THE STATE, POLITICAL SUBDIVISIONS AND OTHER PUBLIC INSTRUMENTALITIES -- REQUIREMENTS FOR BONDS -- GOVERNMENTAL OBLIGATIONS. Before any contract for the construction, alteration, or repair of any public building or public work or improvement of the state of Idaho, or of any county, city, town, municipal corporation, township, school district, public educational institution, or other political subdivision, public authority, or public instrumentality, or of any officer, board, commission, institution, or agency of the foregoing, is awarded to any person, he shall furnish to the state of Idaho, or to such county, city, town, municipal corporation, township, school district, public educational institution, or other political subdivision, public authority, or public instrumentality, or to such officer, board, commission, institution, or agency thereof, bonds which shall become binding upon the award of the contract to such person, who is hereinafter designated as "contractor":

(1) A performance bond in any amount to be fixed by the contracting body, but in no event less than ~~fifty-per-cent~~ eighty-five percent (85%) of the contract amount conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof. Said bond shall be solely for the protection of the public body awarding the contract.

(2) A payment bond in an amount to be fixed by the contracting body but in no event less than ~~fifty--per-cent~~ eighty-five percent

(850%) of the contract amount, solely for the protection of persons supplying labor or materials, or renting, leasing, or otherwise supplying equipment to the contractor or his subcontractors in the prosecution of the work provided for in such contract.

(3) Public bodies requiring a performance bond or payment bond in excess of fifty ~~per-cent~~ percent (50%) of the total contract amount shall not be authorized to withhold from the contractor or subcontractor any amount exceeding five ~~per--cent~~ percent (5%) of the total amount payable as retainage. Further, the public body shall release to the contractor any retainage for those portions of the project accepted by the contracting public body and the contractors as complete within thirty (30) days after such acceptance. Contractors, contracting with subcontractors pursuant to contract work with a public body, shall not be authorized to withhold from the subcontractor any amount exceeding five ~~per-cent~~ percent (5%) of the total amount payable to the subcontractor as retainage. The contractor shall remit the retainage to the subcontractor within thirty (30) days after completion of the subcontract.

Each bond shall be executed by a surety company or companies duly authorized to do business in this state, or the contractor may deposit any of the type of government obligations listed in subsection (h) of section 54-1901, Idaho Code, in lieu of furnishing a surety company performance or payment bond or bonds. In the case of contracts of the state or a department, board, commission, institution, or agency thereof the aforesaid bonds shall be payable to the state, or particular state agency where authorized. In case of all other contracts subject to this act, the bonds shall be payable to the public body concerned.

Said bonds shall be filed in the office of the department, board, commission, institution, agency or other contracting body awarding the contract.

Nothing in this section shall be construed to limit the authority of the state of Idaho or other public body hereinabove mentioned to require a performance bond or other security in addition to these, or in cases other than the cases specified in this act.

It shall be illegal for the invitation for bids, or any person acting or purporting to act, on behalf of the contracting body to require that such bonds be furnished by a particular surety company, or through a particular agent or broker.

Approved March 23, 1999.

CHAPTER 167
(S.B. No. 1100, As Amended)

AN ACT

RELATING TO LISTING OF SUBCONTRACTORS ON BID OF GENERAL CONTRACTOR FOR A PUBLIC WORKS PROJECT; AMENDING SECTION 67-2310, IDAHO CODE, TO PROVIDE FOR VERIFICATION OF SUBCONTRACTORS' BIDS BEFORE A GENERAL CONTRACTOR SUBMITS A BID FOR A PUBLIC WORKS PROJECT, TO PROVIDE A PROCESS FOR SUBSTITUTING A SUBCONTRACTOR WHEN A GENERAL CONTRACTOR HAS SECURED A CONTRACT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-2310, Idaho Code, be, and the same is hereby amended to read as follows:

67-2310. SUBCONTRACTORS TO BE LISTED ON BID OF GENERAL CONTRACTOR -- EXCEPTIONS. (1) Hereafter, before the state of Idaho, the separate counties, cities, towns, villages or school districts within the state of Idaho shall let contracts for the construction, alteration or repair of any and all buildings, improvements or public works, and such construction, alteration or repair requires plumbing, heating and air-conditioning work, or electrical work, the general contractor shall be required to include in his bid the name, or names and address, or addresses, of the subcontractors who shall, in the event the contractor secures the contract, subcontract the plumbing, heating and air-conditioning work, and electrical work under the general contract.~~;-provided,-however,-that-this~~

(2) No general contractor shall name any subcontractor in his bid unless the general contractor has received communication from the subcontractor. For the purposes of this section, "communication" shall include telephone, mail, facsimile machine, in person, or by computer using the internet or a bid service.

(3) In the event a general contractor secures the contract, and if the general contractor and a named subcontractor cannot finalize the terms of agreement between them for any reason other than cost, the general contractor shall name another subcontractor by written notification within ten (10) days of being awarded the public works contract. The general contractor shall disclose to the public entity the cost for work to be performed by the substitute subcontractor. If the amount of the substitute subcontractor's bid is less than the original subcontractor's bid, the reduction in cost shall be passed through to the benefit of the public entity which awarded the contract.

(4) This act shall not apply to the construction, alteration or repair of public buildings under the jurisdiction of the board of regents of the University of Idaho.~~;-further-that-this~~

(5) This act shall have no application to the preparation and submission of plans and specifications pursuant to ~~section-50-1105,-Idaho-Code~~ statute or local ordinance.

(6) Failure to name subcontractors as required by this section shall render any bid submitted by a general contractor unresponsive and void.

(7) At the time s~~S~~ubcontractors are named in accordance with the provisions of this section, they must possess ~~an~~ the appropriate licenses or certificates of competency issued by the state of Idaho covering the contractor work classification in which ~~the~~ each respective subcontractor is named.

Approved March 23, 1999.

CHAPTER 168
(S.B. No. 1127)

AN ACT
RELATING TO TRADEMARKS; PROVIDING LEGISLATIVE INTENT; AND AMENDING SECTION 48-501, IDAHO CODE, TO PROVIDE DEFINITIONS FOR THE TERMS "CERTIFICATION MARK" AND "COLLECTIVE MARK."

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that the registration of marks previously completed by the Secretary of State as trademarks or service marks that are more appropriately defined as collective marks or certification marks shall not be impacted by this act. The Legislature intends this to be remedial legislation that clarifies Chapter 5, Title 48, Idaho Code, by adding definitions of "collective marks" and "certification marks" to the Idaho Trademark Act. The Legislature further intends that no previously registered marks shall be invalidated, canceled, deemed abandoned, considered improperly granted or as having been fraudulently obtained due to passage of this act.

SECTION 2. That Section 48-501, Idaho Code, be, and the same is hereby amended to read as follows:

48-501. DEFINITIONS. Whenever used in this chapter:

(1) "Abandoned" shall mean when either of the following occurs:

(a) When the use of the mark has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two (2) consecutive years shall constitute prima facie evidence of abandonment.

(b) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

(2) "Applicant" shall mean the person filing an application for registration of a mark under this act, and the legal representatives, successors, or assigns of such person.

(3) "Certification mark" shall mean any word, name, symbol or device or any combination thereof: (a) used by a person other than its owner, or (b) which its owner has a bona fide intention to permit a person other than the owner to use in commerce and files an application to register on the principal register established by this chapter to certify regional or other origin, material, mode of manufacture, quality, accuracy or other characteristics of such person's goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.

(4) "Collective mark" shall mean a trademark or service mark: (a) used by the members of a cooperative, an association, or other collective group or organization; or (b) which such cooperative association or other collective group or organization has a bona fide intention to use in commerce and applies to register on the principal register established by this chapter, and includes marks indicating membership

in a union, an association or other organization.

(5) "Dilution" shall mean the lessening of the capacity of registrant's mark to identify and distinguish goods or services, regardless of the presence or absence of: (a) competition between the parties, or (b) likelihood of confusion, mistake or deception.

(~~4~~6) "Juristic person" shall mean a firm, partnership, corporation, limited liability company or partnership, union, association, or other organization capable of suing and being sued in a court of law.

(~~5~~7) "Mark" shall mean any trademark, ~~or~~ service mark, collective mark or certification mark entitled to registration under this act whether registered or not.

(~~6~~8) "Person" shall mean the applicant or other party entitled to a benefit or privilege or rendered liable under the provisions of this act and includes a juristic person as well as a natural person.

(~~7~~9) "Registrant" shall mean the person to whom the registration of a mark under this act is issued, and the legal representatives, successors or assigns of such person.

(~~8~~10) "Service mark" shall mean any word, name, symbol, or device or any combination thereof used by a person to identify and distinguish the services of one (1) person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

(~~9~~11) "Trademark" shall mean any word, name, symbol, or device or any combination thereof used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured and sold by others, and to indicate the source of the goods, even if that source is unknown.

(~~10~~12) "Trade name" shall mean any name used by a person to identify a business or vocation of such person.

(~~11~~13) "Use" shall mean the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For the purposes of this act, a mark shall be deemed to be in use: (a) on goods when it is placed in any manner on the goods or other containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and the goods are sold or transported in commerce in this state; and (b) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.

Approved March 23, 1999.

CHAPTER 169
(S.B. No. 1129)

AN ACT

RELATING TO THE IDAHO ELECTRICAL BOARD; AMENDING SECTION 54-1006, IDAHO CODE, TO AUTHORIZE THE ELECTRICAL BOARD TO ESTABLISH CIVIL

PENALTIES FOR VIOLATIONS OF THE CODE OR RULES; AND AMENDING SECTION 54-1017, IDAHO CODE, TO GOVERN CIVIL PENALTIES.

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

SECTION 1. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board, hereinafter known as the board, is hereby created and made a part of the division of building safety. It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this act, to serve as secretary to the Idaho electrical board, and to appoint the chief electrical inspector.

(2) The board shall consist of seven (7) members to be appointed by the governor with power of removal for cause. Board members shall be appointed for a term of four (4) years. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be citizens of the United States, residents of this state for not less than two (2) years and shall be qualified by experience, knowledge and integrity in formulating rules for examinations, in passing on the fitness and qualifications of applicants for electrical contractor and journeyman electrician licenses and in establishing standards for electrical products to be used in electrical installations coming under the provisions of this act.

(4) The members of the board shall, at their first regular meeting following the effective date of this act and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. In the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the board shall constitute a quorum.

(5) The board is authorized and directed to prescribe and amend rules consistent with this act for the administration of this chapter and to effectuate the purpose thereof, and for the licensing of electrical contractors and the examination and licensing of journeyman electricians. The board shall also establish the fees to be charged for permits and inspections of electrical systems. <u>The board shall establish by administrative rule the fines to be paid for citations issued for violations of this act and the rules of the Idaho electrical board.</u>

(6) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(g), Idaho Code.

SECTION 2. That Section 54-1017, Idaho Code, be, and the same is hereby amended to read as follows:

54-1017. VIOLATIONS OF ACT A MISDEMEANOR. Any person, partnership, company, firm, association or corporation who shall engage in

the trade, business or calling of an electrical contractor or journeyman electrician, without a license as provided for by this act, or who shall violate any of the provisions of this act, or the rules of the Idaho electrical board or of the administrator of the division of building safety herein provided for, or who shall refuse to perform any duty lawfully enjoined upon him by the administrator within the prescribed time; or who shall fail, neglect, or refuse to obey any lawful order given or made by the administrator shall be guilty of a misdemeanor and shall be subject to the civil penalties established by administrative rule but not to exceed one thousand dollars ($1,000). Each day of such violation shall constitute a separate offense. A violation will be considered a second or additional offense only if it occurs within one (1) year from the first violation.

Approved March 23, 1999.

CHAPTER 170
(S.B. No. 1141, As Amended in the House)

AN ACT

RELATING TO MANUFACTURED HOMES; AMENDING SECTION 49-422, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM REGISTRATION FEES FOR CERTAIN MANUFACTURED HOMES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-426, IDAHO CODE, TO EXEMPT CERTAIN MANUFACTURED HOMES FROM THE REGISTRATION PROVISIONS OF CHAPTER 4, TITLE 49, IDAHO CODE; AMENDING SECTION 49-501, IDAHO CODE, TO CLARIFY TITLING REQUIREMENTS AND TO PROVIDE THAT MANUFACTURED HOMES SHALL BE SUBJECT TO THE TITLING REQUIREMENTS OF CHAPTER 5, TITLE 49, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-422, Idaho Code, be, and the same is hereby amended to read as follows:

49-422. REGISTRATION FEES -- MANUFACTURED HOMES AND TOWED RECREATIONAL VEHICLES. (1) The fees for registering manufactured homes or towed recreational vehicles shall be four dollars ($4.00). In addition to the registration fee, and as a prerequisite to registering there shall be an assessment levied on each manufactured home for ad valorem tax as provided in chapter 3, title 63, Idaho Code. An applicant for a manufactured home registration shall be required to exhibit the general property tax receipt for the year of registration before a license may be issued. An applicant for a towed recreational vehicle registration shall be required to obtain the recreational vehicle annual license as required in section 49-445, Idaho Code, in conjunction with the registration required in this section. It shall be unlawful for any manufactured home or towed recreational vehicle to be moved on any highway without first being registered. The registration fees collected as specified in this section shall be paid to the assessor of the county where the registration was purchased. Fifty

~~per-cent~~ percent (50%) of the registration fees shall be placed in the county current expense fund and the balance of the fees shall be deposited in the highway distribution account.

(2) The provisions of this section shall not apply to new manufactured homes being transported either prior to first sale at retail or to the initial setup location of the original purchaser.

SECTION 2. That Section 49-426, Idaho Code, be, and the same is hereby amended to read as follows:

49-426. EXEMPTIONS FROM OPERATING FEES. The provisions of this chapter with respect to operating fees shall not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, any state registered nonprofit subscription fire protection unit, or any organization, whether incorporated or unincorporated, organized for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects shall be applicable.

(2) Farm tractors, implements of husbandry, those manufactured homes which qualify for an exemption under the provisions of section 49-422, Idaho Code, road rollers, wheel mounted tar buckets, portable concrete and/or mortar mixers, wheel mounted compressors, tow dollies, portable toilet trailers, street sweepers, and similar devices as determined by the department which are temporarily operated or moved upon the highways need not be registered under the provisions of this chapter, nor shall implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code. In addition, self-propelled wheelchairs, three-wheeled bicycles, wheelchair conveyances, golf carts, lawn mowers, and scooters operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians shall be exempt from registration requirements under the provisions of this chapter. Motorcycles and all-terrain vehicles, as defined in section 67-7101, Idaho Code, need not be registered under the provisions of this chapter while being used exclusively in connection with agricultural, horticultural, dairy and livestock growing and feeding operations or used exclusively for snow removal purposes. Travel upon the public highways shall be limited to travel between farm or ranch locations. Motorcycles and all-terrain vehicles used for this purpose shall meet the requirements of section 49-619, Idaho Code.

SECTION 3. That Section 49-501, Idaho Code, be, and the same is hereby amended to read as follows:

49-501. ~~APPLICATION TO CERTAIN VEHICLES~~ TITLING REQUIREMENTS -- EXEMPTIONS. (1) The provisions of this chapter shall apply ~~exclusively~~ to every vehicle required to be registered with the department in chapter 4, title 49, Idaho Code.~~,-and-optionally-to-all-terrain vehicles,-motorbikes,-and-snowmobiles-as-defined-in--section--67-7101, Idaho--Code,--beginning--on-January-1,-1990,-and-becoming-mandatory-on

~~January 1, 1991, for all transfers of ownership, except that the~~

(2) In addition, the titling requirements of this chapter shall apply to the following vehicles which are not required to be registered under the provisions of chapter 4, title 49, Idaho Code:

(a) All-terrain vehicles, motorbikes and snowmobiles as defined in section 67-7101, Idaho Code; and

(b) Manufactured homes as defined in section 39-4105, Idaho Code.

(3) Certain vehicles which are required to be registered under the provisions of chapter 4, title 49, Idaho Code, shall be exempt from the titling requirements of this chapter as follows:

(a) Utility trailers whose unladen weight is less than two thousand (2,000) pounds; and

(b) The board may, by rules~~ and regulations~~, exempt vehicles and motor vehicles ~~registrations~~ registered under provisions of ~~subsection (3) of section 49-441 and~~ sections 49-434 and 49-435, Idaho Code, from the titling requirements of this chapter. ~~Trailers whose unladen weight is less than two thousand (2,000) pounds, vehicles owned by the federal government, and vehicles~~

(4) Vehicles exempt from registration under the provisions of section 49-426, Idaho Code, are exempt from the ~~provisions~~ titling requirements of this chapter, unless otherwise specifically required by the provisions of subsection (2) of this section.

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

Approved March 23, 1999.

CHAPTER 171
(S.B. No. 1145)

AN ACT

RELATING TO MANUFACTURED HOMES; AMENDING SECTION 44-2102, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY SHALL PRESCRIBE THE FORM AND CONTENT OF A NEW MANUFACTURED HOME BUYER'S INFORMATION AND DISCLOSURE FORM AND TO PROVIDE THAT UNLESS OTHERWISE PROVIDED BY THE ADMINISTRATOR, THE FORM SHALL BE PRESENTED BY MANUFACTURED HOME DEALERS TO EACH PURCHASER OF A NEW MANUFACTURED HOME, AND SHALL BE EXECUTED BY THE DEALER AND PURCHASER, AT THE TIME THE INITIAL PURCHASE ORDER IS SIGNED FOR THE SALE OF A NEW MANUFACTURED HOME.

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

SECTION 1. That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The administrator is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules, not inconsistent with the provisions of this chapter and the laws of the state of Idaho, as he shall consider necessary, to provide for the licensing and bonding of manufactured home dealers and brokers, manufacturers and service firms, the licensing of manufactured home salesmen, and the establishment of a mandatory statewide manufactured home "setup" code. The administrator shall also define and prohibit any practice which is found to be deceptive.

(2) Prescribe the form and content of a new manufactured home buyer's information and disclosure form. Unless otherwise provided by the administrator, the form shall be presented by manufactured home dealers to each purchaser of a new manufactured home, and shall be executed by the dealer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home.

(3) (a) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section 63-304, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed broker, but not a manufactured home dealer or manufactured home salesman.

(b) A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed manufactured home dealer, broker, or manufactured home salesman, but with respect to a licensed manufactured home dealer, broker or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

(c) A licensed real estate broker or real estate salesman representing a licensed broker pursuant to chapter 20, title 54, Idaho Code, may participate in new manufactured home sales that include real estate if the real estate broker or salesman has a valid, written agreement with a licensed manufactured home dealer to represent the interests of the manufactured home dealer in this type of transaction.

Approved March 23, 1999.

CHAPTER 172
(S.B. No. 1149, As Amended)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-123, IDAHO CODE, TO PROVIDE THAT EACH WINTER FEEDING ADVISORY COMMITTEE SHALL APPOINT A CHAIRMAN WHO SHALL MEET WITH OTHER CHAIRMEN AT LEAST ANNUALLY TO COORDINATE ACTIVITIES AND PROMOTE CONSENSUS ON ISSUES OF COMMON INTEREST AMONG THE WINTER FEEDING ADVISORY COMMITTEES AND TO PROVIDE THAT THE CHAIRMEN MAY ELECT A LEADER FROM AMONG THE CHAIRMEN

TO CALL MEETINGS AND CONDUCT AND COORDINATE ACTIVITIES OF THE GROUP.

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

SECTION 1. That Section 36-123, Idaho Code, be, and the same is hereby amended to read as follows:

36-123. WINTER FEEDING ADVISORY COMMITTEES. (1) A winter feeding advisory committee shall be established for each district where winter feeding of antelope, elk, and deer normally occurs. Each committee shall consist of five (5) members. The members shall be appointed and removed for cause by unanimous vote of the Idaho fish and game commission. The regional wildlife councils will provide a list of appointees. It is intended that the committees reflect the cross section of the major interest groups associated with each district. Each committee shall meet at such times as appropriate, but not less frequently than annually, on or before December 1, before the winter feeding season arrives, whichever is earlier.

(2) The term of office of a member shall be two (2) years, except a portion of the initial appointments may be for a term of one (1) year to provide staggered terms. Appointments to fill vacancies shall be for the balance of the unexpired term. The committees shall serve without compensation.

(3) Each winter feeding advisory committee established pursuant to subsection (1) of this section shall appoint a chairman. The chairmen of the committees shall meet at least annually to coordinate activities and promote consensus on issues of common interest among the winter feeding advisory committees. The chairmen may elect a leader from among the chairmen to call meetings and conduct and coordinate activities of the group.

(4) The department of fish and game shall provide staff assistance and support for the committees.

(~~4~~5) The committees shall have the authority to:

(a) Act as an independent resource in each district to give advice and recommendations on the administration of winter feeding programs;

(b) Act as a liaison between the commission, the department, interest groups, and the public on winter feeding issues.

Approved March 23, 1999.

CHAPTER 173
(S.B. No. 1186)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-202, IDAHO CODE, TO PROVIDE THAT DOMESTIC CERVIDAE SHALL NOT BE DEFINED AS WILDLIFE AND TO MAKE TECHNICAL CORRECTIONS.

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

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

36-202. DEFINITIONS. Whenever the following words appear in title 36, Idaho Code, and orders and rules 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" means all of the fish and game laws and rules promulgated pursuant thereto.

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

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

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

(e) "Employee" means 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.

(f) "Person" means 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" means any form of animal life, native or exotic, generally living in a state of nature provided that domestic cervidae as defined in section 25-3701, Idaho Code, shall not be classified as wildlife.

(h) "Trophy big game animal" ~~shall~~ means any big game animal deemed a trophy as per Boone and Crockett standards. For the purpose of this section, the highest of the typical or nontypical scores shall be used, described as follows:

1. Mule deer: any buck scoring over one hundred fifty (150) points;
2. White-tailed deer: any buck scoring over one hundred thirty (130) points;
3. Elk: any bull scoring over three hundred (300) points;
4. Bighorn sheep: any ram;
5. Moose: any bull;
6. Mountain goat: any male or female;
7. Pronghorn antelope: any buck with at least one (1) horn exceeding fourteen (14) inches;
8. Caribou: any male or female.

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

(j) "Hunting" means 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.

(k) "Fishing" means any effort made to take, kill, injure, capture, or catch any fish or bullfrog.

(l) "Trapping" means 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.

(m) "Possession" means 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.

(n) "Possession limit" means 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.

(o) "Bag limit" means the maximum number of wildlife which may be legally taken, caught, or killed by any one (1) 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.

(p) "Buy" means to purchase, barter, exchange, or trade and includes any offer or attempt to purchase, barter, exchange, or trade.

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

(r) "Transport" means to carry or convey or cause to be carried or conveyed from one (1) place to another and includes an offer to transport, or receipt or possession for transportation.

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

idency. 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. A member of the state national guard or air national guard, domiciled in this state for a period of thirty (30) days last preceding application shall be eligible, as long as such residency 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.

(t) "Senior resident" means 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.

(u) "Nonresident" means any person who does not qualify as a resident.

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

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

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

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

(z) "Commercial fish hatchery" means 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.

(aa) "License" means any license, tag, permit or stamp.

(bb) "License vendor" means any person authorized to issue or sell licenses.

(~~bb~~cc) "Proclamation" ~~shall~~ means the action by the commission and publication of the pertinent information as it relates to the seasons and limits for taking wildlife.

Approved March 23, 1999.

CHAPTER 174
(S.B. No. 1220, As Amended)

AN ACT
RELATING TO POWERS OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 39-105, IDAHO CODE, TO PROVIDE A PUBLIC WASTEWATER OPERATOR CERTIFICATION PROGRAM, TO CORRECT A CODIFIER'S ERROR AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 39-105, Idaho Code, be, and the same is hereby amended to read as follows:

39-105. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

1. All of the powers and duties of the department of public health, the department of health, the board of health, and the air pollution control commission, are hereby transferred to the director of the department of health and welfare, provided, however, that rulemaking and hearing functions relating to environmental protection, public health and licensure and certification standards shall be vested in the board of health and welfare. The director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law, including the authority to adopt, promulgate, and enforce rules and regulations in those circumstances when the authority to adopt, promulgate, and enforce such rules and regulations is not vested in the board of health and welfare, and shall be the successor in law to all contractual obligations entered into by his predecessor in law. All rulemaking proceedings and hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

2. The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this act, formulate and recommend to the board, rules, regulations, codes and standards, as may be necessary to deal with problems related to personal health, water pollution, air pollution, visual pollution, noise abatement, solid waste disposal, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of the law relating to any purpose which may be necessary and feasible for enforcing the provisions of this act, including, but not limited to the prevention, control or abatement of environmental pollution or degradation and the maintenance and protection of personal health. Any

such regulation or standard may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

3. The director, under the rules, regulations, codes or standards adopted by the board, shall have the general supervision of the promotion and protection of the life, health, mental health and environment of the people of this state. The powers and duties of the director shall include, but not be limited to, the following:

a. The issuance of licenses and permits as prescribed by law and by the rules and regulations of the board. For each air quality operating permit issued under title V of the federal clean air act and its implementing regulations, the director shall, consistent with the federal clean air act and its implementing regulations, expressly include a provision stating that compliance with the conditions of the permit shall be deemed compliance with the applicable requirements of the federal clean air act and the title V implementing regulations. The director may develop and issue general permits covering numerous similar sources, as authorized by 40 CFR 70.6(d) as may be amended, and as appropriate.

b. The supervision and administration of laboratories and the supervision and administration of standards of tests for environmental pollution, chemical analyses and communicable diseases. The director may require that laboratories operated by any city, county, institution, person, firm or corporation for health or environmental purposes conform to standards set by the board.

c. The supervision and administration of a mental health program, which shall include services for the evaluation, screening, custody and treatment of the mentally ill and those persons suffering from a mental defect, or mental defects.

d. The enforcement of minimum standards of health, safety and sanitation for all public swimming pools within the state.

e. The enforcement of standards, rules and regulations, relating to public water supplies and to administer the drinking water loan account pursuant to chapter 76, title 39, Idaho Code, including making loans to eligible public drinking water systems as defined in the federal safe drinking water act as amended, and to comply with all requirements of the act, 42 U.S.C. 300f, et seq. and regulations promulgated pursuant to the act. This includes, but is not limited to, the adoption and implementation of an operator certification program; the development of and implementation of a capacity development strategy to ensure public drinking water systems have the technical, managerial and financial capability to comply with the national primary drinking water regulations; and the enhancement of protection of source waters for public drinking water systems.

f. The supervision and administration of the various schools, hospitals and institutions that were the responsibility of the board of health at the time this act went into effect.

g. The supervision and administration of services dealing with the problems of alcoholism~~,~~ including, but not limited to, the care and rehabilitation of persons suffering from alcoholism.

h. The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other

governmental entities with the planning for the control of or abatement of environmental and health problems. All of the rules, regulations and standards adopted by the board shall apply to state institutions.

i. The supervision and administration of an emergency medical service program, including, but not limited to, assisting other governmental agencies and local governmental units, in providing first aid emergency medical services and for transportation of the sick and injured.

j. The supervision and administration of a system to safeguard air quality and for limiting and controlling the emission of air contaminants.

k. The supervision and administration of a system to safeguard the quality of the waters of this state, including, but not limited to, the enforcement of standards relating to the discharge of effluent into the waters of this state and the storage, handling and transportation of solids, liquids, and gases which may cause or contribute to water pollution.

l. The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of environmental and health problems.

m. The administration of solid waste disposal site and design review in accordance with the provisions of chapter 74, title 39, Idaho Code, and chapter 4, title 39, Idaho Code, and in particular as follows:

i. The issuance of a solid waste disposal site certificate in the manner provided in chapter 74, title 39, Idaho Code.

ii. Provide review and approval regarding the design of solid waste disposal facilities and ground water monitoring systems and approval of all applications for flexible standards as provided in 40 CFR 258, in accordance with the provisions of chapter 74, title 39, Idaho Code.

iii. Cooperating and coordinating with operational monitoring of solid waste disposal sites by district health departments pursuant to authority established in chapters 4 and 74, title 39, Idaho Code.

iv. The authority granted to the director pursuant to provisions of this subsection shall be effective upon enactment of chapter 74, title 39, Idaho Code, by the legislature.

v. The authority to develop and propose regulations as necessary to supplement details of compliance with the solid waste facilities act and applicable federal regulations, provided that such regulations shall not conflict with the provisions of this act nor shall such regulations be more strict than the requirements established in federal law or in the solid waste facilities act.

n. The enforcement of all laws, rules, regulations, codes and standards relating to environmental protection and health.

o. The formulation and adoption of a comprehensive state nutrient management plan for the surface waters of the state of Idaho in consultation with the appropriate state or federal agencies, local units of government, and with the public involvement as provided

for under the administrative procedure act. The director shall recommend by March 1, 1990, to the board for adoption, rules and regulations setting forth procedures for development of the plan, including mechanisms to keep the public informed and encourage public participation in plan development.

The plan shall be developed on a hydrologic basin unit basis with a lake system emphasis. The panhandle hydrologic basin plan shall be completed no later than July 1, 1995. The remaining basin plans shall be completed no later than January 1, 1995. Each plan shall identify nutrient sources; the dynamics of nutrient removal, use, and dispersal; and preventative or remedial actions where feasible and necessary to protect the surface waters of the state. The director shall formulate and recommend to the board for adoption rules and regulations as necessary to implement the plan. The plan shall be used by the department and other appropriate agencies including soil conservation districts, public health districts and local units of government in developing programs for nutrient management. State and local units of government shall exercise their police powers in compliance with the comprehensive state nutrient management plan of this act. Local nutrient management programs adopted by any local unit of government prior to the completion of the state comprehensive nutrient management plan or a hydrologic ~~basinplan~~ basin plan shall be consistent with the criteria for inclusion in the comprehensive state nutrient management plan as enumerated in this subsection, as evidenced by findings of fact by the local units of government and confirmed by the division of environmental quality and the local health district board. The director shall recommend by March 1, 1990, to the board for adoption, rules and regulations for procedures to determine consistency.

p. The formulation of a water quality management plan for Priest lake in conjunction with a planning team from the Priest lake area whose membership shall be appointed by the board and consist of a fair representation of the various land managers, and user and interest groups of the lake and its Idaho watershed. The stated goal of the plan shall be to maintain the existing water quality of Priest lake while continuing existing nonpoint source activities in the watershed and providing for project specific best management practices when necessary. The plan shall include comprehensive characterization of lake water quality through completion of a baseline monitoring program to be conducted by the department and shall consider existing economics and nonpoint source activity dependent industries of the Priest lake area. The planning team shall conduct public hearings and encourage public participation in the plan development including opportunity for public review and input. Technical assistance to the planning team with state nonpoint source management programs in forest practices, road construction and maintenance, agriculture and mining shall be provided by the department. Technical assistance to the planning team on area planning, zoning and sanitary regulations shall be provided by the clean lakes council. The plan shall be submitted to the board for its approval at the end of a three (3) year plan development period. Upon review and acceptance by the board, the

plan shall be submitted to the legislature for amendment, adoption or rejection. If adopted by the legislature, the plan shall be enacted by passage of a statute at the regular legislative session when it receives the plan and shall have the force and effect of law. Existing forest practices, agricultural and mining nonpoint source management programs are considered to be adequate to protect water quality during the plan development period.

q. The adoption and implementation of a public wastewater operator certification program to ensure the operators of public wastewater treatment facilities have the technical expertise and certification to comply with federal regulations and state rules dealing with wastewater; and the enhancement and protection of source waters of the state pursuant to rules of the board.

4. The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government; including, but not limited to, the federal water pollution control act, for use in or by the state of Idaho in relation to health and environmental protection.

5. The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporation for facilities, land, and equipment when such use will have a beneficial, recreational, or therapeutic effect or be in the best interest in carrying out the duties imposed upon the department.

The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

6. The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

Approved March 23, 1999.

CHAPTER 175
(S.B. No. 1221)

AN ACT

RELATING TO COSMETOLOGY; AMENDING SECTION 54-802, IDAHO CODE, TO PROVIDE A DEFINITION FOR "DEMONSTRATIONS, COMPETITIONS OR PRODUCTIONS"; AMENDING SECTION 54-805, IDAHO CODE, TO CLARIFY THE METHOD OF INSTRUCTION REQUIRED; AND AMENDING SECTION 54-827, IDAHO CODE, TO CLARIFY THE PROCESS OF GRANTING A TEMPORARY PERMIT FOR EDUCATIONAL OR DEMONSTRATION PURPOSES AND TO PROVIDE FOR AN EXEMPTION FROM THE REQUIREMENTS FOR LICENSED ESTABLISHMENTS.

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

SECTION 1. That Section 54-802, Idaho Code, be, and the same is hereby amended to read as follows:

54-802. DEFINITIONS. For the purpose of this chapter, the following definitions shall apply:

(a) "Cosmetology" shall constitute any one (1) or combination of the following practices when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

1. Cutting, trimming, arranging, dressing, curling, waving by any method, cleansing, singeing, bleaching, coloring, or similar work upon the hair.

2. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, exercising, beautifying, or similar applications or work upon the scalp, face, neck, arms, hands, busts, or other parts of the body.

3. Manicuring, pedicuring the nails, and the application of artificial nails.

(b) "Registered cosmetologist" shall mean any person licensed to practice cosmetology.

(c) "Nail technology" shall constitute any one (1) or more of the following practices when done upon the human body:

1. Manicuring, pedicuring the nails, and the application of all forms of artificial nails.

2. Massage of the hands and feet.

(d) "Nail technician" shall mean any person whose practice of cosmetology is limited to nail technology.

(e) "Apprentice" shall mean any person who is engaged in learning or acquiring of any or all of the practices of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(f) "Student" shall mean any person who is engaged in the learning or acquiring of any or all of the practices of cosmetology in a registered school of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(g) "Instructor" shall mean a cosmetologist who teaches cosmetology or any practices thereof in a school of cosmetology or school or college of barbering.

(h) "Student instructor" shall mean a cosmetologist who is receiving training to teach cosmetology.

(i) "Cosmetological establishment" shall mean any place or part thereof other than a school of cosmetology wherein cosmetology is practiced.

(j) "School of cosmetology" shall mean any place or part thereof wherein cosmetology is taught to students.

(k) "Board" means the Idaho board of cosmetology.

(l) "Department" means the Idaho department of self-governing agencies.

(m) "Chapter" as used in this act refers to chapter 8, title 54, Idaho Code.

(n) "Electrologist" means any person licensed to practice electrology and who is skilled in the permanent removal of unwanted hair.

(o) "Electrolysis or electrology" means the permanent removal of hair by destroying the hair producing cells of the skin and vascular system using equipment and devices approved by and registered with the United States food and drug administration.

(p) "Esthetics" shall constitute any one (1) or combination of the following practices when done on the human body:

1. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, exercising, beautifying or similar applications of work to the human body.

2. Nonpermanent hair removal by tweezing or waxing.

(q) "Esthetician" means any person licensed to practice esthetics.

(r) "Electrologist instructor" means an electrologist who teaches electrology or any practices thereof in a school of cosmetology approved to teach electrology.

(s) "Student electrologist instructor" shall mean an electrologist who is receiving training to teach electrology.

(t) "Makeover or glamour photography business" means any business engaged in the offering of photographic services to the general public and whose employees engage in the facial application of cosmetic products or the arranging of the hair of customers in connection with the sale, or attempted sale, of photographic services.

(u) "Retail cosmetics dealer" means a fixed retail business which offers cosmetic products for sale at retail to members of the general public and whose employees engage in the facial application of cosmetic products to customers in connection with the sale, or attempted sale, of the products without compensation from the customer other than the regular price of the merchandise.

(v) "Demonstration, competition or production" means an organized event of limited duration where cosmetology services may be performed, if sponsored by a salon, school of cosmetology or cosmetology-related organization.

SECTION 2. That Section 54-805, Idaho Code, be, and the same is hereby amended to read as follows:

54-805. REQUIREMENTS FOR LICENSE. Except as herein otherwise provided, the following shall be considered minimum requirements for license in the respective categories, and all applicants shall be of good moral character and temperate habits:

1. As a registered cosmetologist:

(a) Completion of two (2) years' high school education or its equivalent.

(b) Graduation from and completion of a two thousand (2,000) hours~~'--training~~ course of instruction in a school of cosmetology, or a four thousand (4,000) hours~~'--training~~ course of instruction as an apprentice covering all phases of the practice of cosmetology.

(c) Successful passage of the examination for cosmetologist given under the direction of the board.

2. As an instructor: twelve (12) semester college credit hours or equivalent as approved by the board or successful completion of the examination required by board rules, and

(a) One (1) year's experience as a licensed cosmetologist in a registered cosmetological establishment or school and a six (6) months ~~of~~ teacher's ~~training~~ course of instruction in a school of cosmetology, or

(b) Two (2) years' experience as a licensed cosmetologist in a registered cosmetological establishment and a three (3) months ~~of~~ teacher's ~~training~~ course of instruction in a school of cosmetology, or

(c) Five (5) years' experience as a licensed cosmetologist, immediately preceding the application for license, and

3. As a student:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

4. As an apprentice:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

5. As a nail technician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least a three hundred (300) hours~~-of-training~~ course of instruction and graduated from such training in a board approved school or a six hundred (600) hours~~---of---training~~ course of instruction in any cosmetological establishment under the direct supervision of a cosmetology instructor, who shall have at least one (1) registered nail technician on-site for each student being trained.

(d) Successful passage of the examination for nail technician given under the direction of the board.

6. As an electrologist:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least an eight hundred (800) hours~~-of-training~~ course of instruction for such in a school approved by the board to teach electrology or a sixteen hundred (1,600) hours course of instruction as an apprentice under the direct personal supervision of a licensed electrologist instructor as established by board rules.

(d) Successfully passed the examination for electrologist given under the direction of the board.

7. As an esthetician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least a six hundred (600) hours~~-of-training~~ course of instruction for such in a school approved by the board to teach esthetics or a one thousand (1,000) hours course of instruction in any cosmetological establishment under the direct supervision of a cosmetology instructor, who shall have at least one (1) registered esthetician on-site for

each student being trained.

(d) Successfully passed the examination for esthetician given under the direction of the board.

8. As an electrologist instructor: twelve (12) semester college credit hours or equivalent, as approved by the board, or successful completion of an examination required by board rules, and:

(a) Five (5) years' experience as a licensed electrologist; or

(b) Fewer than five (5) years' experience as a licensed electrologist and completion of an adequate training program to be established by board rule.

SECTION 3. That Section 54-827, Idaho Code, be, and the same is hereby amended to read as follows:

54-827. PERMIT TO TEMPORARILY PRACTICE, DEMONSTRATE OR TEACH COSMETOLOGY. (1) Upon application, and payment of the required fee, the board shall grant a temporary permit authorizing a person to practice, demonstrate~~,~~ or teach cosmetology, or perform any one (1) or more of such functions in the following instances:

(a) When a student or apprentice has completed his or her training, such temporary permit to be valid only until said student or apprentice is called by the board for examination and until the results of said examination are announced.

(b) When a person has applied for license by reciprocity, such temporary permit to be valid only until such application is granted or, if denied, until such person is called by the board for examination and until the results of said examination are announced.

(c) When such permit is sought primarily for educational or demonstration purposes and the person making application therefor is licensed to practice or teach cosmetology in ~~another~~ this or any other state and presents satisfactory evidence of that fact. When a permit is issued for this purpose, it shall specify the time and place when and where such educational demonstrations shall take place, and the permit shall be limited to such time and place, and in no instance shall said permit be for a period in excess of thirty (30) days.

(d) When a permit is requested for educational or demonstration purposes by a licensed school on behalf of its students currently enrolled or a licensed cosmetologist on behalf of an apprentice. When a permit is issued for this purpose, it shall specify those students or apprentices eligible to participate and the time and place of the education demonstration; and the permit shall be limited to those individuals and time and place. In no instance shall the permit be for a period in excess of seven (7) days.

(2) Facilities used for cosmetological services pursuant to a permit obtained under subsection (1)(c) or (1)(d) of this section shall be exempt from the requirements for licensed establishments set forth in section 54-803 1., Idaho Code. However, the facility and permit holder shall observe and comply with sanitation requirements established by board rule.

Approved March 23, 1999.

CHAPTER 176
(S.B. No. 1227, As Amended in the House)

AN ACT

RELATING TO THE STATE SUNSHINE LAW; AMENDING SECTION 67-6602, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6617, IDAHO CODE, TO DELETE LANGUAGE REGARDING A LOBBYIST'S EMPLOYER BEING A NONBUSINESS ENTITY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-6619, IDAHO CODE, TO DELETE A REQUIREMENT THAT A LOBBYIST WHO SUBMITS WRITTEN MATTER TO THE LEGISLATURE MUST ALSO SUBMIT COPIES TO THE SECRETARY OF STATE AND TO MAKE TECHNICAL CORRECTIONS.

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

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

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

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

(1) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

(2) Announces publicly or files for office.

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

(c) "Contribution" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of "part-time" personal services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess of twenty-five dollars ($25.00) personally paid for by any volunteer campaign worker. "Part-time" services for the purposes of this defini-

tion, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions, other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution.

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

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

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

(g) "Independent expenditure" means any expenditure by a person for a communication expressly advocating the election, passage or defeat of a clearly identified candidate or measure that is not made with the cooperation or with the prior consent of, or in consultation with, or at the consent of, or in consultation with, or at the request of a suggestion of, a candidate or any agent or authorized committee of the candidate or political committee supporting or opposing a measure. As used in this subsection, "expressly advocating" means any communication containing a message advocating election, passage or defeat including, but not limited to, the name of the candidate or measure, or expression such as "vote for," "elect," "support," "cast your ballot for," "vote against," "defeat" or "reject."

(h) "Lobby" and "lobbying" each means attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees, to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho or any committee thereof. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

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

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

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

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

(1) Does not have as its principal purpose the conduct of business activities for profit; and

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

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

(n) "Political committee" means:

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

(2) Any person who receives contributions and makes expenditures in an amount exceeding five hundred dollars ($500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Any entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

(3) A county, district or regional committee of a recognized political party shall not be considered a political committee for the purposes of this chapter unless such party committee has expenditures exceeding five thousand dollars ($5,000) in a calendar year.

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

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

SECTION 2. That Section 67-6617, Idaho Code, be, and the same is hereby amended to read as follows:

67-6617. REGISTRATION OF LOBBYISTS. (a) Before doing any lobbying, or within thirty (30) days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the secretary of state a lobbyist registration statement, in such detail as the secretary of state shall prescribe, accompanied by payment of a registration fee of ten dollars ($10.00) (which shall be deposited by the secretary of state in the state treasury), showing:

(1) His name, permanent business address, and any temporary residential and business address in Ada County during the legislative session;

(2) The name, address and general nature of the occupation or business of the lobbyist's employer, and the duration of his employment;

(3) Whether the person from whom he receives compensation employs him solely as a lobbyist or whether he is a regular employee performing services for his employer which include but are not limited to lobbying of legislation;

(4) The general subject or subjects of the lobbyist's legislative interest;

(5) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents

required to be kept under this act;

~~(6)--If---the---lobbyist's---employer---is--a--nonbusiness--entity (including,-but-not-limited-to,-business-and--trade--associations) whose--members-include,-or-which-as-a-representative-entity-undertakes-lobbying-activities-for,-businesses,-groups,-associations-or organizations,-the-name-and-address-of-each-member-of-such--entity or-person-represented-by-such-entity-whose-fees,-dues,-payments-or other-consideration-paid-to-such-entity-during-either-of-the-prior two--(2)-years-have-exceeded-five-hundred-dollars-($500)-or-who-is obligated-to-or-has-agreed-to-pay-fees,-dues,--payments--or--other consideration-exceeding-five-hundred-dollars-($500)-to-such-entity during-the-current-year.~~

(b) Any lobbyist who receives or is to receive compensation from more than one (1) person for his services as a lobbyist shall file a separate notice of representation, accompanied by the fee of ten dollars ($10.00) for each separate notice of representation, with respect to each such person; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed by more than one (1) person then such lobbyist may file a single statement, in which he shall detail the name, business address and general occupation of each person so paying or contributing.

(c) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall, within one (1) week of such change, modification or termination, furnish full information regarding the same by filing with the secretary of state an amended registration statement.

(d) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on or before each January 10, and failure to do so shall terminate his registration.

SECTION 3. That Section 67-6619, Idaho Code, be, and the same is hereby amended to read as follows:

67-6619. REPORTING BY LOBBYISTS. (a) Any lobbyist registered under section 67-6617, Idaho Code, shall file with the secretary of state an annual report of his activities signed by both the lobbyist and the lobbyist's employers. The reports shall be made in the form and manner prescribed by the secretary of state and shall be filed on January 31. In addition to the annual report, while the legislature is in session, every registered lobbyist shall file interim monthly periodic reports for each month or portion thereof that the legislature is in session, which reports need be signed only by the lobbyist and which shall be filed within ten (10) days of the first day of the month for the activities of the month just past. ~~In--addition,--each lobbyist--shall--within-five-(5)-days-after-delivery-of-any-written-or printed-statement,-argument-or-brief-to-the -legislature-or-any-committee-thereof-or-the-members-thereof,-file-one-(1)-copy-with-the--secretary-of-state.~~

(b) Each such annual and monthly periodic report shall contain:

(1) The totals of all expenditures made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer (not including payments made directly to the lobbyist), during the

period covered by the report, which totals shall be segregated according to financial category, including, for example, entertainment, food and refreshments; advertising; providing, however, that reimbursed personal living and travel expenses of a lobbyist incurred directly or indirectly for any lobbying purpose need not be reported. The totals of each expenditure of more than fifty dollars ($50.00) for a legislator or other holder of public office shall be identified by date, place, amount, and the names of all members of the state legislature or holders of public office in the group partaking in or of such financial category excluding any portion thereof attributable to the lobbyist's participation therein. Reported expenditures for entertainment, food and refreshments for legislators or other holders of public office shall be the actual cost of the entertainment, food and refreshments.

(2) In the case of a lobbyist employed by more than one (1) employer, the proportionate amount of such expenditures in each category incurred on behalf of each of his employers.

(3) An itemized listing of each such expenditure made by the lobbyist or by the lobbyist's employer in the nature of a contribution of money or of tangible or intangible personal property to any legislator, or for or on behalf of any legislator. All contributions made to, or for the benefit of, any legislator, exempting only those contributions that are required to be reported under other provisions of law, shall be identified by date, amount, and the name of the legislator receiving, or to be benefited by each such contribution.

(c) Each such annual and monthly periodic report shall contain the subject matter of proposed legislation and the number of each senate or house bill, resolution, or other legislative activity which the lobbyist has been engaged in supporting or opposing during the reporting period; provided, that in the case of appropriations bills the lobbyists shall enumerate the specific section or sections which he supported or opposed.

Approved March 23, 1999.

CHAPTER 177
(S.B. No. 1247)

AN ACT

APPROPRIATING MONEYS TO THE GENERAL FUND FOR FISCAL YEAR 1999; APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 2000; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated $2,000,000 from the Catastrophic Health Care Cost Fund to be deposited in the General Fund for the period July 1, 1998, through June 30, 1999.

SECTION 2. There is hereby appropriated $10,135,700 from the General Fund to be deposited in the Catastrophic Health Care Cost Fund for the period July 1, 1999, through June 30, 2000.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after its passage and approval.

Approved March 23, 1999.

CHAPTER 178
(S.B. No. 1249)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2000; AND APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PANHANDLE HEALTH DISTRICT FOR FISCAL YEAR 2000.

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

SECTION 1. There is hereby appropriated $8,691,500 from the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 1999, through June 30, 2000.

SECTION 2. In addition to the appropriation made in Section 1 of this act, there is hereby appropriated $98,000 from the General Fund to be deposited in the Public Health Trust Fund for the Panhandle Health District for the period July 1, 1999, through June 30, 2000.

Approved March 23, 1999.

CHAPTER 179
(S.B. No. 1250)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 2000; 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 Human Rights Commission the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$407,300	$138,300	$7,200	$552,800
Federal Grant Fund	95,900	58,300		154,200
Miscellaneous Revenue Fund		6,700		6,700
TOTAL	$503,200	$203,300	$7,200	$713,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Human Rights Commission is authorized no more than ten (10) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 180
(S.B. No. 1251)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2000; 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 expense classes from the listed funds, for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$ 637,700	$ 88,600		$559,100	$1,285,400
Randolph Sheppard Fund		7,200		117,900	125,100
Rehabilitation Revenue and Refunds Fund	41,800	33,300		12,700	87,800
Adaptive Aids and Appliances Fund		46,000			46,000
Federal Grant Fund	1,153,200	502,600	$42,600	263,100	1,961,500
Miscellaneous Revenue Fund		17,100		9,000	26,100
TOTAL	$1,832,700	$694,800	$42,600	$961,800	$3,531,900

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, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 181
(S.B. No. 1252)

AN ACT
APPROPRIATING MONEYS FOR THE IDAHO WOMEN'S COMMISSION FOR FISCAL YEAR 2000; 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 Idaho Women's Commission the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$27,600	$12,000	$39,600
Miscellaneous Revenue Fund		6,700	6,700
TOTAL	$27,600	$18,700	$46,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Women's Commission is authorized no more than fifty-two hundredths (0.52) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 182
(S.B. No. 1256)

AN ACT
APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2000; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program the following amounts from the listed funds for the period July 1, 1999, through June 30, 2000:

FROM:	
General Fund	$22,145,300
Equine Education Fund	135,000
Federal Grant Fund	4,594,600
Miscellaneous Revenue Fund	181,900
TOTAL	$27,056,800

SECTION 2. There is hereby reappropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 278, Laws of 1998, to be used for nonrecurring expenditures for the period July 1, 1999, through June 30, 2000.

SECTION 3. The reappropriation for the General Fund granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is zero, the reappropriation for the General Fund in Section 2 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Agricultural Research and Cooperative Extension Service bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 23, 1999.

CHAPTER 183
(S.B. No. 1257)

AN ACT

APPROPRIATING MONEYS TO THE STATE CONTROLLER FOR FISCAL YEAR 2000; PRESCRIBING BILLING METHODOLOGIES FOR STATEWIDE ACCOUNTING AND STATEWIDE PAYROLL; TRANSFERRING REMAINING CASH BALANCES TO THE GENERAL FUND; REQUIRING CERTAIN PURCHASES BE SUBJECT TO CERTAIN CONDITIONS; EXPRESSING LEGISLATIVE INTENT REGARDING THE STATEWIDE SYSTEMS OF THE STATE CONTROLLER; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; SETTING CONDITIONS FOR REAPPROPRIATIONS; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REDUCING FISCAL YEAR 1999 APPROPRIATION AND TRANSFERRING THE AMOUNTS TO THE GENERAL FUND; EXPRESSING LEGISLATIVE

INTENT THAT THE STATE CONTROLLER REPORT ANY YEAR 2000 COMPUTER PROBLEMS TO THE JOINT FINANCE-APPROPRIATIONS COMMITTEE; AND DECLARING AN EMERGENCY FOR SECTION 10 OF THIS ACT.

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 designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
General Fund	$ 370,800	$ 67,900	$ 9,000	$ 447,700
II. STATEWIDE ACCOUNTING:				
FROM:				
General Fund	$1,163,500	$1,410,800	$ 21,000	$ 2,595,300
III. STATEWIDE PAYROLL:				
FROM:				
General Fund	$1,048,500	$ 943,000	$ 18,000	$ 2,009,500
IV. COMPUTER CENTER:				
FROM:				
Data Processing Services Fund	$2,984,700	$2,363,000	$345,000	$ 5,692,700
TOTAL	$5,567,500	$4,784,700	$393,000	$10,745,200

SECTION 2. Any other provision of law notwithstanding, the State Controller shall assess state agencies in accordance with the statewide cost allocation plan as described in Section 67-3531, Idaho Code, for Statewide Accounting services and Statewide Payroll services. The State Controller shall issue a single bill for these services. Funds collected shall be placed in the Indirect Cost Recovery Fund. On June 30, 2000, the State Controller shall transfer up to a maximum of $5,052,500 from the Indirect Cost Recovery Fund to the state General Fund.

SECTION 3. Any unencumbered cash balances remaining in the Statewide Accounting Fund (0475-03) or the Employee Information System Fund (0475-04) on July 1, 1999, shall be transferred to the state General Fund.

SECTION 4. Any purchases or obligations involving information technology items for the period July 1, 1999, through June 30, 2000, are to be submitted to and coordinated with the Information Technology Resource Management Council.

SECTION 5. It is legislative intent that the State Controller's Office statewide systems conform to Year 2000 requirements through the

use of funds within the limitations of appropriations.

SECTION 6. It is legislative intent that an amount not to exceed $1,000 of the amounts appropriated, 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 7. There is hereby reappropriated to the State Controller, the unexpended and unencumbered balance of any appropriation made to the State Controller for fiscal year 1999, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000.

SECTION 8. The reappropriation granted in Section 7 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is zero, the reappropriation of General Funds in Section 7 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount of General Funds reappropriated in Section 7 of this act shall be in the proportion that the reappropriation for the State Controller bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 9. In accordance with Section 67-3519, Idaho Code, the State Controller is authorized no more than ninety-eight and eighty-five hundredths (98.85) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 10. The appropriation made to the State Controller in Section 1, Chapter 376, Laws of 1998, is hereby reduced by $350,000 for the Statewide Accounting Fund, and $50,000 for the Employee Information System Fund. The State Controller shall transfer these cash amounts to the state General Fund.

SECTION 11. It is legislative intent that the State Controller identify any remaining Year 2000 problems with the State Controller's computer programs and systems, and report such findings to the Joint Finance-Appropriations Committee at the Committee's interim meeting in the fall of 1999.

SECTION 12. An emergency existing therefor, which emergency is hereby declared to exist, Section 10 of this act shall be in full force and effect on and after its passage and approval.

Approved March 23, 1999.

CHAPTER 184
(S.B. No. 1258)

AN ACT
APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2000; 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 State Board of Education for the Division of Vocational Rehabilitation the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

A. RENAL DISEASE:	
FROM:	
General Fund	$ 479,700
FOR:	
Trustee and Benefit Payments	$ 479,700
B. VOCATIONAL REHABILITATION:	
FROM:	
General Fund	$ 2,985,500
Federal Grants Fund	10,989,700
Rehabilitation Revenue and Refunds Fund	525,000
Miscellaneous Revenue Fund	310,000
Business and Industry Services Fund	8,200
TOTAL	$14,818,400
FOR:	
Personnel Costs	$ 6,043,300
Operating Expenditures	1,048,900
Capital Outlay	100,000
Trustee and Benefit Payments	7,626,200
TOTAL	$14,818,400
C. EPILEPSY SERVICES:	
FROM:	
General Fund	$ 60,000
FOR:	
Trustee and Benefit Payments	$ 60,000
D. INDEPENDENT LIVING COUNCIL:	
FROM:	
General Fund	$ 69,600
Federal Grants Fund	199,900
Miscellaneous Revenue Fund	15,800
TOTAL	$ 285,300
FOR:	
Lump Sum	$ 285,300
GRAND TOTAL	$15,643,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one

hundred forty (140) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 185
(S.B. No. 1259)

AN ACT

APPROPRIATING MONEYS FOR SPECIAL PROGRAMS FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES FOR THE DESIGNATED PROGRAMS; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for Special Programs the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FOREST UTILIZATION RESEARCH:					
FROM:					
General Fund	$ 454,100	$ 66,400			$ 520,500
II. IDAHO GEOLOGICAL SURVEY:					
FROM:					
General Fund	$ 630,600	$ 52,100	$25,800		$ 708,500
III. SCHOLARSHIPS AND GRANTS:					
FROM:					
General Fund				$2,486,200	$2,486,200
Federal Grant Fund				186,000	186,000
TOTAL				$2,672,200	$2,672,200
IV. IDAHO MUSEUM OF NATURAL HISTORY:					
FROM:					
General Fund	$ 446,300	$ 29,600	$41,800		$ 517,700
V. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Fund				$ 419,300	$ 419,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. IDAHO COUNCIL FOR ECONOMIC EDUCATION:					
FROM:					
General Fund				$ 54,800	$ 54,800
GRAND TOTAL	$1,531,000	$148,100	$67,600	$3,146,300	$4,893,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, there is hereby authorized no more than twenty-five and fifty-four hundredths (25.54) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, for the Forest Utilization Program, Idaho Geological Survey Program and the Idaho Museum of Natural History as 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. There is hereby reappropriated to the Board of Regents of the University of Idaho and to the State Board of Education for the Forest Utilization Research Program, Idaho Geological Survey Program, Scholarships and Grants Program, Idaho Museum of Natural History, Idaho Small Business Development Centers, and Idaho Council on Economic Education, the unexpended and unencumbered balance of any General Fund appropriation made to each respective program under Section 1, Chapter 277, Laws of 1998, for each respective program to be used for nonrecurring expenditures for the period July 1, 1999, through June 30, 2000.

SECTION 4. The reappropriation granted in Section 3 of this act shall be subject to the following conditions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is zero, the reappropriation in Section 3 is declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is greater than zero but less than the total reappropriation authority granted to all state agencies, the amounts reappropriated in Section 3 shall be in the proportion that the reappropriation for each respective program bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 23, 1999.

CHAPTER 186
(S.B. No. 1260)

AN ACT

APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 2000; REAPPROPRIATING ANY UNEXPENDED AND UNENCUMBERED GENERAL FUND BAL-

ANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO BOARD POLICY; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO COOPERATIVE SERVICE AGENCIES QUALIFYING AND FUNCTIONING AS PROFESSIONAL-TECHNICAL SCHOOLS.

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

SECTION 1. There is hereby appropriated to the State Board for Vocational Education the following amounts, to be expended by the Division of Vocational Education for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:						
FROM:						
General Fund	$1,367,300	$232,400	$25,000			$ 1,624,700
Federal Grant Fund	188,500	108,400				296,900
TOTAL	$1,555,800	$340,800	$25,000			$ 1,921,600
II. GENERAL PROGRAMS:						
FROM:						
General Fund	$ 210,400	$ 37,600	$ 6,000	$ 8,882,500		$ 9,136,500
Hazardous Materials/ Waste Enforcement Fund				66,800		66,800
Federal Grant Fund	208,400	15,100		4,023,200		4,246,700
TOTAL	$ 418,800	$ 52,700	$ 6,000	$12,972,500		$13,450,000
III. POSTSECONDARY PROGRAMS:						
FROM:						
General Fund					$28,510,100	$28,510,100
Unrestricted Current Fund					217,000	217,000
TOTAL					$28,727,100	$28,727,100
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:						
FROM:						
General Fund				$ 31,400		$ 31,400
Displaced Homemaker Fund				170,000		170,000
Federal Grant Fund				2,080,400		2,080,400
TOTAL				$ 2,281,800		$ 2,281,800
GRAND TOTAL	$1,974,600	$393,500	$31,000	$15,254,300	$28,727,100	$46,380,500

SECTION 2. There is hereby reappropriated to the State Board for Vocational Education for the Division of Vocational Education, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 323, Laws of 1998, to be used for nonrecurring expen-

ditures for the period July 1, 1999, through June 30, 2000.

SECTION 3. The reappropriation granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is zero, the reappropriation in Section 2 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Division of Vocational Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 4. It is legislative intent that the State Board for Vocational Education evaluate board policy on allocation of state appropriations for new and existing vocational programs. The evaluation shall consider the issues of retention of quality instructors and market demands for vocational training.

SECTION 5. A cooperative service agency as provided in Section 33-317, Idaho Code, may qualify and function as a professional-technical school provided that the criteria outlined in Section 33-1002G, Idaho Code, and by the State Board for Vocational Education for approval of vocational-technical programs have been met. A cooperative service agency operating a professional-technical school meeting requirements of subsections (1), (2) and (3) of Section 33-1002G, Idaho Code, would also be deemed as meeting requirements of subsections (4) and (5) of Section 33-1002G, Idaho Code.

Approved March 23, 1999.

CHAPTER 187
(S.B. No. 1261)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES, VETERANS SERVICES, AND INDEPENDENT COMMISSIONS AND COUNCILS FOR FISCAL YEAR 2000; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; 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 Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils the following amounts to be expended for the designated programs according to the designated

expense classes from the various funds listed for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:					
FROM:					
General Fund	$ 7,603,400	$ 6,781,500			$14,384,900
Cooperative Welfare Fund (Federal)	5,382,700	5,031,000			10,413,700
Cooperative Welfare Fund (Other)		483,000			483,000
TOTAL	$12,986,100	$12,295,500			$25,281,600
II. VETERANS SERVICES:					
FROM:					
General Fund	$ 1,703,600	$ 167,800		$ 50,700	$ 1,922,100
Idaho Veterans Home Fund		572,600		1,000	573,600
Cooperative Welfare Fund (Federal)	3,529,500	969,300			4,498,800
Cooperative Welfare Fund (Other)	4,477,900	1,626,800	$145,100		6,249,800
TOTAL	$ 9,711,000	$ 3,336,500	$145,100	$ 51,700	$13,244,300
III. INDEPENDENT COMMISSIONS AND COUNCILS:					
A. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Domestic Violence Project Fund	$ 131,400	$ 88,500	$ 2,000	$ 166,000	$ 387,900
Cooperative Welfare Fund (Federal)	45,100	55,000		1,847,800	1,947,900
Cooperative Welfare Fund (Other)		10,000			10,000
TOTAL	$ 176,500	$ 153,500	$ 2,000	$2,013,800	$ 2,345,800
B. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
General Fund	$ 77,700	$ 15,500		$ 11,200	$ 104,400
Cooperative Welfare Fund (Federal)	228,400	83,700		96,100	408,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Other)		1,000			1,000
TOTAL	$ 306,100	$ 100,200		$ 107,300	$ 513,600
C. COUNCIL ON THE DEAF AND HARD OF HEARING:					
FROM:					
General Fund	$ 98,000	$ 11,500			$ 109,500
DIVISION TOTAL	$ 580,600	$ 265,200	$ 2,000	$2,121,100	$ 2,968,900
GRAND TOTAL	$23,277,700	$15,897,200	$147,100	$2,172,800	$41,494,800

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils for fiscal year 1999, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils is hereby authorized to expend all receipts collected in Indirect Support Services, Veterans Services, and the Independent Commissions and Councils as noncognizable funds for the period July 1, 1999, through June 30, 2000.

SECTION 5. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare, less the Division of Environmental Quality, is authorized no more than three thousand two hundred seventy-one and thirty-three hundredths (3,271.33) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 1999.

CHAPTER 188
(S.B. No. 1263)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SELF-RELIANCE PROGRAMS FOR FISCAL YEAR 2000; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; RE-APPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; REDIRECTING ALLOWABLE FEDERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES MONEY FOR EARLY CHILDHOOD DEVELOPMENT; REDIRECTING ALLOWABLE FEDERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES MONEY FOR HEAD START; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO NEW PROGRAMS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Self-Reliance Programs, the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
SELF-RELIANCE PROGRAMS:					
FROM:					
General Fund	$13,616,000	$ 2,619,500	$17,200	$23,247,800	$ 39,500,500
Cooperative Welfare Fund (Federal)	15,590,400	11,815,500	33,400	28,896,300	56,335,600
Cooperative Welfare Fund (Other)	647,300	3,948,100			4,595,400
TOTAL	$29,853,700	$18,383,100	$50,600	$52,144,100	$100,431,500

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for the Self-Reliance Programs any unexpended and unencumbered balances of the Cooperative Welfare Fund, as appropriated for the Self-Reliance Programs for fiscal year 1999, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2),

Idaho Code, the Department of Health and Welfare for the Self-Reliance Programs is hereby authorized to expend all receipts collected in the Self-Reliance Programs as noncognizable funds for the period July 1, 1999, through June 30, 2000.

SECTION 5. The Department of Health and Welfare is hereby directed to work with the Office of the Governor, the Office of the State Board of Education and others to develop programs that enhance the healthy development and well-being of young children from birth to four years of age. These programs should be designed within the federal statutes and regulations governing the Temporary Assistance for Needy Families (TANF) Program. The department is authorized to expend up to $1,500,000 in allowable federal TANF money to accomplish this initiative.

SECTION 6. The Department of Health and Welfare, being the lead agency for the Head Start-State Collaboration Project, is hereby directed to work with the Idaho Head Start Association and others to explore expansion of services that prepare at-risk TANF children for kindergarten within the limitations of federal statutes and regulations. The Department is authorized to expend up to $1,500,000 in allowable federal TANF money for this effort.

SECTION 7. The Department of Health and Welfare is hereby directed not to create any new programs with savings generated through welfare reform without prior approval of the Joint Finance-Appropriations Committee.

Approved March 23, 1999.

CHAPTER 189
(S.B. No. 1264)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF FAMILY AND COMMUNITY SERVICES FOR FISCAL YEAR 2000; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SUBSTANCE ABUSE PREVENTION; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO VOCATIONAL SERVICES.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Family and Community Services the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S SERVICES:					
FROM:					
General Fund	$ 7,237,800	$ 2,343,700		$ 966,000	$ 10,547,500
Cooperative Welfare Fund (Federal)	13,554,200	3,981,300		11,690,800	29,226,300
Cooperative Welfare Fund (Other)	378,500	794,000		977,200	2,149,700
TOTAL	$21,170,500	$ 7,119,000		$13,634,000	$ 41,923,500
II. DEVELOPMENTAL DISABILITIES SERVICES:					
FROM:					
General Fund	$10,469,300	$ 2,469,400		$ 2,779,500	$ 15,718,200
Medical Assistance Fund		3,500			3,500
Cooperative Welfare Fund (Federal)	13,453,100	4,479,000		1,395,900	19,328,000
Cooperative Welfare Fund (Other)	1,315,400	100,800		10,400	1,426,600
TOTAL	$25,237,800	$7,052,700		$ 4,185,800	$ 36,476,300
III. MENTAL HEALTH SERVICES:					
FROM:					
General Fund	$19,484,900	$ 1,956,100		$ 750,600	$ 22,191,600
Alcohol Intoxication Treatment Fund	590,700	249,000		1,718,500	2,558,200
Substance Abuse Treatment Fund				90,000	90,000
State Hospital South Endowment Fund	1,923,700	536,100		62,400	2,522,200
State Hospital North Endowment Fund	298,700	745,200	$89,400	44,000	1,177,300
Prevention of minors' access to Tobacco		12,000			12,000
Cooperative Welfare Fund (Federal)	437,300	3,651,600		3,482,100	7,571,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Other)	7,793,400	1,013,000		10,600	8,817,000
TOTAL	$30,528,700	$ 8,163,000	$89,400	$ 6,158,200	$ 44,939,300
GRAND TOTAL	$76,937,000	$22,334,700	$89,400	$23,978,000	$123,339,100

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for the Division of Family and Community Services any unexpended and unencumbered balances of the Cooperative Welfare Fund, as appropriated for the Division of Family and Community Services for fiscal year 1999, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for the Division of Family and Community Services is hereby authorized to expend all receipts collected in the Division of Family and Community Services as noncognizable funds for the period July 1, 1999, through June 30, 2000.

SECTION 5. It is legislative intent that, of the total moneys appropriated for Substance Abuse Prevention in Section 1 of this act for Mental Health Services, $100,000 be used to purchase radio and television advertising, targeted to adolescents, with factual messages concerning alcohol, drugs, and tobacco. At least half of this amount is to be used for messages on alcohol.

SECTION 6. It is legislative intent that the Department of Health and Welfare utilize $350,000 of the amount transferred from the Temporary Assistance to Needy Families Grant to the Social Services Block Grant for the purchase of vocational services for adults with disabilities from community rehabilitation programs.

Approved March 23, 1999.

CHAPTER 190
(S.B. No. 1265)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2000; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO IDAHO'S HOME AND COMMUNITY-BASED SERVICES WAIVER; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE CHILD HEALTH INSURANCE PROGRAM; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE CHILDREN'S HEALTH INSURANCE PROGRAM TASK FORCE RECOMMENDATIONS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts to be expended according to the designated expense classes from the various funds listed for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
MEDICAL ASSISTANCE SERVICES:				
FROM:				
General Fund	$3,146,900	$ 3,536,600	$149,880,000	$156,563,500
Medical Assistance Fund			2,500	2,500
Liquor Control Fund			650,000	650,000
Cooperative Welfare Fund (Federal)	4,850,300	11,034,000	354,946,000	370,830,300
Cooperative Welfare Fund (Other)			22,200,600	22,200,600
TOTAL	$7,997,200	$14,570,600	$527,679,100	$550,246,900

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. There is hereby reappropriated to the Department of Health and Welfare for Medical Assistance Services any unexpended and unencumbered balances of the Cooperative Welfare Fund as appropriated for Medical Assistance Services for fiscal year 1999, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000. The reappropriation shall be computed by the Department of Health and Welfare from available moneys.

SECTION 4. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for Medical Assistance Services is hereby authorized to expend all receipts collected in Medical Assistance Services as noncognizable funds for the period July 1, 1999, through June 30, 2000.

SECTION 5. Section 5, Chapter 346, Laws of 1998, authorized lifting the cap imposed on Idaho's Home and Community-Based Services (HCBS) waiver. This authorization was predicated on HCBS services being no more expensive than services in an Intermediate Care Facility for the Mentally Retarded (ICF/MR) setting. Because HCBS services per individual have been proven to be less expensive than ICF/MR services and because there is a list of eligible individuals waiting to receive these services, the Department of Health and Welfare is directed to provide those qualified individuals with waivered services. In addition, the Legislature directs the department to utilize appropriate HCBS services first before considering the placement of an individual in an ICF/MR setting. The department is further directed to provide the Joint Finance-Appropriations Committee with a periodic report on its progress towards implementing this directive.

SECTION 6. It is the intent of the Idaho Legislature that the federal Title XXI Child Health Insurance Program, as appropriated in Section 1 of this act, not exceed $4.2 million in General Fund expenditures for the period July 1, 1999, through June 30, 2000. In addition, the Director of the Department of Health and Welfare is hereby authorized to control program costs by lowering or raising income eligibility criteria in order to stay within budget; but, under no circumstance shall the department exceed one hundred fifty percent (150%) of the federal poverty level that is used in determining eligibility without prior legislative approval.

SECTION 7. The Idaho Legislature recognizes the work of the Children's Health Insurance Program Task Force appointed by the director of the Department of Health and Welfare. The department is encouraged to implement the recommendations of the task force to the extent legally possible and to apply for the necessary federal waivers where required in order to provide basic health care coverage for Idaho's uninsured children.

Approved March 23, 1999.

CHAPTER 191
(S.B. No. 1266)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2000; APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM FUND; 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 Supreme Court, the following amounts, to be expended from the listed funds for the period July 1, 1999, through June 30, 2000:

FROM:	
General Fund	$21,460,400
Guardian Ad Litem Fund	451,200
ISTARS Technology Fund	1,807,100
Federal Grant Fund	412,700
Miscellaneous Revenue Fund	305,000
TOTAL	$24,436,400

SECTION 2. There is hereby appropriated $451,200 from the General Fund to be deposited in the Guardian Ad Litem Fund for the period July 1, 1999, through June 30, 2000.

SECTION 3. It is legislative intent that of the amount appropriated in Section 1 of this act, an amount not to exceed $5,000 may be used at the discretion of the Chief Justice, to assist in defraying expenses relating to or resulting from the discharge of the Supreme Court Justices' official duties and the official duties of the Supreme Court. Further, it is legislative intent that an amount, not to exceed $1,500 of the amount appropriated in Section 1 of this act, may be used at the discretion of the Chief Judge of the Court of Appeals to assist in defraying expenses relating to or resulting from the discharge of the Court of Appeals Judges' official duties and the official duties of the Court of Appeals. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved March 23, 1999.

CHAPTER 192
(S.B. No. 1267)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2000; 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 Agriculture 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 375,500	$ 237,800	$ 48,400	$ 7,700	$ 669,400
Facilities Maintenance Fund	45,900	104,800			150,700
Agriculture in the Classroom Fund		20,600			20,600
Administration and Accounting Services Fund	529,700	76,300			606,000
TOTAL	$ 951,100	$ 439,500	$ 48,400	$ 7,700	$ 1,446,700
II. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 659,800	$ 94,100	$ 33,200	$318,000	$ 1,105,100
Agricultural Fees - Livestock Disease Control Fund	443,800	256,900	46,500		747,200
Agricultural Fees - Dairy Inspection Fund	614,700	189,000	62,500		866,200
Agricultural Fees - Egg Inspection Fund	73,000	24,700			97,700
Agricultural Fees - Commercial Fisheries Fund	6,000	4,200			10,200
Federal Grant Fund		40,000			40,000
Seminars and Publications Fund		115,100			115,100
TOTAL	$ 1,797,300	$ 724,000	$142,200	$318,000	$ 2,981,500
III. AGRICULTURAL RESOURCES:					
FROM:					
General Fund	$ 433,800	$ 559,700			$ 993,500
Agricultural Fees - Commercial Feed and Fertilizer Fund	223,300	81,700	$ 52,500		357,500
Agricultural Fees - Pesticides Fund	961,500	432,600	155,300		1,549,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	381,000	163,800			544,800
TOTAL	$ 1,999,600	$1,237,800	$207,800		$ 3,445,200
IV. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 528,300	$ 88,900	$ 52,500		$ 669,700
Agricultural Inspection Fund	924,200	286,900	46,200		1,257,300
Agricultural Fees - Commercial Feed and Fertilizer Fund	229,900	80,800	72,900		383,600
Agricultural Fees - Honey Advertising Fund	300	6,000			6,300
Federal Grant Fund	35,400	5,300			40,700
TOTAL	$ 1,718,100	$ 467,900	$171,600		$ 2,357,600
V. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 775,200	$ 204,500			$ 979,700
Agricultural Inspection Fund	162,800	54,800		$ 3,700	221,300
Agricultural Fees - Organic Food Products Fund	41,100	20,300			61,400
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	8,511,900	831,100	$110,000	456,300	9,909,300
TOTAL	$ 9,491,000	$1,110,700	$110,000	$460,000	$11,171,700
VI. MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 246,200	$ 134,600	$ 13,500		$ 394,300
Agricultural Inspection Fund	32,000	100			32,100
Agricultural Loans Fund	10,700	15,400		$ 5,200	31,300
Federal Grant Fund				41,100	41,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Seminars and Publications Fund		231,200			231,200
USDA Publications Fund		62,800			62,800
TOTAL	$ 288,900	$ 444,100	$ 13,500	$ 46,300	$ 792,800
VII. ANIMAL DAMAGE CONTROL:					
FROM:					
General Fund				$158,500	$ 158,500
Animal Damage Control Fund				100,000	100,000
Agricultural Fees - Sheep Industry Regulation Fund		$ 200		102,700	102,900
TOTAL		$ 200		$361,200	$ 361,400
VIII. SHEEP COMMISSION:					
FROM:					
General Fund	$ 35,400	$ 5,800			$ 41,200
Agricultural Fees - Sheep Industry Regulation Fund	57,200	28,900			86,100
Sheep and Goat Disease Indemnity Fund		20,000			20,000
TOTAL	$ 92,600	$ 54,700			$ 147,300
GRAND TOTAL	$16,338,600	$4,478,900	$693,500	$1,193,200	$22,704,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred seventy and thirty-one hundredths (170.31) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 193
(S.B. No. 1268)

AN ACT

APPROPRIATING MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2000; 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 Soil Conservation Commission in the Department of Agriculture, the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,184,900	$109,900	$38,100	$ 563,900	$1,896,800
Resource Conservation and Rangeland Development Fund	66,700	411,800		1,599,000	2,077,500
Federal Grant Fund	112,900	148,300			261,200
TOTAL	$1,364,500	$670,000	$38,100	$2,162,900	$4,235,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Soil Conservation Commission is authorized no more than twenty-four (24) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 194
(H.B. No. 2)

AN ACT

RELATING TO THE STATE HIGHWAY ACCOUNT; AMENDING SECTION 40-701A, IDAHO CODE, TO PROVIDE THAT MONEYS TRANSFERRED FROM THE RESTRICTED HIGHWAY FUND FOR MATCH OF FEDERAL MONEYS SHALL APPLY TO ADDITIONAL SPECIFIED COUNTIES FOR REPAIR OF DAMAGES RESULTING FROM NATURAL DISASTERS AND SHALL APPLY TO DAMAGES INCURRED IN 1998; AND AMENDING SECTION 41-4909A, IDAHO CODE, TO PROVIDE THAT MONEYS TRANS-

FERRED FROM THE IDAHO PETROLEUM CLEAN WATER TRUST FUND SUSPENSE ACCOUNT FOR MATCH OF FEDERAL MONEYS FOR REPAIR OF DAMAGES SHALL INCLUDE LEMHI AND LEWIS COUNTIES AND SHALL INCLUDE DAMAGES INCURRED IN 1996 AND 1998.

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

SECTION 1. That Section 40-701A, Idaho Code, be, and the same is hereby amended to read as follows:

40-701A. RESTRICTED HIGHWAY FUND. (1) In order to insure that authorized increases in highway user taxes and fees are expended exclusively on the construction and maintenance of highways, bridges and railroad crossings, there is established in the state treasury the "Restricted Highway, Bridge and Railroad Crossing Maintenance, Repair and Construction Fund" hereafter referred to as the restricted highway fund, to which shall be credited:

(a) Moneys as provided by sections 49-402(1) and 40-701(2)(a), Idaho Code; and

(b) All other moneys as may be provided by law; and

(c) Interest earned on the investment of idle moneys in the restricted fund shall be paid to the restricted highway fund.

(2) Moneys in the fund shall be apportioned as follows:

(a) Beginning April 1, 1996, all moneys accruing to the fund in an amount not to exceed six million dollars ($6,000,000) shall be transferred to the state highway account to be administered by the Idaho transportation department for use as the state and local match for federal highway administration (FHWA) and federal emergency management agency (FEMA) road and bridge projects. Such moneys shall be used exclusively for repair and restoration of local and state roads damaged by the 1996, ~~and--by--the~~ 1997 and 1998 natural disasters as defined by federal law and regulation under title 23, code of federal regulations, section 668.103(f), in the counties of Adams, Benewah, Bingham, Boise, Bonner, Bonneville, Boundary, Butte, Clearwater, Custer, Elmore, Fremont, Gem, Idaho, Jefferson, Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Owyhee, Payette, Shoshone, Valley and Washington. When apportionment of moneys to the state highway account is sufficient to meet the purposes for which the moneys are designated, but not exceeding six million dollars ($6,000,000), no additional transfers shall be made as provided in this subsection, and moneys accruing to the fund shall thereafter be apportioned as provided in subsections (2)(b) and (2)(c) of this section. Any unused moneys transferred to the state highway account under the provisions of this subsection shall be returned to the restricted highway fund.

(b) Fifty percent (50%) to the state highway account; and

(c) Fifty percent (50%) to local highway jurisdictions in accordance with the provisions of section 40-709, Idaho Code.

(3) Subsequent to apportionment of moneys as required in subsection (2)(a) of this section, the state controller shall remit moneys apportioned to the state highway account, and shall cause the remittance of moneys apportioned to the local highway jurisdictions not

later than January 25, April 25, July 25 and October 25 of each year.

(4) Moneys apportioned from the fund as provided in subsections (2)(b) and (2)(c) of this section shall be used exclusively for the construction, repair and maintenance of the roads, highways, bridges and railroad crossings within the state.

(5) On or before February 1 of each year, the Idaho transportation department and the local highway technical assistance council shall each submit a report to both the senate transportation committee and the house transportation and defense committee of the Idaho legislature, which provides a detailed accounting of the moneys apportioned, the projects for which moneys from the fund were expended, and the effect such expenditures have had on addressing the backlog of highway, bridge and railroad crossing needs.

SECTION 2. That Section 41-4909A, Idaho Code, be, and the same is hereby amended to read as follows:

41-4909A. APPORTIONMENT OF MONEYS TRANSFERRED TO THE STATE HIGHWAY ACCOUNT FROM THE IDAHO PETROLEUM CLEAN WATER TRUST FUND SUSPENSE ACCOUNT ON APRIL 1, 1997. Of the moneys transferred to the state highway account pursuant to the distribution in section 41-4909(4)(c)(i), Idaho Code, an amount not to exceed six million dollars ($6,000,000) shall be administered by the Idaho transportation department for use as the state and local match for federal highway administration (FHWA) and federal emergency management agency (FEMA) road and bridge projects. Such moneys shall be used exclusively for repair and restoration of local and state roads and bridges damaged by the 1996, 1997 and 1998 natural disasters in the counties of Adams, Benewah, Bingham, Boise, Bonner, Bonneville, Boundary, Butte, Clearwater, Custer, Elmore, Fremont, Gem, Idaho, Jefferson, Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Owyhee, Payette, Shoshone, Valley and Washington. When apportionment of moneys under this section is sufficient to meet the purposes for which the moneys are designated, but not to exceed six million dollars ($6,000,000), any remaining amounts shall be returned to the restricted highway fund established in section 40-701A, Idaho Code.

Approved March 23, 1999.

CHAPTER 195
(H.B. No. 23)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1325, IDAHO CODE, TO REQUIRE EMPLOYER CONTRIBUTIONS EACH PAY PERIOD, TO REVISE AND CLARIFY THE INTEREST CHARGES ON DELINQUENT EMPLOYER CONTRIBUTIONS AND THE PROCESS FOR COLLECTION OF DELINQUENT EMPLOYER CONTRIBUTIONS THROUGH THE STATE CONTROLLER.

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

SECTION 1. That Section 59-1325, Idaho Code, be, and the same is hereby amended to read as follows:

59-1325. EMPLOYER REMITTANCE TO BOARD -- COLLECTION OF DELINQUENCIES. (1) ~~So as to be received not later than the twentieth day of each month e~~Each employer, or, where the employer's payroll is paid separately by departments, each department of the employer, shall remit to the retirement board all contributions required of it and its employees on the basis of salaries paid by it during ~~the previous month~~ each pay period together with whatever contributions or contribution credits may be required to correct previous errors or omissions. These remittances shall be accompanied by such reports as are required by the board to determine contributions required and member benefit entitlements established under this chapter~~. The board may charge regular interest for remittances received after the twentieth of the month at the~~ and, unless extended in writing by the executive director, shall be remitted no later than twenty (20) days after each pay date. Thereafter, unpaid contributions shall be considered delinquent and interest will begin accruing at the greater of the rate of interest provided in section 28-22-104(1), Idaho Code, or regular interest. The executive director may, in his discretion, waive these interest charges in extraordinary circumstances.

(2) If any employer shall fail or refuse to remit any such contributions within thirty (30) days after the date due, the board may certify to the state controller the fact of such failure or refusal and the amount of the delinquent contribution or contributions, together with ~~its request that such amount be set over from funds of the delinquent employer to the credit of the retirement fund~~ interest. A copy of such certification and request shall be furnished the delinquent employer.

(3) ~~Within ten (10) days after receipt of such request, t~~The state controller shall ~~draw his warrant for payment of such amount out of moneys in the state treasury allocated to the use of such employer during the current fiscal year~~ deduct said amount as an offset, together with interest charges, from any funds payable then or in the future to the delinquent employer and shall pay such amounts to the retirement fund.

Approved March 23, 1999.

CHAPTER 196
(H.B. No. 30)

AN ACT

RELATING TO SCHOLARSHIP FUNDS; REPEALING SECTION 33-3719, IDAHO CODE, TO REPEAL REFERENCES TO THE PAUL L. FOWLER MEMORIAL SCHOLARSHIP FUND.

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

SECTION 1. That Section 33-3719, Idaho Code, be, and the same is hereby repealed.

Approved March 23, 1999.

CHAPTER 197
(H.B. No. 40)

AN ACT

RELATING TO THE INDUSTRIAL SPECIAL INDEMNITY FUND; AMENDING SECTION 2, CHAPTER 303, LAWS OF 1997, TO CONTINUE SECTION 72-334, IDAHO CODE, IN EFFECT UNTIL JUNE 30, 2004.

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

SECTION 1. That Section 2, Chapter 303, Laws of 1997, be, and the same is hereby amended to read as follows:

SECTION 2. Section 1 of this act shall be in full force and effect on and after July 1, 1997, and shall be null, void, and of no force and effect on and after June 30, ~~1999~~ 2004.

Approved March 23, 1999.

CHAPTER 198
(H.B. No. 44)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION, TO DEFINE "CONTINGENT ANNUITANT" AND TO CLARIFY THE DEFINITION OF "SERVICE"; AMENDING SECTION 59-1310, IDAHO CODE, TO PROVIDE THAT DOCUMENTS MAINTAINED ON COMPUTER IMAGERY SHALL BE ADMISSIBLE IN EVIDENCE; AMENDING SECTION 59-1319, IDAHO CODE, TO PROVIDE THE MEANING OF EFFECTIVE DATE OF THE ORDER WITH RESPECT TO DOMESTIC RETIREMENT ORDERS; AMENDING SECTION 59-1320, IDAHO CODE, TO CLARIFY THAT ACCUMULATED CONTRIBUTIONS ARE TRANSFERRED TO THE SEGREGATED ACCOUNT TOGETHER WITH ACCRUED INTEREST FROM THE EFFECTIVE DATE OF THE ORDER; AND AMENDING SECTION 59-1356, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (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. Worker's 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.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(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.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(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) consecutive 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 or county when the city or county 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.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(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) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total 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.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(1)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination

from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(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~~ For each calendar month, service is credited only when a member is an employee as defined in subsection (14)(A) of this section and is employed for fifteen (15) days or more during ~~any~~ the calendar month. ~~shall be credited as one (1) month of service. Service~~ Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested retirement allowance" means the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. That Section 59-1310, Idaho Code, be, and the same is hereby amended to read as follows:

59-1310. ADMISSIBILITY IN EVIDENCE OF PHOTOREPRODUCED COPIES OF RECORDS OR DOCUMENTS MAINTAINED BY THE SYSTEM -- DESTROYING THE ORIGINAL. Copies of records or documents maintained on microfilm, microfiche, computer imagery or other photoreproductive material of archival quality by the retirement system shall be as admissible in evidence as the original itself in any legal, judicial or administrative proceeding, or action, provided the custodian of records of the retirement system certifies on such copies offered into evidence that the retirement system is not in possession of the original and that the copy is a true and correct representation of the original. The original may be destroyed by the retirement system once the original is microfilmed, microfiched, digitally imaged or copied by other photoreproduction of archival quality.

SECTION 3. That Section 59-1319, Idaho Code, be, and the same is hereby amended to read as follows:

59-1319. APPROVED DOMESTIC RETIREMENT ORDERS -- REQUIREMENTS. (1) An approved domestic retirement order must meet the following requirements:

(a) Clearly specify that such order applies to the retirement system;

(b) Clearly specify the effective date of the order, which is the date of divorce or the date of an earlier property settlement

agreement incorporated into the initial divorce decree, the name, social security number, date of birth, sex, and last known mailing address of the member and the name, social security number, date of birth, sex, and last known mailing address of the alternate payee covered by the order;

(c) Provide for a proportional reduction of the amount awarded to an alternate payee in the event that benefits available to the member are reduced by law;

(d) For benefits as defined in chapter 13, title 59, Idaho Code, for members who are not retired members: (i) clearly specify the amount or percentage of the member's taxed and tax deferred accumulated contributions which are to be credited to the segregated account or the manner in which such amount or percentage is to be determined, and (ii) clearly specify the member's months of credited service, either by specific amount or percentage, to be transferred by the retirement system to the segregated account or the manner in which such amount or percentage is to be determined. The months of credited service transferred to the alternate payee shall be proportional to the accumulated contributions attributable to such months of credited service. Months of credited service transferred shall be whole months and not partial months;

(e) For benefits as defined in chapter 13, title 59, Idaho Code, for retired members, clearly specify the amount or percentage of the member's benefit being paid that the retirement system is to pay to the alternate payee, or the manner in which such amount or percentage is to be determined; and

(f) For benefits as defined in chapter 14, title 72, Idaho Code, clearly specify the amount or percentage of the member's benefit paid at the time of retirement which the retirement system is to pay to the alternate payee, or the manner in which such percentage is to be determined.

(2) An approved domestic retirement order cannot:

(a) Require the retirement system to provide any type or form of benefit or any option not otherwise provided under the retirement system;

(b) Require the retirement system to provide increased benefits determined on the basis of actuarial value;

(c) Require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be an approved domestic retirement order or a court order entered prior to July 1, 1998;

(d) Require any action on the part of the retirement system contrary to its governing statutes or rules other than the direct payment of the benefit awarded to an alternate payee;

(e) Segregate or attempt to segregate the right to reinstate previous credited service as provided in section 59-1360, Idaho Code, unless such credited service has been fully reinstated by full payment of contributions and interest as provided in section 59-1360, Idaho Code;

(f) Purport to award to the alternate payee any future benefit increases that are provided or required by the legislature, except as provided in subsections (6) and (7) of section 59-1320, Idaho Code; or

(g) Require the payment of benefits to an alternate payee before the date on which the alternate payee attains the earliest retirement age under the retirement system. However, an alternate payee may take a lump sum distribution any time prior to receiving a lifetime annuity payment.

(3) In no event shall an approved domestic retirement order cause the retirement system to pay any benefit or any amount of benefit greater than would have been paid had the member's account not been segregated.

(4) A party to any domestic retirement order issued prior to July 1, 1998, which distributes benefits defined in either chapter 13, title 59, Idaho Code, or chapter 14, title 72, Idaho Code, may move the court to modify such order to comply with the requirements of this section and section 59-1320, Idaho Code, provided that modifications be limited to issues related to the distribution of benefits defined in either chapter 13, title 59, Idaho Code, or chapter 14, title 72, Idaho Code, that the value of the distribution is not materially changed and that such modified order be submitted and become an approved domestic retirement order before July 1, 2000.

SECTION 4. That Section 59-1320, Idaho Code, be, and the same is hereby amended to read as follows:

59-1320. APPROVED DOMESTIC RETIREMENT ORDERS -- APPLICATION AND EFFECT. (1) The executive director of the public employee retirement system or his designee upon receipt of a copy of a domestic retirement order, shall determine whether the order is an approved domestic retirement order and shall notify the member and the alternate payee of the determination within ninety (90) days. Orders shall be applied prospectively only from the first day of the month following the order being determined to be an approved domestic retirement order. The retirement system shall then pay benefits or establish a segregated account in accordance with the order. <u>When established, the segregated account will consist of accumulated contributions identified in the approved domestic retirement order together with accrued interest on that amount from the effective date to the date of segregation.</u>

(2) If the order is determined not to be an approved domestic retirement order, or if no determination is issued within ninety (90) days, the member or the alternate payee named in the order may move the court which issued the order to amend the order so that it will be approved. The court that issued the order or which would otherwise have jurisdiction over the matter has jurisdiction to amend the order so that it will be qualified even though all other matters incident to the action or proceeding have been fully and finally adjudicated.

(3) The executive director of the retirement system to which a domestic retirement order is submitted or his designee has exclusive authority to determine whether a domestic retirement order is an approved domestic retirement order. If it is determined that a domestic retirement order does not meet the requirements for an approved domestic retirement order, both the issuing court and the parties to the order shall be notified so action may be taken to amend the order.

(4) Because an approved domestic retirement order cannot cause the retirement system to pay any benefit or any amount of benefit

greater than would have been paid had the member's account not been segregated, disputes related to benefits paid under an approved domestic retirement order shall be resolved between the parties to the order by the court issuing that order. The retirement system shall not be made a party to the action. Any cost, including attorney's fees, incurred by the retirement system as a result of such actions shall be distributed by the court among the parties and included in any amended order issued.

(5) Unless the approved domestic retirement order specifies differently, if the member has a right to a vested benefit as of the effective date of the order, then both the member and the alternate payee shall have a right to a vested benefit after the transfer of months of service even if the member or the alternate payee has less than sixty (60) months of membership service.

(6) For benefits under chapter 13, title 59, Idaho Code, for members other than retired members, if the domestic retirement order awards to the alternate payee a portion of the member's accumulated contributions the alternate payee shall be entitled to all the same benefits and rights an inactive member has under chapter 13, title 59, Idaho Code. The alternate payee's benefit calculation for a lifetime annuity shall use the member's average monthly salary and base period as of the effective date of the order and the months of credited service transferred to the alternate payee's segregated account. The benefit calculation shall use the alternate payee's age with the appropriate reduction factors based on the alternate payee's age at the time of payment of the lifetime annuity. For the purpose of the lifetime annuity, the bridging factor, as specified in section 59-1355, Idaho Code, shall be the bridging factor between the effective date of the order or the last day of contributions by the member prior to the effective date of the order, whichever is earliest, and the date of the first lifetime annuity payment to the alternate payee. The alternate payee shall have the right to select any of the optional retirement allowances provided in section 59-1351, Idaho Code. The alternate payee shall have the right to name a beneficiary.

(7) For benefits defined under chapter 13, title 59, Idaho Code, for retired members, and for benefits under chapter 14, title 72, Idaho Code, the retirement system shall include in the alternate payee's amount or percentage of the benefit, on a proportional basis, all future adjustments, including postretirement increases that are granted by the retirement system, and any death benefit. Furthermore, upon the death of the alternate payee, his/her percentage of the benefit will revert to the person or persons, including the member, who are entitled to the benefit under the system at the time of the alternate payee's death.

(8) For benefits under chapter 13, title 59, Idaho Code, for retired members, the form of payment previously elected by the member under section 59-1351, Idaho Code, cannot be changed by a domestic retirement order. Furthermore, no segregated account will be established by the retirement system for the alternate payee.

(9) For benefits defined under chapter 14, title 72, Idaho Code, the benefit paid to the alternate payee shall start when the retirement system begins paying benefits to the member, surviving spouse, or surviving children. Unless otherwise ordered, in the event the member

dies and leaves a surviving spouse, during the surviving spouse's lifetime, the alternate payee shall be paid his/her designated amount or percentage of the benefit. Unless otherwise ordered, if there is no surviving spouse or the surviving spouse dies and there is a surviving child or children of the member who are under eighteen (18) years of age and unmarried, then the alternate payee shall be paid his/her designated amount or percentage of the benefit until the child or children reach the age of eighteen (18) years or marries, whichever occurs first.

(10) The retirement system shall be authorized to issue any and all appropriate tax forms or reports for any payments made to the alternate payee.

(11) The retirement system, the retirement board, and officers and employees of the retirement system shall not be liable to any person for making payments of any benefits in accordance with an approved domestic retirement order.

SECTION 5. That Section 59-1356, Idaho Code, be, and the same is hereby amended to read as follows:

59-1356. REEMPLOYMENT OF RETIRED MEMBERS. (1) If an early retired member is reemployed with the same employer within ninety (90) days from retiring, or the early retired member is guaranteed reemployment with the same employer the member shall be considered to have continued in the status of an employee and not to have separated from service. Any retirement allowance payments received by the retired member shall be repaid to the system and the retirement shall be negated. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to reemployment shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement.

(2) When a retired member meets the definition of an employee as defined in section 59-1302(14)(A)(a), Idaho Code, any benefit payable on behalf of such member shall terminate and any contributions payable by such member under sections 59-1331 through 59-1334, Idaho Code, shall again commence, except as provided in subsection (~~2~~3) of this section. The terminated benefit, as adjusted pursuant to section 59-1355, Idaho Code, shall resume upon subsequent retirement, along with a separate allowance computed with respect to only that salary and service credited during the period of reemployment.

(3) If a retired member again becomes employed and an employer certifies to the board that the member does not qualify as an employee as defined in this section and section 59-1302(14)(A)(a), Idaho Code, no contributions shall be made by the member or employer during such reemployment and any benefit payable on behalf of such member shall continue.

(4) For purposes of this section, "same employer" means the employer for which the retired member last worked prior to retirement.

Approved March 23, 1999.

CHAPTER 199
(H.B. No. 45)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO REPLACE THE DEFINITION OF "VESTED RETIREMENT" WITH A DEFINITION FOR "VESTED MEMBER"; AMENDING SECTIONS 59-1341, 59-1345, 59-1350, 59-1351, 59-1359 AND 59-1361, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE IN CONFORMITY WITH THE DEFINITIONAL CHANGE; AND REPEALING SECTIONS 59-1347, 59-1348 AND 59-1349, IDAHO CODE.

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) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, which directs the system to establish a segregated account or disburse benefits to an alternate payee, and which the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the

retirement board.

(5D) (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. Worker's 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.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement which relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(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) consecutive 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 or county when the city or county 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.

(20A) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20B) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service which occurs after the commencement of contributions payable under sections 59-1331

through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(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) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total 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.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(1)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(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~~ member" means ~~the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement~~ an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho,

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. That Section 59-1341, Idaho Code, be, and the same is hereby amended to read as follows:

59-1341. CONDITIONS OF ELIGIBILITY FOR SERVICE RETIREMENT. ~~An active~~ A vested member ~~with at least five (5) years of credited service including six (6) months of membership service~~ is eligible for service retirement as indicated below, based upon his service retirement ratio. A member's service retirement ratio shall, at retirement, be equal to the ratio of (1) to (2) as follows:

(1) The number of years of credited service for which the member was classified as a police officer or firefighter:

(2) The member's total number of years of credited service.

For service retirement ratio:	Service retirement eligibility age is:
0.000 to 0.100	65
0.101 to 0.300	64
0.301 to 0.500	63
0.501 to 0.700	62
0.701 to 0.900	61
0.901 to 1.000	60

A person who was an active member on June 30, 1985 shall be deemed to have a service retirement ratio of 1.000 either if the member was a police officer or firefighter on that date and continuously thereafter to retirement or if at the time of retirement the majority of the member's credited service has been that of a police officer or firefighter.

SECTION 3. That Section 59-1345, Idaho Code, be, and the same is hereby amended to read as follows:

59-1345. ~~ACTIVE~~ VESTED MEMBER ELIGIBLE FOR EARLY RETIREMENT. ~~An active~~ A vested member who is not eligible for either service retirement or disability retirement is eligible for early retirement if he ~~has at least five (5) years of credited service including six (6) months of membership service and~~ is within ten (10) years of being eligible for service retirement. Additionally, ~~an active~~ a vested member is eligible for early retirement on termination of disability retirement as provided by section 59-1354(2), Idaho Code.

SECTION 4. That Section 59-1350, Idaho Code, be, and the same is hereby amended to read as follows:

59-1350. DEFERRAL OF EARLY ~~OR VESTED~~ RETIREMENT. Early ~~or vested~~ retirement may be deferred by a member until the date he would have been eligible for service retirement had he remained an active member.

SECTION 5. That Section 59-1351, Idaho Code, be, and the same is hereby amended to read as follows:

59-1351. CONVERSION OF SERVICE RETIREMENT OR EARLY RETIREMENT ~~OR VESTED RETIREMENT~~ ALLOWANCES INTO OPTIONAL RETIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The service retirement allowance, or the early retirement allowance ~~or the vested retirement allowance~~ of a member who, at time of retirement, so elects shall be converted into

an optional retirement allowance which is the actuarial equivalent of such other allowance. The optional retirement allowance may take one (1) of the forms listed below and shall be in lieu of all other benefits under this chapter except that the provisions of section 59-1361(1), Idaho Code, shall be applicable:

(a) Option 1 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of such reduced retirement allowance during the lifetime of the member's named contingent annuitant.

(b) Option 2 provides a reduced retirement allowance payable during the lifetime of the retired member, and a continuation thereafter of one-half (1/2) of such reduced retirement allowance during the lifetime of the member's named contingent annuitant.

(c) Option 3, which is available only if the member retires before the date of the social security normal retirement age for that member, provides an increased retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming payable at such date as estimated by the board.

(d) Option 4, which is available only if the member retires before the date of the social security normal retirement age for that member, provides either an adjusted option 1 (option 4A) or option 2 (option 4B) retirement allowance until such date and a reduced retirement allowance thereafter, the difference between the two (2) amounts approximately equaling the governmental old-age benefit becoming payable at such date as estimated by the board. The adjusted retirement allowance shall be paid to the retired member during the member's lifetime and the appropriate continuation amount of the adjusted allowance to the member's named contingent annuitant for life thereafter.

(2) Should the named contingent annuitant under option 1 or option 2 predecease a member retiring on or after October 1, 1992, upon notification to the board the member's benefit on the first day of the month following the death of the contingent annuitant will thereafter become an allowance calculated pursuant to section 59-1342 or 59-1346, Idaho Code, whichever was applicable on the date of retirement, in addition to any ~~post-retirement~~ postretirement allowance adjustments which may have accrued from that time. Should the named contingent annuitant predecease the member under option 4, upon notification to the board, the member's benefit on the first day of the month following the contingent annuitant's death will thereafter become the option 3 allowance to which the member would have been entitled as of the date of the annuitant's death. The benefit changes under this subsection shall be available only to members whose last contribution was made after the effective date of this act.

(3) Option 1 or 2 may not be chosen if initial payments of less than twenty dollars ($20.00) per month would result.

(4) Application for any optional retirement allowance shall be in writing, duly executed and filed with the board. Such application shall contain all information required by the board, including such proofs of age as are deemed necessary by the board.

(5) A retirement option elected at the time of retirement as pro-

vided for in this section may not be changed except by written notice to the retirement board no later than five (5) business days after the receipt of the first retirement allowance.

(6) Not later than one (1) year after the marriage of a retired member, the member may elect option 1, 2 or 4 to become effective one (1) year after the date of such election, provided the member's spouse is named as a contingent annuitant, and either:

(a) The member was not married at the time of the member's retirement; or

(b) The member earlier elected option 1, 2, 4A or 4B, having named the member's spouse as contingent annuitant, and said spouse has died. The retirement allowance to be converted in such a case is that currently being paid.

SECTION 6. That Section 59-1359, Idaho Code, be, and the same is hereby amended to read as follows:

59-1359. SEPARATION BENEFITS. (a) The separation benefit, if any, shall become payable upon the written request of an inactive member who has been separated from employment. If the person who received a separation benefit is reemployed or reinstated by the same employer within ninety (90) days or is guaranteed a right to employment or reinstatement with the same employer, the person shall repay to the system any separation benefit paid.

(b) A separation benefit shall automatically be payable three (3) years after the person becomes an inactive member if the inactive member ~~has less than five (5) years of membership service,~~ is not ~~eligible for~~ a vested ~~retirement allowance~~ member, and has been separated from employment and is not reemployed or reinstated by the same employer within ninety (90) days.

(c) For purposes of this section, "separated from employment" means the inactive member terminated all employment with the employer. For purposes of this section, "same employer" means the employer for which the person last worked prior to being separated from employment.

(d) Any member may elect to have eligible rollover distributions paid directly to a specified eligible retirement plan as required by 26 U.S.C. section 401(a)(31).

SECTION 7. That Section 59-1361, Idaho Code, be, and the same is hereby amended to read as follows:

59-1361. COMPUTATION OF DEATH BENEFITS -- METHOD OF PAYMENT -- OPTIONAL DEATH BENEFIT. (1) The death benefit of an active or inactive member shall equal the excess, if any, of the member's accumulated contributions at the time the benefit becomes payable over the aggregate of all retirement allowance payments ever made to the deceased member upon the death of the member, the contingent annuitant, and the optional death benefit recipient, if any. The death benefit of a retired member shall equal the excess, if any, of the member's accumulated contributions at the time the member retired over the aggregate of all retirement allowance payments ever made to the deceased member, the member's named contingent annuitant, and the optional death benefit recipient, if any.

(2) The death benefit, if any, will be paid to the member's designated beneficiary who is surviving the member at the time the benefit becomes payable; otherwise, it will be paid to the surviving spouse, and if there is no surviving spouse it will be paid in accordance with the laws of descent and distribution of the state of Idaho as they may then be in effect. The beneficiary may waive any death benefit otherwise payable and have it paid to the member's surviving spouse.

(3) Upon the death of a vested member who ~~has at least five (5) years of credited service and~~ is: (a) active; (b) inactive; or (c) a disability retired member; his beneficiary may waive any death benefit otherwise payable and have it paid to the member's surviving spouse, whereupon the surviving spouse may elect either an allowance as provided in option 1 under section 59-1351, Idaho Code, or a one (1) time lump sum death benefit payment as provided in subsection (1) of this section. The initial retirement allowance upon which such optional retirement allowance is based shall be calculated as if the member had retired immediately before his death. If the member is not then eligible to receive a service or early retirement allowance, such initial retirement allowance shall equal the actuarial equivalent of the retirement allowance payable when the member would first be eligible for ~~vested~~ service or early retirement, calculated as if he had separated from service immediately before his death.

SECTION 8. That Sections 59-1347, 59-1348 and 59-1349, Idaho Code, be, and the same are hereby repealed.

Approved March 23, 1999.

CHAPTER 200
(H.B. No. 59)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FROM THE GENERAL FUND FOR RETAINING A CONSULTANT TO STUDY THE EFFECTS OF RESTRUCTURING THE ELECTRIC UTILITY INDUSTRY; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Legislative Council $75,000 from the General Fund to be expended for the period on and after the effective date of this act until November 30, 2000, and shall be utilized to retain a consultant or consultants to assist the Committee appointed by the Legislative Council to study the possible restructuring of the electric utility industry. Notwithstanding any other provision of law to the contrary, any unexpended moneys appropriated pursuant to this act need not be encumbered at the end of the fiscal year.

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

Approved March 23, 1999.

CHAPTER 201
(H.B. No. 62)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTORS; AMENDING SECTION 54-1901, IDAHO CODE, TO CLARIFY DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1902, IDAHO CODE, TO PROHIBIT SUBCONTRACTING IN EXCESS OF EIGHTY PERCENT OF THE WORK TO BE PERFORMED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1903, IDAHO CODE, TO PROVIDE A REFERENCE TO DRAINAGE DISTRICTS; AMENDING SECTION 54-1904, IDAHO CODE, TO INCREASE BID LIMITS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1904B, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1904D, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1904E, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1905, IDAHO CODE, TO DELETE THE AUTHORITY TO DESIGNATE THE BUREAU OF OCCUPATIONAL LICENSES AS AN AGENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1906, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE REGARDING AN INITIAL MEETING AND ORGANIZATION; AMENDING SECTION 54-1907, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF AN EXECUTIVE DIRECTOR INSTEAD OF A REGISTRAR OF CONTRACTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1908, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1910, IDAHO CODE, TO PROVIDE REFERENCES TO LIMITED LIABILITY COMPANIES AND LIMITED LIABILITY PARTNERSHIPS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1911, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE REGARDING MEETINGS, TO PROVIDE FOR NOTIFICATION BY CERTIFIED MAIL AND TO DELETE AN OBSOLETE REFERENCE TO MEETINGS; AMENDING SECTION 54-1912, IDAHO CODE, TO PROVIDE REFERENCES TO LIMITED LIABILITY COMPANIES AND LIMITED LIABILITY PARTNERSHIPS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1913, IDAHO CODE, TO DELETE A STATEMENT THAT ALL FINANCIAL INFORMATION SUBMITTED BY APPLICANTS IS SUBJECT TO DISCLOSURE, TO DELETE A REQUIREMENT THAT INFORMATION BE FURNISHED TO THE DEPARTMENT OF ADMINISTRATION, TO PROVIDE FOR PUBLICATION OF A LIST OF LICENSED CONTRACTORS AND TO DELETE A REQUIREMENT FOR PUBLICATION OF LICENSES ISSUED, SUSPENDED OR REVOKED; AMENDING SECTION 54-1914, IDAHO CODE, TO PROVIDE FOR DISCIPLINARY PROCEEDINGS FOR CONSPIRING WITH AN UNLICENSED PERSON AND FOR WILLFUL FAILURE OR REFUSAL TO FINISH A PROJECT, TO DELETE A REFERENCE TO BANKRUPTCY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1914A, IDAHO CODE, TO PROVIDE FOR NOTIFICATION BY CERTIFIED MAIL; AMENDING SECTION 54-1915, IDAHO CODE, TO PROVIDE FOR SERVICE AND NOTICE BY CERTIFIED MAIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1916, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1918, IDAHO CODE, TO DELETE A

REFERENCE TO COURTS OF RECORD; AMENDING SECTION 54-1919, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1920, IDAHO CODE, TO PROVIDE REFERENCES TO LIMITED LIABILITY COMPANIES AND LIMITED LIABILITY PARTNERSHIPS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1921, IDAHO CODE, TO PROVIDE FOR CERTIFICATION BY THE CHAIRMAN OF THE BOARD; AMENDING SECTION 54-1922, IDAHO CODE, TO DELETE A REFERENCE TO LAWS ENACTED AT THE TWENTY-SIXTH SESSION OF THE LEGISLATURE; AND AMENDING SECTION 54-1924, IDAHO CODE, TO DELETE A LEGISLATIVE DECLARATION.

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

SECTION 1. That Section 54-1901, Idaho Code, be, and the same is hereby amended to read as follows:

54-1901. DEFINITIONS. For the interpretation of this act, unless the context indicates a different meaning:

(a) "Person" includes any individual, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization, or any combination thereof acting as a unit.

(b) "Public works contractor," which term is synonymous with the term "builder," "sub-contractor" and "specialty contractor," and in this act referred to as "contractor" or "licensee," includes any person who, in any capacity, undertakes, or offers to undertake, or purports to have the capacity to undertake any construction, repair or reconstruction of any public work, or submits a proposal to, or enters into a contract with, the state of Idaho, or any county, city, ~~town, village,~~ school district, ~~irrigation--district,--drainage-district,~~ sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or with any agency, ~~of-any-thereof,~~ or with any other public board, body, commission, department or agency, or officer or representative thereof, authorized to let or award contracts for the construction, repair or reconstruction of any public work.

(c) "Public works construction" includes any or all of the following branches:

(1) Heavy construction, which is defined as constructing substantially in its entirety any fixed works and structures (not including "building construction"), without limitation, for any or all of the following divisions of subjects: irrigation, drainage, sanitation, ~~sewerage~~ sewage, water power, water supply, reservoirs, flood control, reclamation, inland waterways, railroads, grade separations, ~~subways,~~ track elevation, elevated highways, hydroelectric developments, aqueducts, transmission lines, duct lines, pipelines, locks, dams, dykes, levees, revetments, channels, channel cutoffs, intakes, drainage, excavation and disposal of earth and rocks, foundations, piers, abutments, retaining walls, viaducts, shafts, tunnels, airports, air bases and airways, and other facilities incidental to the same;

(2) Highway construction, which is defined as all work included in highway construction contracts, including, without limitation, highways, roads, streets, bridges, tunnels, sewer and street grad-

ing, street paving, curb setting, surfacing and other facilities incidental to any of the same;

(3) Building construction, which is defined as all work in connection with any structure now built, being built, or hereafter built, for the support, shelter and inclosure of persons, chattels, personal and movable property of any kind, requiring in its construction the use of more than two (2) unrelated building trades or crafts.

(4) Specialty construction, which is defined as any work in connection with any public works construction, requiring special skill and the use of specially skilled trades or crafts.

(d) "Board" means the board created by this act under the name of "public works contractors ~~state~~ license board."

(e) "~~Registrar~~Executive director" means the person appointed as such under this act.

(f) "Year" means the fiscal year ending June 30, each year.

(g) "Federal aid funds" means a direct grant in aid, matching funds, or loan from an agency of the federal government and designated for a specific public works project. Revenue sharing funds, federal impact funds, timber stumpage fees, and similar indirect allowances and subsidies not designated for a specific public works project shall not be regarded as "federal aid funds" within the meaning of this section.

(h) "Government obligation" means a public debt obligation of the United States government or the state of Idaho and an obligation whose principal and interest is unconditionally guaranteed by the United States government or the state of Idaho.

(i) "Public entity" means the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof.

(j) "Bid" or "bidder" means any proposal submitted by a public works contractor to a public entity in competitive bidding for the construction, alteration, repair or improvement of any public works construction.

SECTION 2. That Section 54-1902, Idaho Code, be, and the same is hereby amended to read as follows:

54-1902. UNLAWFUL TO ENGAGE IN PUBLIC WORKS CONTRACTING WITHOUT LICENSE. It shall be unlawful for any person to engage in the business or act in the capacity of a public works contractor within this state without first obtaining and having a license, ~~therefor, as herein provided,~~ unless such person is particularly exempted as provided in this act~~, or~~. It shall be unlawful for any public works contractor to subcontract in excess of eighty ~~per cent~~ percent (80%) of the work under any contract to be performed by him as such public works contractor according to the contract prices therein set forth, unless otherwise provided in the specifications of such contracts. Nor shall a public works contractor accept a bid from any person who at that time does not possess the appropriate license for the project involved. Nor

shall a public works contractor accept bids to sublet any part of any contract for specialty construction from a specialty contractor who at that time does not possess the appropriate license in accordance with this act; provided, however, that no contractor shall be required to have a license under this act in order to submit a bid or proposal for contracts for public works financed in whole or in part by federal aid funds, but at or prior to the award and execution of any such contract by the state of Idaho, or any other contracting authority mentioned in this act, the successful bidder shall secure a license as provided in this act.

SECTION 3. That Section 54-1903, Idaho Code, be, and the same is hereby amended to read as follows:

54-1903. EXEMPTIONS. This act shall not apply to:

(a) An authorized representative of the United States government, the state of Idaho, or any incorporated town, city, county, irrigation district, reclamation district or other municipal or political corporation or subdivision of this state.

(b) Officers of a court when they are acting within the scope of their office.

(c) Public utilities operating under the jurisdiction of the public utilities commission of the state of Idaho on construction, maintenance and development work incidental to their own business.

(d) The sale or installation of any finished products, materials or articles of merchandise, which are not actually fabricated into and do not become a permanent fixed part of the structure.

(e) Any construction, alteration, improvement or repair of personal property.

(f) Any construction, alteration, improvement or repair carried on within the limits and boundaries of any site or reservation, the title of which rests in the federal government.

(g) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation <u>districts, drainage districts</u> or reclamation districts, except when performed by a person required to be licensed under this act.

(h) Duly licensed architects, civil engineers, and land surveyors when acting solely in their professional capacity.

(i) Any construction, alteration, improvement or repair involving an estimated cost of less than five thousand dollars ($5,000).

(j) Any construction, operation, alteration or maintenance of a solid waste disposal site including those operated by, for, or at the direction of a city or a county.

(k) Any construction, operation or repair carried on in response to an emergency that has been officially declared by the governor pursuant to the provisions of chapter 10, title 46, Idaho Code, or an emergency that has been declared by a governing body (city or county) in anticipation of a governor's declaration, for a period of time not to exceed seven (7) calendar days.

SECTION 4. That Section 54-1904, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

Class "AAA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of more than ~~one~~ three million dollars ($~~1~~3,000,000) may, upon his application and the payment of a license fee ~~of~~ not to exceed one hundred fifty dollars ($150), be granted a Class "AAA" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "AAA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AAA" license shall not exceed one hundred fifty dollars ($150).

Class "AA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than ~~one~~ three million dollars ($~~1~~3,000,000) may, upon his application and the payment of a license fee ~~of~~ not to exceed one hundred fifty dollars ($150), be granted a Class "AA" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "AA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AA" license shall not exceed one hundred fifty dollars ($150).

Class "A" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than ~~six-hundred-thousand~~ one million dollars ($6~~1~~,000,000) may, upon his application and the payment of a license fee ~~of~~ not to exceed one hundred fifty dollars ($150), be granted a Class "A" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "A" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "A" license shall not exceed one hundred fifty dollars ($150).

Class "B" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than ~~two~~ five hundred ~~fifty~~ thousand dollars ($~~2~~500,000), may, upon his application and the payment of a license fee ~~of~~ not to exceed seventy-five dollars ($75.00) be granted a Class "B" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "B" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "B" license shall not exceed seventy-five dollars ($75.00).

Class "C" license. Any contractor whose qualifications, ability

and responsibility to execute contracts for public works involving an estimated cost of not more than one hundred thousand dollars ($100,000), may, upon his application and the payment of a license fee ~~of~~ not to exceed seventy-five dollars ($75.00), be granted a Class "C" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "C" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "C" license shall not exceed seventy-five dollars ($75.00).

Class "D" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than fifty thousand dollars ($50,000), may, upon his application and the payment of a license fee ~~of~~ not to exceed seventy-five dollars ($75.00), be granted a Class "D" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "D" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "D" license shall not exceed seventy-five dollars ($75.00).

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

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

SECTION 5. That Section 54-1904B, Idaho Code, be, and the same is hereby amended to read as follows:

54-1904B. RELIEF FROM BIDS. (a) If an awarding authority for the public entity determines that a bidder is entitled to relief from a bid because of a mistake, the authority shall prepare a report in writing to document the facts establishing the existence of each element required in section 54-1904C, Idaho Code. The report shall be available for inspection as a public record and shall be filed with the public entity soliciting bids.

(b) A bidder claiming a mistake satisfying all the conditions of section 54-1904C, Idaho Code, shall be entitled to relief from the bid and have any bid security returned by the public entity. Bidders not satisfying the conditions found in section 54-1904C, Idaho Code, shall forfeit any bid security. Bidders failing to execute a contract and not satisfying the conditions of a mistake shall also forfeit any bid security.

SECTION 6. That Section 54-1904D, Idaho Code, be, and the same is hereby amended to read as follows:

54-1904D. PROHIBITION AGAINST FURTHER BIDDING. A bidder who claims a mistake or who forfeits ~~his~~ their bid security shall be prohibited from participating in any rebidding of that project on which the mistake was claimed or security forfeited.

SECTION 7. That Section 54-1904E, Idaho Code, be, and the same is hereby amended to read as follows:

54-1904E. AWARD OF CONTRACT TO SECOND OR NEXT LOWEST BIDDER. If the public entity deems it is ~~for~~ in its best interest, it may, on refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder.

If the second lowest responsible bidder fails or refuses to execute the contract, the public entity may likewise award it to the next lowest responsible bidders.

On the failure or refusal of the second or next lowest responsible bidders to execute a contract, ~~his~~ their bidder's security shall be likewise forfeited. A public entity may determine it is in its best interests to cancel and rebid the public works project and retain any forfeited bid security.

SECTION 8. That Section 54-1905, Idaho Code, be, and the same is hereby amended to read as follows:

54-1905. PUBLIC WORKS CONTRACTORS ~~STATE~~ LICENSE BOARD CREATED -- QUALIFICATIONS OF APPOINTEES -- TERM -- REMOVALS. There is hereby created in the department of self-governing agencies a public works contractors ~~state~~ license board to be composed of seven (7) members, who shall be appointed by the governor. One (1) member of the board shall be a "heavy construction" contractor, one (1) member shall be a "highway construction" contractor, two (2) members shall be "building construction" contractors, one (1) member shall be a "specialty construction" contractor, as such construction terms are defined in this chapter, one (1) member shall be a "construction manager," and one (1) member shall be a registered professional engineer. All contractor members of the board shall be contractors holding a current unrevoked license at the time of their appointment, actively engaged in the contracting business and have been so engaged for a period of not less than five (5) years preceding the date of their appointment, and who shall so continue in the contracting business during their term of office. Each member of the board next preceding his appointment shall have been a citizen and resident of the state of Idaho for at least five (5) years. The governor shall appoint a member to said board for a term of six (6) years. Each member shall hold office after the expiration of ~~his~~ their own term until ~~his~~ their successor has been duly appointed and qualified. Vacancies on the board for any cause shall be filled by appointment by the governor for the balance of the unexpired term. The governor may remove any member of the board for misconduct, incompetence or neglect of duty. Each member of the board shall receive a certificate of appointment from the governor, and before entering upon the discharge of ~~his~~ their duties, shall file with the secretary of state the constitutional oath of office. ~~The board may, by written agreement, authorize the bureau of occupational licenses as~~

~~agent-to-act-in-its-interest.~~

SECTION 9. That Section 54-1906, Idaho Code, be, and the same is hereby amended to read as follows:

54-1906. PRINCIPAL PLACE OF BUSINESS. ~~---ORGANIZATION-MEETING.~~ The principal place of business of the board shall be in Boise, ~~City,~~ Idaho. The board shall~~,-within-thirty-(30)-days-after-its-appointment by-the-governor,~~ meet at Boise, ~~City,~~ Idaho~~,-at-a-time-and-place-to-be designated-by-the-governor,-and-organize-by-electing-a-chairman-and--a vice-chairman,-each-to-serve-for-one-(1)-year.~~

SECTION 10. That Section 54-1907, Idaho Code, be, and the same is hereby amended to read as follows:

54-1907. DUTIES AND POWERS OF THE BOARD -- SEAL -- ~~REGISTRAR-OF CONTRACTS~~ EXECUTIVE DIRECTOR APPOINTED. The board shall be vested with all functions and duties relating to the administration of this act and shall have full power to make ~~such-bylaws,~~ rules ~~and-regulations~~ as it shall deem necessary to carry out the provisions of this act. The board shall have the power to provide suitable quarters and ~~such~~ equipment, records and supplies as deemed necessary to carry out the provisions of this act. The board shall adopt a seal, having upon it the words "Public Works Contractors ~~State~~ License Board--State of Idaho~~,~~." ~~t~~The care and custody of ~~which~~ the seal shall be ~~in~~ with the ~~registrar,--hereinafter--created~~ executive director. Any member of the board may administer oaths and may take testimony ~~and-proofs~~ concerning all matters within the jurisdiction of the board.

The board shall appoint an ~~registrar-of-contracts~~ executive director, and fix ~~his~~ their compensation. The ~~registrar~~ executive director shall be the secretary ~~of~~ to the board and shall carry out such administrative duties as ~~in-this-act~~ provided in this act and as delegated ~~to-him~~ by the board. The board may, in its discretion, refuse, sustain or reverse, by majority vote, any action or decision of the ~~registrar~~ executive director. For the administration of this act the board may employ such other employees as may be necessary, ~~prescribe~~ describe their duties and fix their compensation.

SECTION 11. That Section 54-1908, Idaho Code, be, and the same is hereby amended to read as follows:

54-1908. MEETINGS -- QUORUM. The board shall hold not less than four (4) regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July and October, for the purpose of transacting such business as may properly come before it. At the April meeting of each year the board shall elect officers. Special or regular monthly meetings of the board may be held at such times as the board may provide in the ~~bylaws~~ rules. Four (4) members of the board shall constitute a quorum. Two (2) members of the board may call a special meeting at any time. Due notice of each meeting of the board and the time and place thereof shall be given each member in the manner prescribed in the ~~bylaws~~ rules. Each member of the board shall be compensated as provided by section

59-509(h), Idaho Code, ~~to be allowed~~ and paid from the public works contractors license board account~~,--as hereinafter provided in this chapter~~.

SECTION 12. That Section 54-1910, Idaho Code, be, and the same is hereby amended to read as follows:

54-1910. EXAMINATIONS, QUALIFICATIONS AND APPLICATIONS. Under such rules ~~and regulations~~ as it may adopt, the board shall have the power and authority to investigate, classify, and to qualify applicants for licenses under this act, by written or oral examinations, or both.

The qualifications to be required of an applicant by the board are as follows:

(a) Such degree of experience, and such general knowledge of the building, safety, health and lien laws of the state, and of the rudimentary administrative principles of the contracting business, as may be deemed necessary by the board for the safety and protection of the public. The applicant if an individual may qualify as to the aforementioned experience and knowledge by personal appearance or by the appearance of his responsible managing employee, and if a copartnership or corporation, limited liability company, limited liability partnership and any other combination or organization, by the appearance of the responsible managing officer or member of the personnel of such applicant. If the person qualifying by examination as to experience and knowledge shall, for any reason whatsoever, cease to be connected with the licensee to whom the license is issued, such licensee shall so notify the board in writing within ten (10) days from such cessation. If such notice is given, the license shall remain in force for a reasonable length of time, to be determined by rules of the board~~;--provided;-however;-that~~. I~~i~~f such licensee fails to so notify the board within said ten (10) day period, then at the end of such ten (10) day period, the license of such licensee shall be automatically suspended. A suspended license shall be reinstated upon the filing with the board of an affidavit executed by the licensee or a member of the suspended firm, to the effect that the individual originally examined for the firm has been replaced by another individual who has been qualified by examination as herein provided, and who shall not have had a license suspended or revoked, nor have been connected with any licensee who has had a license suspended or revoked for reasons that should preclude him from personally qualifying as to good character as herein required of an applicant.

(b) The possession by the applicant of good character. Lack of character may be established by showing any of the following:

(1) That the applicant has committed or done any act which, if committed or done by any licensed contractor, would be grounds for the suspension or revocation of a contractor's license, or

(2) That the applicant has committed or done any act involving dishonesty, fraud or deceit whereby the applicant has been benefited or whereby some injury has been sustained by another, or

(3) That the applicant bears a bad reputation for honesty and integrity, or

(4) That the applicant has been convicted of a felony.

(c) That he has never been refused a license or had a license revoked for reasons that would preclude the granting of the license applied for.

(d) No license shall be issued to a corporation, copartnership, limited liability company, limited liability partnership or other combination or organization if any responsible officer of such corporation, or other combination or organization, or any member of such copartnership does not meet the qualifications required of an applicant other than those qualifications relating to knowledge and experience.

(e) To obtain an original license under this act, the applicant shall submit to the board, on such forms as it shall prescribe, accompanied by the required fee for the class of license applied for, and in accordance with such rules ~~and regulations~~ as may be deemed necessary and adopted by the board in order to carry out the foregoing provisions of this section, a sworn written application for such license, containing the statement that applicant desires the issuance of a license under the terms of this act. The information contained in such application forms shall include a complete statement of the general nature of applicant's contracting business, and stating concisely applicant's experience and qualifications as a contractor; the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; a general description of applicant's machinery and equipment; a complete financial statement on such forms and disclosing such information as shall be required by the board, together with such additional information as may be required by the board to determine the applicant's fitness for a license under this act. The application shall contain, if by an individual, ~~his~~ their name and business address; if by a copartnership, its business address and the names and addresses of all partners; and if by a corporation, association, limited liability company, limited liability partnership or other organization, its business address and the names and addresses of the president, vice-president, secretary, and chief construction managing officers, or responsible managing employee.

SECTION 13. That Section 54-1911, Idaho Code, be, and the same is hereby amended to read as follows:

54-1911. FILING, ISSUANCE AND DENIAL OF LICENSES -- JOINT VENTURE APPLICATIONS -- FEES NOT REFUNDED. Applications for original licenses, together with the fees therefor, shall be filed with the board if received at least ten (10) days prior to consideration thereof by the board. After such examination and investigation as the board may require in accordance with the provisions of this act, if no valid reason exists for further investigation of applicant, the board shall at the next meeting ~~fixed by it for the consideration of applications for original licenses,~~ issue a license to applicant permitting him to engage in business as a contractor under the terms of this act for the licensing period designated. If the information brought to the attention of the board concerning the character and integrity of an applicant is such that it would appear proper to deny the application, the applicant shall be notified by ~~registered~~ certified mail ~~or--personal~~

~~service,~~ to show cause within such time, not less than five (5) days, nor more than thirty (30) days, why the application should not be denied.

Applications for original licenses filed in accordance with the provisions of this act shall be considered by the board ~~at--the--four (4)-regular-meetings-of-the-board-provided-for-in-this-act-and~~ at such special or regular monthly meetings as the board may determine. Fees accompanying original applications under this section are for the administration and enforcement of the provisions of this chapter and shall not be refunded to the applicant.

SECTION 14. That Section 54-1912, Idaho Code, be, and the same is hereby amended to read as follows:

54-1912. EXPIRATION AND RENEWAL OF LICENSES -- FEES. All contractors required by the provisions of this section to be licensed, shall be licensed for a period of twelve (12) consecutive calendar months.

Each licensing period shall start on the first day of a calendar month and end on the last day of the twelfth month from the date of beginning.

Licensing periods shall expire at midnight on the last day of the licensing period.

Application for renewal of a current license prior to expiration date ~~thereof~~ shall authorize operation as a contractor by such licensee until actual issuance of such renewal license for the ensuing year or until the final decision of the board is rendered in any proceeding. An a~~A~~pplicant for ~~a~~ renewal of a license issued under this act~~,~~ shall not be required to take any other or further examination to obtain such renewal license, provided that at the time of such application his license has not been suspended or permitted to lapse or expire for any cause for a period of one (1) year or more. All applications for renewal of license shall be made on forms prescribed by the board and shall be accompanied by the annual renewal fee and a complete current financial statement on such forms and disclosing such information as shall be required by the board, duly certified as true by the applicant, and if a copartnership, limited liability company or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer; such renewal application shall be filed prior to the first day of such renewal licensing period, otherwise the expired license shall be renewable only after the application and fees therefor shall have been on file with the board at least ten (10) days prior to consideration ~~thereof~~ by the board. Fees accompanying renewal applications under this section are for the administration and enforcement of the provisions of this chapter and shall not be refunded to the applicant.

The license issued under this act shall be signed both by the ~~registrar~~ executive director and by the licensee, shall be nontransferable, and shall be displayed in the licensee's main office or chief place of business, and satisfactory evidence of the possession thereof and of the current annual renewal thereof shall be exhibited by licensee upon demand.

A surviving member or members of a licensed copartnership, limited liability company or limited liability partnership by reason of death

shall be entitled to continue in business under such license until the expiration date thereof, provided due application for permission is made to the board within thirty (30) days after death of the member, and the application is approved by the board in accordance with its rules. ~~and regulations.~~

All licensees shall report to the board all changes of personnel, name style or addresses recorded under this act within thirty (30) days after the changes are made.

SECTION 15. That Section 54-1913, Idaho Code, be, and the same is hereby amended to read as follows:

54-1913. RECORDS, LISTS AND INFORMATION. The board shall maintain at its office in Boise, ~~City,~~ Idaho, open to public inspection during office hours, a complete record of all retained applications, licenses issued, licenses renewed and all revocations, cancelations and suspensions of licenses, and shall furnish a certified copy of any license issued, upon receipt of the sum of fifty cents (50¢), which certified copy shall be received in all courts and elsewhere as evidence of the facts stated therein. ~~All financial information submitted by applicants is subject to disclosure according to chapter 3, title 9, Idaho Code. Upon the issuance, renewal, revocation, cancelation and/or suspension of a license hereunder, the board shall forthwith furnish the department of administration with a record thereof.~~

Whenever funds are available for the purpose, the board shall publish a list of the names and addresses of contractors ~~registered~~ licensed under this act ~~and of the licenses issued, suspended or revoked~~ and such further information with respect to this act and its administration as the board deems proper. The board may furnish the lists to such public works and building departments, public officials or public bodies, and other persons interested in or allied with the building and construction industry in this or any other state as deemed advisable, and at such intervals as deemed necessary, whenever funds therefor are available. Copies of the lists may also be furnished by the board upon request to any firm or individual upon payment of a reasonable fee fixed by the board.

Whenever funds are available for the purpose, the board may publish and disseminate to licensees of the board and to public officials or other persons interested in or allied with the building and construction industry, such information with relation to the administration and enforcement of this act as deemed necessary to carry out its purposes.

SECTION 16. That Section 54-1914, Idaho Code, be, and the same is hereby amended to read as follows:

54-1914. DISCIPLINARY PROCEEDINGS. The board may upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any contractor within the state and may reclassify, retype, temporarily suspend or permanently revoke any license if the holder, while a licensee or applicant hereunder, is guilty of or commits any one (1) or more of the following acts or omissions:

(a) Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor.

(b) Diversion of funds or property received under express agreement for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and their application or use for any other construction project or operation, obligation or purpose, with intent to defraud or deceive creditors or the owner.

(c) ~~Wilful~~ Willful departure from or disregard of, plans or specifications in any material respect, and prejudicial to another, without consent of the owner or his duly authorized representative, and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications.

(d) ~~Wilful~~ Willful or deliberate disregard and violation of valid building laws of the state, or of any political subdivision thereof, or of the safety laws or labor laws or compensation insurance laws of the state.

(e) Misrepresentation of a material fact by an applicant in obtaining a license.

(f) Aiding or abetting an unlicensed person to evade the provisions of this act or ~~knowingly combining or~~ conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate or otherwise, of an unlicensed person with the intent to evade the provisions of this act.

(g) Failure in any material respect to comply with the provisions of this act.

(h) Acting in the capacity of a contractor under any license issued hereunder except: (1) in the name of the licensee as set forth upon the license, or (2) in accordance with the personnel of the licensee as set forth in the application for such license, or as later changed as provided in this act.

(i) Knowingly accepting a bid from, or entering into a contract with another contractor for a portion of a public works project if at that time such contractor does not possess the appropriate license to do that work as provided in this act.

(j) ~~Wilful~~ Willful failure or refusal without legal excuse on the part of a licensee as a contractor to ~~prosecute~~ finish a construction project or operation with reasonable diligence, causing material injury to another.

(k) ~~Wilful~~ Willful or deliberate failure by any licensee, or agent or officer thereof, to pay any moneys when due, for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient funds therefor as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased; or denial of any such amount due or the validity of the claim thereof with intent to secure for himself, his employer, or other person, any discount upon such indebtedness or with intent to hinder, delay or defraud the person to whom such indebtedness is due.

~~(l) Filing of a voluntary petition in bankruptcy, or a licensee being adjudicated a bankrupt.~~

SECTION 17. That Section 54-1914A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1914A. IMPAIRED FINANCIAL RESPONSIBILITY -- NOTIFICATION -- HEARING -- LICENSEE'S STATEMENT. If, at any time, the board has reasonable cause to believe that a licensee's financial responsibility is impaired, it shall, by ~~registered~~ certified mail, so notify the licensee, stating the facts which indicate such lack of financial responsibility, the time and place of the meeting of the board when the matter will be considered, and the action which the board contemplates taking with respect to such licensee, and request that the licensee either be present at said hearing, or submit to the board on or prior to the date of hearing, a verified written statement and any other documents deemed pertinent, to show cause why his license should not be reclassified, retyped, temporarily suspended or revoked because of lack of financial responsibility.

Failure to either submit such a statement or appear at the hearing shall be deemed to be an admission by licensee of the lack of financial responsibility as charged, and a stipulation that the board may take the action contemplated as set forth in the aforesaid notice.

SECTION 18. That Section 54-1915, Idaho Code, be, and the same is hereby amended to read as follows:

54-1915. PROCEDURE FOR REVOCATION. Upon the filing with the board of a verified complaint charging a licensee with the commission of any act constituting a cause for disciplinary action within two (2) years prior to the date of filing, the board shall forthwith issue a citation directing the licensee, within ten (10) days after service of the citation, ~~upon him,~~ to appear by filing with the board ~~his~~ a verified answer to the complaint, showing cause, if any, ~~he has,~~ why ~~his~~ the license should not be suspended or revoked; provided, however, that the appearance of the licensee by the filing of an answer may be waived by the complainant with the approval of the board, in which case the board shall proceed to a hearing. The proceedings before the board shall be governed by the provisions of chapter 52, title 67, Idaho Code.

Service of the citation upon the licensee shall be fully effected by mailing a true copy of the citation, together with a true copy of the complaint, by ~~United States registered~~ certified mail ~~in a sealed envelope with postage fully prepaid thereon,~~ addressed to the licensee at his last address of record with the board. Service of the citation shall be complete at the time of deposit in accordance with the provisions of the Idaho Rules of Civil Procedure relating to service by mail.

Upon the filing of the answer, the board shall fix a time and place for the hearing and give the licensee and the complainant not less than five (5) days' notice thereof. The notice may be served by mailing a true copy by ~~United States registered~~ certified mail ~~in a sealed envelope with postage fully prepaid thereon,~~ addressed to the licensee and to the complainant, respectively, at the last known address of each. With the notice to the complainant there shall be attached or enclosed a copy of the answer. If either party has

appeared by counsel, the notice shall be given in like manner to counsel instead of to the party.

The order entered by the board may:

(a) Provide for the immediate complete suspension by the licensee of all operations as a contractor during the period fixed by the decision.

(b) Permit the licensee to complete any or all contracts shown by competent evidence taken at the hearing to be then uncompleted.

(c) Impose upon the licensee compliance with such specific conditions as may be just in connection with his operations as a contractor disclosed at the hearing and may further provide that until such conditions are complied with no application for restoration of the suspended or revoked license shall be accepted by the board.

SECTION 19. That Section 54-1916, Idaho Code, be, and the same is hereby amended to read as follows:

54-1916. JUDICIAL REVIEW -- PROCEDURE. The applicant or licensee, as the case may be, shall have the right to ~~fourth~~ judicial review of the action of the board refusing, cancelling, revoking or suspending a license in accordance with the provisions of chapter 52, title 67, Idaho Code.

Appeals may be taken from the judgment of said district court to the Supreme Court of Idaho by either party by serving written notice thereof on the adverse party and filing the same in said district court within thirty (30) days after entry of said judgment, but otherwise said appeal shall be ~~had~~ in the same manner that appeals are taken and records prepared on appeal in civil actions.

On any appeal to the district court by a licensee, the court may, in its discretion, upon the filing of a proper bond by the licensee in an amount to be fixed by the court, but not less than one thousand dollars ($1,000), guaranteeing the compliance by the licensee with specific conditions imposed upon him by the board's decision, if any, permit the licensee to continue to do business as a contractor pending entry of judgment by the district court.

SECTION 20. That Section 54-1918, Idaho Code, be, and the same is hereby amended to read as follows:

54-1918. SUBPOENAS AND PROCESS. In any investigation, proceeding or hearing which the board is empowered to institute, conductor hold, the board, and each member thereof, may administer oaths, certify to official acts, issue subpoenas for the attendance of witnesses and the production of books, papers and records, in like manner and to the same extent as courts of record, and with their aid when necessary. The process issued by the board, or any member thereof, shall extend to all parts of the state and may be served by any person authorized to serve process, ~~of courts of record,~~ or by any person designated for that purpose by the board or a member thereof. The person executing any such process shall receive such compensation as may be allowed by the board and not to exceed the fees prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for the payment of fees for witnesses. Any citation, notice or

other process or any paper or document required by this act to be served on any party may be personally served as provided in the Code of Civil Procedure, with the same effect as if served by mail in the manner provided in this act.

SECTION 21. That Section 54-1919, Idaho Code, be, and the same is hereby amended to read as follows:

54-1919. REVOCATION BY COURT. The suspension or revocation of a license as provided in this act ~~provided~~ may also be ~~embraced~~ included in any action otherwise proper in any court involving the licensee's performance of his legal obligation as a contractor.

SECTION 22. That Section 54-1920, Idaho Code, be, and the same is hereby amended to read as follows:

54-1920. PENALTIES. Any person, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization acting in the capacity of a public works contractor within the meaning of this act, without a license as herein provided, shall be guilty of a misdemeanor and shall, upon conviction thereof, ~~if--a--person--or--persons,~~ be punished by a fine of not to exceed three hundred dollars ($300~~.00~~) or by imprisonment in the county jail for a term not to exceed six (6) months or by both such fine and imprisonment, ~~in~~ at the discretion of the court. The same penalties shall apply, upon conviction to any member of a copartnership, or to any construction, managing or directing officer of any corporation, limited liability company or limited liability partnership, or other organization consenting to, participating in, or aiding or abetting any such violation of this act.

Every public officer who knowingly lets a public contract to any person, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization who does not hold a license as required by the provisions of this act shall be guilty of a misdemeanor and upon conviction, punishable as provided in this section, unless, however, there be no qualified bidder willing to undertake the public works covered by the contract. No person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required by this act without alleging and providing that he was a duly licensed contractor at all times during the performance of such act or contract.

SECTION 23. That Section 54-1921, Idaho Code, be, and the same is hereby amended to read as follows:

54-1921. PUBLIC WORKS CONTRACTORS LICENSE FUND -- APPROPRIATION -- DISBURSEMENTS. The state treasurer shall be custodian of a fund, which is hereby created, to be known as the "Public Works Contractors License Fund," into which shall be paid and deposited all funds accruing or received under any and all provisions of this act. All moneys from whatever source accruing to or received by said fund are hereby

appropriated for the payment of the cost and expense of the administration and enforcement of this act, as herein provided, and the same shall be paid out by the state treasurer only upon state vouchers prepared and approved by the board, certified to by the ~~president~~ chairman of the board, and approved by the state board of examiners. Any moneys remaining in said fund on the last day of each year, as the term "year" is defined in this act, shall continue to be appropriated for the purposes of this act.

SECTION 24. That Section 54-1922, Idaho Code, be, and the same is hereby amended to read as follows:

54-1922. ACT SUPERIOR TO ALL LAWS IN CONFLICT. Wherever any provisions of the existing laws of the state of Idaho~~,--or--of--any--laws enacted-at-the-twenty-sixth-session-of-the-legislature-of-the-state-of Idaho,~~ are in conflict with the provisions of this act, the provisions of this act shall control and supersede all such laws.

SECTION 25. That Section 54-1924, Idaho Code, be, and the same is hereby amended to read as follows:

54-1924. SEPARABILITY. If any part or parts of this act shall be adjudged by the courts to be unconstitutional or invalid, the same shall not affect the validity of any part or parts thereof which can be given effect without the part or parts adjudged to be unconstitutional or invalid. ~~The-legislature-hereby-declares-that-it-would-have passed-the-remaining-parts-of-this-act-if-it-had-been-known-that--such other--part--or--parts--thereof--would-be-declared-unconstitutional-or invalid.~~

Approved March 23, 1999.

CHAPTER 202
(H.B. No. 70)

AN ACT

RELATING TO EXAMINATION OF CREDIT UNIONS; AMENDING SECTION 26-2136, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF FINANCE SHALL EXAMINE EACH CREDIT UNION NO LESS OFTEN THAN ONCE IN EIGHTEEN MONTHS AND MORE FREQUENTLY WHEN THE DIRECTOR DEEMS IT NECESSARY AND TO PROVIDE DATE CHANGES FOR FEE COLLECTION PURPOSES.

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

SECTION 1. That Section 26-2136, Idaho Code, be, and the same is hereby amended to read as follows:

26-2136. EXAMINATIONS AND FEES. The department of finance ~~at least-annually,~~ shall examine each credit union no less often than once in eighteen (18) months, and more frequently whenever the director shall deem it necessary. Each credit union and all of its officers

and agents shall be required to give to representatives of said department full access to all books, papers, securities, records and other sources of information under their control; and for the purpose of such examination, said representatives shall have power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.

A report of such examination shall be forwarded to the president of each credit union within thirty (30) days after the completion of the examination. Within thirty (30) days after the receipt of such report, a general meeting of the directors and committeemen shall be called to consider matters contained in the report. A reply to the director shall be forwarded by the board within fifteen (15) days.

On or before ~~September 1~~ February 15 of each calendar year, the director shall fix and collect from each credit union an assessment fee based upon the total assets of the credit union as of ~~June 30~~ December 31 of the ~~same~~ previous calendar year, which fees shall not exceed the amounts set forth in the following schedule:

TOTAL ASSETS	FEE
$50,000 or less	$50.00 + $1.00 per thousand dollars of assets
Over $50,000 and not over $100,000	$100.00 + $.99 per thousand dollars of assets in excess of $50,000
Over $100,000 and not over $250,000	$149.00 + $.94 per thousand dollars of assets in excess of $100,000
Over $250,000 and not over $1 million	$291.00 + $.89 per thousand dollars of assets in excess of $250,000
Over $1 million and not over $2 million	$958.00 + $.80 per thousand dollars of assets in excess of $1 million
Over $2 million and not over $5 million	$1,758.00 + $.61 per thousand dollars of assets in excess of $2 million
Over $5 million and not over $8 million	$3,588.00 + $.48 per thousand dollars of assets in excess of $5 million
Over $8 million	$5,028.00 + $.35 per thousand dollars of assets in excess of $8 million

The director may in his discretion at any time accept in lieu of any portion of his examinations the findings or result of an audit by a firm of independent certified public accountants or other qualified person or firm approved by the director. The cost of the audit shall be borne by the credit union.

All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho credit union act shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

Approved March 23, 1999.

CHAPTER 203
(H.B. No. 90, As Amended)

AN ACT
RELATING TO BONDED WAREHOUSES; AMENDING SECTION 69-202, IDAHO CODE, TO CLARIFY THE DEFINITION OF FAILURE; AND AMENDING SECTION 69-262, IDAHO CODE, TO CLARIFY USE OF THE TERM FAILURE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 69-202, Idaho Code, be, and the same is hereby amended to read as follows:

69-202. DEFINITIONS. As used in this chapter:

(1) "Agricultural commodity" means any grain, dry peas, dry beans, leguminous or other small seeds and feeds (not including minerals).

(2) "Commodity dealer or dealer" means any person who solicits, contracts for, negotiates the consignment or purchase, or obtains from an Idaho producer or producers, title, possession or control of any agricultural commodity through his place of business located in the state of Idaho or through his place of business located outside the state of Idaho for the purposes of sale or resale or who buys, during a calendar year, at least ten thousand dollars ($10,000) worth of agricultural commodities from an Idaho producer or producers of the commodities. Commodity dealer or dealer shall not mean any person who purchases agricultural commodities for his own use as seed or feed.

(3) "Contract" means a written agreement between two (2) or more parties for the sale of an agricultural commodity stipulating the terms and conditions of performance of the parties and includes but is not limited to, those contracts commonly referred to as credit sales, deferred payment, deferred or price later contracts.

(4) "Department" means the Idaho department of agriculture.

(5) "Depositor" means any person who deposits an agricultural commodity in an Idaho state licensed warehouse for storage, handling, processing, reconditioning or shipment, or who is the owner or legal holder of a negotiable warehouse receipt, outstanding scale weight ticket, nonnegotiable warehouse receipt or other evidence of such deposit, or any person whose agricultural commodity has been sold to or is under control of a warehouseman for selling, processing, reconditioning or handling whether or not such agricultural commodity is within the warehouse.

(6) "Director" means the director of the department of agriculture.

(7) "Failure" means:

(a) An inability to financially satisfy claimants in accordance with this chapter and the time limits provided for in it;

(b) A public declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a depositor;

(d) A failure to redeliver any commodity to a depositor or to pay

depositors for commodities purchased by a licensee in the ordinary course of business; ~~and where a bona fide dispute does not exist between the licensee and the depositor;~~

(e) A failure to make application for license renewal within sixty (60) days after the annual license renewal date; or

(f) A denial of the application for a license renewal.

(8) "Historical depositor" means any person who, in the normal course of business operation has consistently made deposits in the same warehouse of commodities produced on the same land. In addition, anyone purchasing or leasing that particular land directly from the original depositor or receiving that particular land by devise, descent, bequest or gift directly from the historical depositor shall also be considered an historical depositor with regard to the commodities produced on that land.

(9) "Person" means any individual, firm, association, corporation or partnership.

(10) "Producer" means the owner, tenant or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of agricultural commodities produced on that land.

(11) "Public warehouse" or "warehouse" means any elevator, mill, warehouse, subterminal commodity warehouse, public warehouse or other structure or facility in which agricultural commodities are received for storage, shipment, processing, reconditioning or handling.

(12) "Receipt" means a warehouse receipt.

(13) "Revocation" means the permanent removal of a warehouse license following a hearing on violations of this chapter by the hearing officer or director.

(14) "Scale weight ticket" means a load slip or other evidence, other than a receipt, given to a depositor by a warehouseman licensed under the provisions of this chapter, upon initial delivery of the commodity to the warehouse.

(15) "Subterminal warehouse" means any warehouse at which an intermediate function is performed in which agricultural commodities are customarily received from dealers rather than producers and where the commodities are accumulated prior to shipment.

(16) "Suspension" means the temporary removal of a warehouse license by the department pending a hearing for violations of this chapter. Correction of the violations prior to a hearing may result in the reinstatement of a license without a hearing.

(17) "Termination" means the expiration of a warehouse license due to failure to meet minimum licensing requirements, failure to renew a warehouse license or as requested by the licensee, unless a complaint has been filed against the licensee alleging a violation of any provision of this chapter.

(18) "Warehouse receipt" means every receipt, whether negotiable or nonnegotiable, issued by a warehouseman, except scale weight tickets.

(19) "Warehouseman" means a person operating or controlling a public warehouse.

SECTION 2. That Section 69-262, Idaho Code, be, and the same is hereby amended to read as follows:

69-262. PROOF OF CLAIMS -- PROCEDURE -- HEARING -- INSPECTION OF WAREHOUSE. In the event a warehouse or dealer fails, as defined in section 69-202(7), Idaho Code, ~~or otherwise fails to comply with the provisions of this chapter or rules promulgated hereunder;~~ the department shall process the claims of producers producing written evidence of ownership disclosing a storage obligation or written evidence of a sale of commodities for damages caused by the failure, in the following manner:

(1) The department shall give notice and provide a reasonable time of not less than thirty (30) days and not more than sixty (60) days to producers possessing written evidence of ownership disclosing a storage obligation or written evidence of sale of commodities to file their written verified claims with the department.

(2) The department may investigate each claim and determine whether the claimant's commodities are under a storage obligation or whether a sale of commodities has occurred. The department shall notify each claimant, the commodity warehouseman or dealer, and the committee of the department's determination as to the validity and amount of each claimant's claim. A claimant or warehouseman or dealer may request a hearing on the department's determination within twenty (20) days of receipt of written notification and a hearing shall be held by the department pursuant to title 67, chapter 52, Idaho Code. Upon determining the amount and validity of the claim, the director shall pay to the claimant an amount equal to ninety ~~per cent~~ percent (90%) of the approved claim from the commodity indemnity account. Prior to any payment from the account to a claimant, the claimant shall be required to subrogate and assign his right to recover from any other source. The department may then pay up to ninety ~~per cent~~ percent (90%) of the approved claim to the claimant. The department shall have a priority claim for that amount. The claimant shall be entitled to seek recovery of the remaining ten ~~per cent~~ percent (10%) which was not originally assigned to the department. For the purpose of determining the amount of the producer's claim, the value of a producer's commodity shall be the value of the commodity on the date the director declared the warehouse or dealer to have failed or to have failed to comply with the provisions of this chapter or rules promulgated thereunder.

(3) The department may inspect and audit a failed warehouseman to determine whether the warehouseman has in his possession sufficient quantities of commodities to cover his storage obligations. In the event of a shortage, the department shall determine each producer's pro rata share of available commodities and the deficiency shall be considered as a claim of the producer. Each type of commodity shall be treated separately for the purpose of determining shortages.

(4) The director shall not approve or pay any claim made on the commodity indemnity account if the claim is based on losses resulting from the deposit, sale or storage of commodities in an unlicensed warehouse or dealer.

Approved March 23, 1999.

CHAPTER 204
(H.B. No. 124, As Amended, As Amended in the Senate)

AN ACT

RELATING TO SALES TAXES; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3620C, IDAHO CODE, TO REQUIRE THAT OPERATORS AND PROMOTERS OF PROMOTER SPONSORED EVENTS OBTAIN EVIDENCE OF COMPLIANCE WITH THE IDAHO SALES TAX ACT FROM SELLERS PARTICIPATING IN THE EVENT, TO AUTHORIZE PROMOTERS TO ISSUE TEMPORARY SELLERS' PERMITS AND TO PROVIDE COMPENSATION, TO PROVIDE PENALTIES AND TO PROVIDE A DEFINITION; AMENDING SECTION 63-3612, IDAHO CODE, TO CLARIFY THE DEFINITION OF SALE PERTAINING TO ADMISSION CHARGES BY CERTAIN ORGANIZATIONS; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3620C, Idaho Code, and to read as follows:

63-3620C. PROMOTER SPONSORED EVENTS. (1) The operator or promoter contracting with persons for participation in a promoter sponsored event, as a prerequisite to renting or leasing space to any person for conducting business as a retailer on any premises owned or controlled by that operator or promoter, shall obtain:

(a) Written evidence that the retailer holds a valid seller's permit issued pursuant to this chapter or will apply to the state tax commission for a regular or temporary seller's permit; or

(b) A written statement from the retailer that the retailer is not offering for sale any item that is taxable under this chapter or is otherwise not required to hold a valid seller's permit.

(2) Such written evidence or statements shall be in such form and contain such information as the state tax commission shall require, and shall include the retailer's taxpayer identification number. The operator or promoter shall submit the documents to the state tax commission within ten (10) days following the beginning of the event.

(3) (a) The state tax commission may appoint a sponsor or promoter as its agent for issuing temporary seller's permits to participants in the event and for accounting for such permits.

(b) A sponsor or promoter appointed to issue temporary permits under this subsection shall be entitled to a credit or refund of income or franchise taxes imposed under chapter 30, title 63, Idaho Code, in the amount of one dollar ($1.00) for each such temporary permit issued by the sponsor or promoter during the taxable year.

(4) Any operator or promoter of a promoter sponsored event who fails to comply with this section may be subject to a minimum penalty of fifty dollars ($50.00) per event and twenty-five dollars ($25.00) for each seller over two (2) sellers for whom such records required by subsection (1) of this section are not obtained, but not to exceed one

thousand dollars ($1,000) for each such event.

(5) The penalties provided in subsection (4) of this section shall not apply:

(a) Unless the state tax commission shall have previously given notice to the operator or promoter or its officer, agent or employee, by certified mail, of the requirements of this section and of a violation of this section by the operator or promoter or its officer, agent or employee; or

(b) If the operator or promoter shows that such failure was due to reasonable cause and not to willful neglect.

(6) The state tax commission shall give notice of any penalty provided in this section and it shall assess such penalties in the manner provided for deficiencies of tax.

(7) "Promoter sponsored event," as used in this section, means a swap meet, flea market, gun show, fair or similar activity involving a series of sales sufficient in number, scope and character to constitute a regular course of business; or any event at which two (2) or more persons offer tangible personal property or services for sale or exchange and at which a fee is charged for the privilege of offering the services or displaying the property for sale or exchange; or at which a fee is charged to prospective buyers for admission to the area where the property or services are offered or displayed for sale or exchange.

SECTION 2. That Section 63-3612, Idaho Code, be, and the same is hereby amended to read as follows:

63-3612. SALE. (1) The term "sale" means any transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration and shall include any similar transfer of possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange or barter.

(2) "Sale" shall also include the following transactions when a consideration is transferred, exchanged or bartered:

(a) Producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish, either directly or indirectly, the tangible personal property used in the producing, fabricating, processing, printing, or imprinting.

(b) Furnishing, preparing, or serving food, meals, or drinks and nondepreciable goods and services directly consumed by customers included in the charge thereof.

(c) A transfer of possession of property where the seller retains the title as security for the payment of the sales price.

(d) A transfer of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Admission to a place or for an event in Idaho, provided that an organization conducting an exempt function as defined in section 527 or exempted by section 501(c)(3) of the Internal Revenue Code, as incorporated in section 63-3004, Idaho Code, and collecting any charges for attendance at the aforementioned event, shall not have those admission charges be defined as a sale if the event:

(i) Is not predominately recreational or commercial; and
(ii) Any included entertainment value is minimal when compared to the charge for attendance; and
(iii) Such entity has paid sales and use tax on taxable property or services used during the event.

(f) The use of or the privilege of using tangible personal property or facilities for recreation.

(g) Providing hotel, motel, campground, or trailer court accommodations, nondepreciable goods directly consumed by customers and included services, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days.

(h) The lease or rental of tangible personal property.

(i) The intrastate transportation for hire by air of freight or passengers, except (1) as part of a regularly scheduled flight by a certified air carrier, under authority of the United States, or (2) when providing air ambulance services.

(3) As used in subsections (2)(b) and (2)(g) of this section, goods "directly consumed by customers" shall not be interpreted to mean any linens, bedding, cloth napkins or similar nondisposable property.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval; and Section 1 of this act shall be in full force and effect on and after July 1, 1999.

Approved March 23, 1999.

CHAPTER 205
(H.B. No. 133)

AN ACT

RELATING TO THE COMMISSION ON ARTS AND HUMANITIES; AMENDING SECTION 67-5603, IDAHO CODE, TO PROVIDE THAT MEMBERS OF THE COMMISSION APPOINTED AFTER JUNE, 1991, MAY BE APPOINTED FOR A TERM OF LESS THAN FOUR YEARS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5603, Idaho Code, be, and the same is hereby amended to read as follows:

67-5603. TERMS OF MEMBERS -- APPOINTMENT OF OFFICERS -- SERVICE OF MEMBERS -- COMPENSATION. The term of office of each member shall be four (4) years; provided, however that of the members appointed during or after ~~March~~ June, 1991, the governor may appoint for a term of less than four (4) years so that not more than four (4) terms expire in any one (1) year. The governor shall designate a chairman and a vice-chairman from the members of the commission to serve as such at the pleasure of the governor. All vacancies shall be filled for the bal-

ance of the unexpired term in the same manner as original appointments. The members of the commission shall be compensated as provided by section 59-509(b), Idaho Code.

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

Approved March 23, 1999.

CHAPTER 206
(H.B. No. 140)

AN ACT

RELATING TO METHODS OF PAYMENT FOR ALCOHOL BEVERAGES; AMENDING SECTION 23-309, IDAHO CODE, TO AUTHORIZE USE OF A CREDIT CARD, ELECTRONIC FUNDS TRANSFER OR DEBIT CARD FOR PURCHASE OF LIQUOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-1031, IDAHO CODE, RELATING TO PAYMENT BY LICENSED RETAILERS FOR SALE OR DELIVERY OF BEER, TO AUTHORIZE THE USE OF ELECTRONIC FUNDS TRANSFER OR DEBIT CARD AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 23-1326, IDAHO CODE, RELATING TO PAYMENT BY A RETAILER FOR WINE, TO AUTHORIZE THE USE OF ELECTRONIC FUNDS TRANSFER OR DEBIT CARD.

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

SECTION 1. That Section 23-309, Idaho Code, be, and the same is hereby amended to read as follows:

23-309. SALES. ~~TO-BE-FOR-CASH,-CHECK-OR-MONEY-ORDER.~~ No vendor of any state liquor store or special distributor shall sell any alcoholic liquor except for cash, check, ~~or~~ money order, credit card, electronic funds transfer or debit card. In addition, the dispensary shall, under such rules ~~and--regulations~~ as may be adopted by it, authorize the vendor of a state liquor store or special distributor to accept a check, credit cards, electronic funds transfer or debit card from persons licensed for the retail sale of liquor ~~by-the-drink~~ by the drink pursuant to chapter 9, title 23, Idaho Code, as payment for purchases from the dispensary. Dishonor of any ~~check~~ credit device given by such person shall constitute grounds for suspension or revocation of such person's license pursuant to section 23-933, Idaho Code, in addition to any other remedy provided by law.

SECTION 2. That Section 23-1031, Idaho Code, be, and the same is hereby amended to read as follows:

23-1031. EXTENSION OF CREDIT. No sale or delivery of beer shall be made to any licensed retailer, except for cash paid at the time of or prior to delivery thereof, and in no event shall any brewer, wholesaler or dealer licensed in the state and engaged in the sale of beer for resale extend any credit on account of such beer to a licensed

retailer, nor shall any licensed retailer accept or receive delivery of such beer except when payment therefor is made in cash at the time of or prior to delivery thereof. The acceptance of a first party check from a licensed retailer by a brewer, wholesaler or dealer licensed in the state and engaged in the sale of beer for resale, or the use of electronic funds transfer or debit card by a licensed retailer, shall not be deemed an extension or acceptance of credit hereunder. Any extension or acceptance of credit in violation hereof shall constitute the giving and receiving of aid or assistance to or by a licensed retailer prohibited by the provisions of section 23-1033, Idaho Code.

SECTION 3. That Section 23-1326, Idaho Code, be, and the same is hereby amended to read as follows:

23-1326. CREDIT SALES TO RETAILERS PROHIBITED. No sale or delivery of wine shall be made to any retailer, except for cash paid at the time of or prior to delivery thereof, and in no event shall any distributor extend any credit on account of such wine to a retailer, nor shall any retailer accept or receive delivery of such wine except when payment therefor is made in cash at the time of or prior to delivery thereof. The acceptance of a first party check from a retailer by a distributor, or the use of electronic funds transfer or debit card by a licensed retailer, shall not be deemed an extension of or acceptance of credit hereunder. ~~if the first party check is dated with the date of or prior to delivery of the wine~~ Any extension or acceptance of credit in violation of this section shall constitute the giving and receiving of aid or assistance to or by a licensed retailer prohibited by the provisions of section 23-1325, Idaho Code.

Approved March 23, 1999.

CHAPTER 207
(H.B. No. 168, As Amended in the Senate)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-111, IDAHO CODE, TO ALLOW LANDOWNERS IN DISTRICTS OF FIFTEEN THOUSAND ACRES OR LESS TO VOTE PROVIDED SPECIFIED CONDITIONS RELATING TO BYLAWS OF THE DISTRICT AND RESIDENCY REQUIREMENTS OF THE LANDOWNER HAVE BEEN MET; AND AMENDING SECTION 43-201, IDAHO CODE, TO ALLOW LANDOWNERS IN DISTRICTS OF FIFTEEN THOUSAND ACRES OR LESS TO SERVE AS A DIRECTOR FROM A DIVISION IN WHICH HE OWNS LAND PROVIDED SPECIFIED CONDITIONS RELATING TO BYLAWS OF THE DISTRICT AND RESIDENCY REQUIREMENTS OF THE LANDOWNER HAVE BEEN MET.

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

SECTION 1. That Section 43-111, Idaho Code, be, and the same is hereby amended to read as follows:

43-111. QUALIFICATIONS OF VOTERS. No person shall be entitled to

vote at any election held under the provisions of this title for the purpose of electing directors, for the purpose of determining whether indebtedness shall be created or bonds issued by the district, or for any other purpose, unless he shall possess all the qualifications required of electors under the general laws of the state, and own land within the district, or the proposed district, and be a resident of the county in which the district, or a portion thereof, is located for a period of thirty (30) or more days next preceding the election; provided that, in districts of fifteen thousand (15,000) acres or less, the bylaws may, by resolution of two-thirds (2/3) of the board and adoption by two-thirds (2/3) of the electors voting in a district election conducted in accordance with the general election laws of the state applicable to irrigation districts, set forth a provision allowing a district landowner to vote, if the landowner possesses all the qualifications required of electors under the general laws of the state and has resided within fifteen (15) miles of the district for a period of at least thirty (30) days prior to the election.

SECTION 2. 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. 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 division 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 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; provided that, in districts of fifteen thousand (15,000) acres or less, the bylaws may, by resolution of two-thirds (2/3) of the board and adoption by two-thirds (2/3) of the electors voting in a district election conducted in accordance with the general election laws of the state applicable to irrigation districts, set forth a provision allowing a district landowner to serve as the director from the division in which the landowner owns land, if the landowner possesses all the qualifications required of electors under the general laws of the state and has resided within fifteen (15) miles of the district for a period of at least thirty (30) days prior to the election; provided further than any landowner who owns land in more than one (1) division may serve as the director only from the division nearest which he resides. 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 dis-

trict 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 23, 1999.

CHAPTER 208
(H.B. No. 201)

AN ACT

RELATING TO SCHOOL DISTRICT BOARDS OF TRUSTEES AND TEACHER CONTRACTS; AMENDING SECTION 33-515, IDAHO CODE, TO PROVIDE FOR NOTICE TO AN ADMINISTRATIVE EMPLOYEE UPON REASSIGNMENT TO A NONADMINISTRATIVE POSITION AND TO PROVIDE FOR INFORMAL REVIEW OF THE REASSIGNMENT UPON REQUEST OF THE EMPLOYEE; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-515A, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF SUPPLEMENTAL CONTRACTS WHICH ALLOW FOR EXTRA DUTY ASSIGNMENTS FOR CERTIFICATED EMPLOYEES AND TO PROVIDE A PROCEDURE FOR NOTICE AND AN INFORMAL REVIEW WHEN A BOARD OF TRUSTEES DOES NOT REISSUE A SUPPLEMENTAL CONTRACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection 13 of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter.

After the third full year of employment and at least once annually, the performance of each such certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the fifteenth day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board

as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the twenty-fifth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.

Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance.

Nothing herein shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative ~~or supervisory~~ employees to ~~classroom teaching duties or removing an extra duty assignment from a certificated employee~~ a nonadministrative position with appropriate reduction of ~~salaries~~ salary from ~~pre-existing~~ the preexisting salary levels. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.

Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the

length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

SECTION 2. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-515A, Idaho Code, and to read as follows:

33-515A. SUPPLEMENTAL CONTRACTS. (1) In addition to the provisions of sections 33-514, 33-514A and 33-515, Idaho Code, a board of trustees may enter into supplemental contracts to provide extra duty assignments for certificated employees. An extra duty assignment is, and supplemental contracts may be used for, an assignment which is not part of a certificated employee's regular teaching duties. Any such contract shall be separate and apart from an annual, a renewable or a limited one (1) year contract, and no property rights shall attach to a supplemental contract. The contract shall be in a form approved by the state superintendent of public instruction.

(2) If a board of trustees determines not to reissue a supplemental contract, the board shall give written notice to the employee describing reasons for the decision not to reissue. The employee, upon written request to the board, shall be entitled to an informal review. The process and procedure for the informal review shall be determined by the local board of trustees. Within fifteen (15) days following the meeting with the employee, the board shall notify the employee of its final decision in the matter. Should a school district provide for additional procedures, nothing in this statute shall be interpreted to limit those procedures.

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

Approved March 23, 1999.

CHAPTER 209
(H.B. No. 205)

AN ACT

RELATING TO TRESPASS; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7006, IDAHO CODE, TO ESTABLISH THE CRIME OF TRESPASS OF PRIVACY.

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

SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7006, Idaho Code, and to read as follows:

18-7006. TRESPASS OF PRIVACY. It shall be unlawful for any person, upon the private property of another, to intentionally look, peer or peek in the door, window, or other transparent opening of any inhabited building or other structure located thereon, without visible or lawful purpose. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Approved March 23, 1999.

CHAPTER 210
(H.B. No. 220)

AN ACT

RELATING TO ANNUAL REPORTS FILED WITH THE SECRETARY OF STATE; AMENDING SECTION 30-1-1622, IDAHO CODE, TO CLARIFY LANGUAGE AND TO PROVIDE THAT CORPORATE ANNUAL REPORTS BE FILED BEFORE THE END OF THE MONTH DURING WHICH THE CORPORATION WAS INITIALLY INCORPORATED OR AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE; AMENDING SECTION 30-3-136, IDAHO CODE, TO PROVIDE THAT NONPROFIT CORPORATIONS FILE CORPORATE ANNUAL REPORTS BEFORE THE END OF THE MONTH DURING WHICH THE CORPORATION WAS INITIALLY INCORPORATED OR AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE; AMENDING SECTION 53-613, IDAHO CODE, TO PROVIDE THAT LIMITED LIABILITY COMPANIES FILE ANNUAL REPORTS BEFORE THE END OF THE MONTH DURING WHICH THE LIMITED LIABILITY COMPANY WAS INITIALLY ORGANIZED OR AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 30-1-1622, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-1622. ANNUAL REPORT FOR SECRETARY OF STATE. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing an annual report ~~in~~ on a form ~~prescribed~~ provided by the secretary of state that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address to which correspondence to the corporation's officers may be mailed; and

(d) The names and business addresses of its directors and its president and secretary.

(2) Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.

(3) The annual report shall be executed by one (1) of the persons identified in section 30-1-120, Idaho Code, or by another person who is authorized by the board of directors to execute the report. Execution of the annual report constitutes a representation that the person

is authorized by the board of directors to execute the report.

(4) No annual report need be filed during the first year after a corporation is incorporated or authorized to transact business in this state. The first, and all subsequent annual reports ~~must~~ shall be delivered to the secretary of state ~~between July 1 and November 30 of the state fiscal year (July 1 - June 30) following the state fiscal year in~~ each year before the end of the month during which a domestic corporation was initially incorporated or a foreign corporation was initially authorized to transact business. ~~Subsequent annual reports must be delivered to the secretary of state between July 1 and November 30 of succeeding state fiscal years.~~

(5) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

SECTION 2. That Section 30-3-136, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-136. ANNUAL REPORT FOR SECRETARY OF STATE. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state an annual report ~~in~~ on a form prescribed and furnished by the secretary of state.

(2) The information in the annual report must be current on the date the annual report is executed on behalf of the corporation.

(3) The annual report shall be executed by one (1) of the persons identified in section 30-3-2, Idaho Code, or by another person who is authorized by the board of directors to execute the report. Execution of the annual report constitutes a representation that the person is authorized by the board of directors.

(4) No annual report need be filed during the first year after a corporation is incorporated or authorized to transact business in this state. The first, and all subsequent annual reports ~~must~~ shall be delivered to the secretary of state ~~between July 1 and November 30 of the state fiscal year (July 1 - June 30) following the state fiscal year in~~ each year before the end of the month during which a domestic corporation was initially incorporated or a foreign corporation was initially authorized to transact business. ~~Subsequent annual reports must be delivered to the secretary of state between July 1 and November 30 of the following calendar years.~~

(5) If an annual report does not contain the information required in this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required in this section and delivered to the secretary of state within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

SECTION 3. 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 ~~in~~ on a form 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 for the limited liability company by a person authorized by the members if management is vested in the members, or by a person authorized by the managers if management is vested in the managers. Execution by such a person constitutes a representation that the authority was granted. 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~~ The 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 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 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~~ each year before the end of the month during which a domestic limited liability company was initially organized, or a foreign limited liability company was initially authorized to transact business. Beginning one (1) year after a domestic limited liability company is organized or a foreign limited liability company is authorized to transact business, and each year thereafter, the annual report of the limited liability company must be received in the office of the secretary of state not later than the close of business on the ~~30th~~ final day of ~~November, or if that date falls on a weekend, on the next business day~~ the applicable month. 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.

SECTION 4. This act shall be in full force and effect beginning on July 1, 2000. The Secretary of State may accept annual reports filed in accordance with this act beginning in March 2000.

Approved March 23, 1999.

CHAPTER 211
(H.B. No. 221)

AN ACT

RELATING TO FEES COLLECTED BY THE SECRETARY OF STATE; AMENDING SECTION 30-3-4, IDAHO CODE, TO CHANGE THE FEE FOR EXPEDITED SERVICE FOR NONPROFIT CORPORATION FILINGS; AND AMENDING SECTION 48-517, IDAHO CODE, TO REQUIRE THAT THE FEE FOR A TRADEMARK APPLICATION BE REFUNDED IF THE APPLICATION IS DENIED.

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

SECTION 1. That Section 30-3-4, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-4. FILING, SERVICE AND COPYING FEES. The secretary of state shall collect the following fees when the documents described in ~~this~~ these subsections are delivered for filing:

(1) Articles of incorporation.....$30.00
(2) Application for reserved name.....$20.00
(3) Notice of transfer of reserved name.....$20.00
(4) Application for registered name.....$30.00
(5) Application for renewal of registered name.....$30.00
(6) Corporation's statement of change of registered agent or registered office or both.....no fee
(7) Agent's statement of change of registered office for each affected corporation.....no fee
(8) Agent's statement of resignation.....no fee
(9) Amendment of articles of incorporation.....$30.00
(10) Restatement of articles of incorporation with amendments.....$30.00
(11) Articles of merger.....$30.00
(12) Articles of dissolution.....$30.00
(13) Application for reinstatement following administrative dissolution.....$30.00
(14) Application for certificate of authority.....$30.00
(15) Application for amended certificate of authority.....$30.00
(16) Application for certificate of withdrawal.....$20.00
(17) Certificate of revocation of authority to transact business.....no fee
(18) Annual report.....no fee
(19) Articles of correction.....$20.00
(20) Certificate of existence or authorization.....$10.00
(21) Any other document required or permitted to be filed by this act.....$20.00

(22) Filing any document relating to a nonprofit corporation when the filing party requires the evidence of completion of filing to be returned within eight (8) hours, a surcharge of.....$ 820.00

SECTION 2. That Section 48-517, Idaho Code, be, and the same is hereby amended to read as follows:

48-517. FEES. The secretary of state shall charge thirty dollars ($30.00) for the various applications and filing fees required in this chapter and for related services. The application fees payable herein ~~are not refundable~~ shall be refunded if the registration for a mark is not granted.

Approved March 23, 1999.

CHAPTER 212
(H.B. No. 222)

AN ACT

RELATING TO NAMES FILED WITH THE SECRETARY OF STATE BY FORMALLY ORGANIZED BUSINESS ENTITIES; AMENDING SECTION 30-1-401, IDAHO CODE, TO PROVIDE THAT CORPORATIONS MUST USE NAMES WHICH ARE DISTINGUISHABLE ON THE RECORDS OF THE SECRETARY OF STATE, TO CLARIFY LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-1-403, IDAHO CODE, TO PROVIDE THAT FOREIGN CORPORATIONS MUST REGISTER NAMES WHICH ARE DISTINGUISHABLE ON THE RECORDS OF THE SECRETARY OF STATE; AMENDING SECTION 30-3-27, IDAHO CODE, TO PROVIDE THAT NONPROFIT CORPORATIONS MUST USE NAMES WHICH ARE DISTINGUISHABLE ON THE RECORDS OF THE SECRETARY OF STATE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-3-29, IDAHO CODE, TO PROVIDE THAT FOREIGN NONPROFIT CORPORATIONS MUST REGISTER NAMES WHICH ARE DISTINGUISHABLE ON THE RECORDS OF THE SECRETARY OF STATE; AMENDING SECTION 53-202, IDAHO CODE, TO PROVIDE THAT LIMITED PARTNERSHIPS MUST USE NAMES WHICH ARE DISTINGUISHABLE ON THE RECORDS OF THE SECRETARY OF STATE; AMENDING SECTION 53-602, IDAHO CODE, TO PROVIDE THAT LIMITED LIABILITY COMPANIES MUST USE NAMES WHICH ARE DISTINGUISHABLE ON THE RECORDS OF THE SECRETARY OF STATE.

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

SECTION 1. That Section 30-1-401, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-401. CORPORATE NAME. (1) A corporate name:
(a) Must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," or words or abbreviations of like import in another language; provided however, that if the word "company" or its abbreviation is used it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the

word "and~~;~~";

(b) May not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 30-1-301, Idaho Code, and its articles of incorporation.

(2) Except as authorized by subsections (3) and (4) of this section, a corporate name ~~shall not be the same as, or deceptively similar to~~ must be distinguishable upon the records of the secretary of state from:

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A name reserved or registered under section 30-1-402 or 30-1-403, Idaho Code, or reserved under section 53-203 or 53-603, Idaho Code;

(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(d) The corporate name of a ~~not-for-profit~~ nonprofit corporation incorporated or authorized to transact business in this state; and

(e) The name of any limited partnership, limited liability partnership or limited liability company which is organized under the laws of this state or registered to do business in this state.

(3) A corporation may apply to the secretary of state for authorization to use a name that is ~~the same as, or deceptively similar to,~~ not distinguishable on his records from one (1) or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, holder of a reserved or registered name, limited partnership, limited liability partnership or limited liability company consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is ~~the same as, or deceptively similar to,~~ distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation or limited liability company that is used in this state if the other corporation or limited liability company is organized or authorized to transact business in this state and the proposed user corporation:

(a) Has merged with the other corporation or limited liability company;

(b) Has been formed by reorganization of the other corporation or limited liability company; or

(c) Has acquired all or substantially all of the assets, including the name, of the other corporation or limited liability company.

(5) This chapter does not control the use of assumed business names, governed by "The Assumed Business Names Act of 1997," chapter 5, title 53, Idaho Code.

(6) Nothing in this section shall abrogate or limit the law as to

unfair competition or unfair practice in the use of trade names, nor derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect trade names.

(7) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation in violation from doing business under any name assumed in violation of this section.

SECTION 2. That Section 30-1-403, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-403. REGISTERED NAME. (1) A foreign corporation may register its corporate name, or its corporate name with any addition required by section 30-1-1506, Idaho Code, if the name is ~~not the same as or deceptively similar to~~ distinguishable on the records of the secretary of state from the corporate names that are unavailable under section 30-1-401(2), Idaho Code.

(2) A foreign corporation registers its corporate name, or its corporate name with any addition required by section 30-1-1506, Idaho Code, by delivering to the secretary of state for filing an application:

(a) Setting forth its corporate name, or its corporate name with any addition required by section 30-1-1506, Idaho Code, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) Accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.

(3) The name is registered for the applicant's exclusive use upon the effective date of the application.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application when filed renews the registration for the following calendar year.

(5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

SECTION 3. That Section 30-3-27, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-27. CORPORATE NAME. The corporate name:

(1) Shall contain the word "corporation," "company," "incorporated" or "limited," or shall contain an abbreviation of one

(1) of such words; provided however, that if the word "company" or its abbreviation is used, it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the word "and."

(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one (1) or more of the purposes contained in its articles of incorporation.

(3) Shall ~~not be the same as, or deceptively similar to,~~ be distinguishable on the records of the secretary of state from the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this act, or the name of a corporation which has, in effect, a registration of its corporate name as provided in this act, except that this provision shall not apply if the applicant files with the secretary of state either of the following:

(a) The written consent of such other corporation or holder of a reserved or registered name to use the ~~same or deceptively similar~~ name which is not distinguishable on the records of the secretary of state, and one (1) or more words are added to make such name distinguishable from such other 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 such name in this state.

A corporation with which another corporation, domestic or foreign, is merged, or which is formed by the reorganization or consolidation of one (1) or more domestic or foreign corporations or upon a sale, lease or other disposition to or exchange with, a domestic corporation of all or substantially all the assets of another corporation, domestic or foreign, including its name, may have the same name as that used in this state by any of such corporations if such other corporation was organized under the laws of, or is authorized to transact business in, this state.

Nothing in this section shall abrogate or limit the law as to unfair competition or unfair practice in the use of trade names, nor derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect trade names.

The assumption of a name in violation of the provisions of this section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation in violation from doing business under any name assumed in violation of the provisions of this section.

SECTION 4. That Section 30-3-29, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-29. REGISTERED NAME. Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this act, provided its corporate name is ~~not the same as, or deceptively similar to,~~ distinguishable on the records of the secretary of state from the name of any domestic corpo-

ration existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this act.

Such registration shall be made by filing with the secretary of state:

(1) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged; and

(2) A certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations; and

(3) Paying to the secretary of state a registration fee in the amount of ten dollars ($10.00).

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

SECTION 5. 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 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,~~ Must be distinguishable on the records of the secretary of state from 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," "L.C." and "LC".

SECTION 6. 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.," "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~~ must be distinguishable on the records of the secretary of state from:

(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.

Approved March 23, 1999.

CHAPTER 213
(H.B. No. 226)

AN ACT

RELATING TO FORMS OF ACKNOWLEDGMENT; AMENDING SECTION 55-707, IDAHO CODE, TO PROVIDE REQUISITES FOR ACKNOWLEDGMENT OF INSTRUMENTS EXECUTED BY A LIMITED LIABILITY COMPANY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 7, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-707A, IDAHO CODE, TO PROVIDE REQUISITES FOR ACKNOWLEDGMENT OF INSTRUMENTS EXECUTED ON BEHALF OF AN ENTITY BY ANOTHER ENTITY ACTING THROUGH ITS AUTHORIZED REPRESENTATIVE; AMENDING CHAPTER 7, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-711A, IDAHO CODE, TO PROVIDE A FORM OF CERTIFICATE OF ACKNOWLEDGMENT FOR LIMITED LIABILITY COMPANIES; AMENDING SECTION 55-805, IDAHO CODE, TO SPECIFY THE ACKNOWLEDGMENT NECESSARY TO AUTHORIZE RECORDING OF AN INSTRUMENT EXECUTED BY A LIMITED LIABILITY COMPANY AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR APPLICATION OF THE ACT.

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

SECTION 1. That Section 55-707, Idaho Code, be, and the same is hereby amended to read as follows:

55-707. REQUISITES OF ACKNOWLEDGMENT. The acknowledgment of an instrument must not be taken, unless the officer taking it knows, or

has satisfactory evidence from a credible source, that the person making such acknowledgment is the individual who is described in, and who executed, the instrument; or, if executed by a corporation, that the person making such acknowledgment is the president or ~~vice-president~~ vice president or secretary or assistant secretary of such corporation; or other person who executed on its behalf; or if executed in the name of the state of Idaho or that of any county, political subdivision, municipal or quasi-municipal or public corporation, that the person making such acknowledgment is one (1) of its officers executing the same; or if executed in a partnership name, that the person making the acknowledgment is the partner or one (1) of the partners subscribing the partnership name to such instrument; or, if executed by a limited liability company, that the person making such acknowledgment is a manager or member of such limited liability company or other person who executed on its behalf.

SECTION 2. That Chapter 7, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-707A, Idaho Code, and to read as follows:

55-707A. ACKNOWLEDGMENT BY ENTITY ON BEHALF OF ANOTHER ENTITY. (1) As used in this section:

(a) A corporation, partnership, limited liability company, trust or other legal entity which is the party executing an instrument and the party, or one (1) of the parties, to be bound thereby shall be referred to as the "maker" of the instrument;

(b) A corporation, partnership, limited liability company, trust or other legal entity which is a partner, manager, member, trustee or other authorized representative of the maker shall be referred to as the "constituent entity" of the maker;

(c) The natural person who signs the written instrument as an officer, partner, manager, member, trustee or other authorized representative of the constituent entity shall be referred to as the "signer"; and

(d) An acknowledgment of an instrument executed by a maker acting through a constituent entity shall be referred to as a "compound acknowledgment."

(2) A compound acknowledgment of an instrument shall be made in a form which substantially conforms to the statutory form of acknowledgment for an entity of the same legal form as either the maker or the constituent entity; provided however, that any acknowledgment which satisfies the requirements of subsection (3) of this section shall suffice.

(3) A compound acknowledgment shall:

(a) Identify the signer;

(b) State the signer's official title, capacity or authority to sign on behalf of the constituent entity, or recite that the signer is authorized to sign on behalf of the constituent entity;

(c) Identify the constituent entity or constituent entities;

(d) Recite the constituent entity's official title, capacity or authority to act on behalf of the maker, or the relationship of the constituent entity to the maker, or the position the constitu-

ent entity holds in or with the maker, or that the constituent entity is authorized to act on behalf of the maker; and

(e) Identify the maker.

(4) As an example only, a compound acknowledgment for a maker which is a partnership, acting through a constituent entity which is a corporation, may take the following form:

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

On this ..... day of ....., ..., before me, ..., a Notary Public in and for said State, personally appeared .....(signer)....., known or identified to me (or proved to me on the oath of .....) to be the .....(officer title)..... of .....(constituent entity)..... a ..... corporation, one of the partners in the partnership of .....(maker)....., a ..... partnership, and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the within instrument on behalf of said corporation, and that such corporation executed the same in said partnership name.

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

.....
Notary Public for .....
Residing at .....
My commission expires .....

SECTION 3. That Chapter 7, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known an designated as Section 55-711A, Idaho Code, and to read as follows:

55-711A. FORM OF CERTIFICATE -- ACKNOWLEDGMENT BY LIMITED LIABILITY COMPANY. The certificate of acknowledgment of an instrument executed by a limited liability company must be substantially in the following form:

State of Idaho, county of ....., ss.

On this ..... day of ....., in the year ...., before me (here insert the name and quality of the officer), personally appeared ....., known or identified to me (or proved to me on the oath of .....), to be the manager or a member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

SECTION 4. That Section 55-805, Idaho Code, be, and the same is hereby amended to read as follows:

55-805. ACKNOWLEDGMENT NECESSARY TO AUTHORIZE RECORDING. Before an instrument may be recorded, unless it is otherwise expressly provided, its execution must be acknowledged by the person executing it, or if executed by a corporation, by its president or ~~vice-president~~ vice president, or secretary or assistant secretary, or other person executing the same on behalf of the corporation, or if executed in the name of the state of Idaho or any county, political subdivision, municipal, quasi-municipal, or public corporation, by one (1) or more of the officers of such state, county, political subdivision, municipal, quasi-municipal, or public corporation executing the same, or if executed in a partnership name, by one (1) or more of the partners who subscribed the partnership name thereto, or if executed by a limited liability company, by the manager, member or other person executing the same on behalf of the limited liability company, or the execution must be proved and the acknowledgment or proof, certified in substantially the manner prescribed by chapter 7, ~~of this~~ title 55, Idaho Code; provided, that if such instrument shall have been executed and acknowledged in any other state or territory of the United States, or in any foreign country, according to the laws of the state, territory or country wherein such acknowledgment was taken, the same shall be entitled to record, and a certificate of acknowledgment indorsed upon or attached to any such instrument purporting to have been made in any such state, territory or foreign country, shall be prima facie sufficient to entitle the same to such record.

SECTION 5. This act shall be in full force and effect on and after July 1, 1999. Nothing in this act shall be construed to apply to or invalidate any acknowledgments made prior to such effective date, or to apply to or invalidate the recordation or attempted recordation of any instrument acknowledged prior to such effective date, whether such attempt or recordation occurred or occurs before or after such effective date.

Approved March 23, 1999.

CHAPTER 214
(H.B. No. 229)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-212, IDAHO CODE, TO PROVIDE THAT THE EMPLOYER'S GRANDCHILD OR SPOUSE OF A GRANDCHILD MAY ELECT TO BE EXEMPT FROM COVERAGE.

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

SECTION 1. That Section 72-212, Idaho Code, be, and the same is hereby amended to read as follows:

72-212. EXEMPTIONS FROM COVERAGE. None of the provisions of this law shall apply to the following employments unless coverage thereof is elected as provided in section 72-213, Idaho Code.

(1) Household domestic service.

(2) Casual employment.

(3) Employment of outworkers.

(4) Employment of members of an employer's family dwelling in his household.

(5) Employment of members of an employer's family not dwelling in his household if the employer is the owner of a sole proprietorship, provided the family member has filed with the commission a written declaration of his election for exemption from coverage. For the purposes of this subsection, "member of an employer's family" means a natural person or the spouse of a natural person who is related to the employer by blood, adoption or marriage within the first degree of consanguinity <u>or a grandchild or the spouse of a grandchild.</u>

(6) Employment which is not carried on by the employer for the sake of pecuniary gain.

(7) Employment as the owner of a sole proprietorship; employment of a working member of a partnership or a limited liability company; employment of an officer of a corporation who at all times during the period involved owns not less than ten percent (10%) of all of the issued and outstanding voting stock of the corporation and, if the corporation has directors, is also a director thereof.

(8) Employment for which a rule of liability for injury, occupational disease, or death is provided by the laws of the United States.

(9) Pilots of agricultural spraying or dusting planes. Employment as a pilot of an aircraft, used to apply fertilizers and pesticides to agricultural crops, when actually operating an aircraft, shall be exempt from the provisions of the worker's compensation law, if: the employer files with, and has written approval by, the industrial commission, prior to employing a pilot for the purpose of engaging in the application of pesticides to agricultural crops by aircraft, proof of coverage of an insurance policy that will provide to the employed pilot of such aircraft while actually operating an aircraft, benefits in an amount of not less than: twenty-five thousand dollars ($25,000) accidental death and dismemberment, ten thousand dollars ($10,000) medical expense payments, and five hundred dollars ($500) per month disability income for a minimum of forty-eight (48) months.

(10) Associate real estate brokers and real estate salesmen. Service performed by an individual for a real estate broker as an associate real estate broker or as a real estate salesman, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(11) Volunteer ski patrollers.

(12) Officials of athletic contests involving secondary schools, as defined in section 33-119, Idaho Code.

Approved March 23, 1999.

CHAPTER 215
(H.B. No. 238, As Amended)

AN ACT

RELATING TO THE PURCHASE AND SALE OF COUNTY PROPERTY; AMENDING SECTION 31-807, IDAHO CODE, TO PROVIDE FOR THE USE OF A LICENSED APPRAISER AND TO PROVIDE WHEN AN APPRAISAL SHALL NOT BE REQUIRED; REPEALING SECTIONS 31-808, 31-808A, 31-808B, 31-834 AND 31-835, IDAHO CODE; AND AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-808, IDAHO CODE, TO PROVIDE FOR A PROCESS FOR THE SALE OF COUNTY PROPERTY INCLUDING PROPERTY ACQUIRED BY TAX DEED.

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

SECTION 1. That Section 31-807, Idaho Code, be, and the same is hereby amended to read as follows:

31-807. MANAGEMENT OF COUNTY PROPERTY. A board of county commissioners shall have the power and authority t~~T~~o purchase, receive by donation, or lease any real or personal property necessary for the use of the county; preserve, take care of, manage and control the county property, but no purchase of real property must be made unless the value of the same has been previously estimated by ~~three (3) disinterested citizens of the county, appointed by them for that purpose~~ a real estate appraiser licensed to appraise real property in the state of Idaho pursuant to the provisions of chapter 41, title 54, Idaho Code, and no more than the appraised value must be paid therefor. However, if the county assessor determines that the value of the real property is five thousand dollars ($5,000) or less, then the appraisal provided in this section shall not be required.

SECTION 2. That Sections 31-808, 31-808A, 31-808B, 31-834 and 31-835, Idaho Code, be, and the same are hereby repealed.

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 31-808, Idaho Code, and to read as follows:

31-808. SALE OF COUNTY PROPERTY -- GENERAL PROCEDURE -- SALE OF PROPERTY ACQUIRED THROUGH TAX DEED -- PROCEDURE AFTER ATTEMPTED AUCTION ~~EX~~CHANGE OF COUNTY PROPERTY -- SALE OF CERTAIN ODD-LOT PROPERTY -- SALE, EXCHANGE OR DONATION OF PROPERTY TO OTHER UNITS OF GOVERNMENT. (1) A board of county commissioners shall have the power and authority to sell or offer for sale at public auction any real or personal property belonging to the county not necessary for its use. However, personal property not exceeding two hundred fifty dollars ($250) in value may be sold at private sale without notice or public auction. Prior to offering the property for sale, the board of county commissioners shall advertise notice of the auction in a newspaper, as defined in section 60-106, Idaho Code, either published in the county or having a general circulation in the county, not less than ten (10)

calendar days prior to the auction. If the property to be sold is real property, the notice to be published shall contain the legal description as well as the street address of the property. If the property is outside the corporate limits of a city and does not have a street address, then the description shall also contain the distance and direction of the location of the real property from the closest city. If the property to be sold is acquired by tax deed, the notice required to be published shall include, next to the description of the property, the name of the taxpayer as it appears in the delinquent tax certificate upon which the tax deed was issued. The property shall be sold to the highest bidder. However, the board of county commissioners may reserve the right to reject any and all bids and shall have discretionary authority to reject or accept any bid which may be made for an amount less than the total amount of all delinquent taxes, late charges, costs and interest which may have accrued against any property so offered for sale, including the amount specified in the tax deed to the county.

(2) Proceeds from the sale of county property not acquired by tax deed shall be paid into the county treasury for the general use of the county. If the property to be sold has been acquired by tax deed, pursuant to the provisions of chapter 10, title 63, Idaho Code, the proceeds from the sale, after reimbursement to the county for the cost of advertising and sale, shall be apportioned to the taxing districts in which the property is situated according to the levy applied to the year of delinquency upon which the tax deed was issued to the county.

(3) Any property sold may be carried on a recorded contract with the county for a term not to exceed ten (10) years and at an interest rate not to exceed the rate of interest specified in section 28-22-104(1), Idaho Code. The board of county commissioners shall have the authority to cancel any contract if the purchaser fails to comply with any of the terms of the contract and the county shall retain all payments made on the contract. The title to all property sold on contract shall be retained in the name of the county until full payment has been made by the purchaser. However, the purchaser shall be responsible for payment of all property taxes during the period of the contract.

(4) Any sale of property by the county shall vest in the purchaser all of the right, title and interest of the county in the property, including all delinquent taxes which have become a lien on the property since the date of issue of the tax deed, if any.

(5) In addition to the purchase price, a purchaser of county property, including property acquired by tax deed, shall pay all fees required by law for the transfer of property. No deed for any real estate purchased pursuant to the provisions of this section shall be delivered to a purchaser until such deed has been recorded in the county making the sale.

(6) Should the county be unable to sell at a public auction any real or personal property belonging to the county, including property acquired by tax deed, it may sell the property without further notice by public or private sale upon such terms and conditions as the county deems necessary. Distribution of the proceeds of sale shall be as set forth in subsection (2) of this section.

(7) The board of county commissioners may at its discretion, when

in the county's best interest, exchange and do all things necessary to exchange any of the real property now or hereafter held and owned by the county for real property of equal value, public or private, to consolidate county real property or aid the county in the control and management or use of county real property.

(8) The board of county commissioners may, by resolution, declare certain parcels of real property as odd-lot property, all or portions of which are not needed for public purposes and are excess to the needs of the county. For purposes of this subsection, odd-lot property is defined as that property that has an irregular shape or is a remnant and has value primarily to an adjoining property owner. Odd-lot property may be sold to an adjacent property owner for fair market value that is estimated by a land appraiser licensed to appraise property in the state of Idaho. If, after thirty (30) days' written notice, an adjoining property owner or owners do not desire to purchase the odd-lot property, the board of county commissioners may sell the property to any other interested party for not less than the appraised value. When a sale of odd-lot property is agreed to, a public advertisement of the pending sale shall be published in one (1) edition of the newspaper as defined in subsection (1) of this section, and the public shall have fifteen (15) days to object to the sale in writing. The board of county commissioners shall make the final determination regarding the sale of odd-lot property in an open meeting.

(9) In addition to any other powers granted by law, the board of county commissioners may at their discretion, grant to or exchange with the federal government, the state of Idaho, any political subdivision or taxing district of the state of Idaho or any local historical society which is incorporated as an Idaho nonprofit corporation which operates primarily in the county or maintains a museum in the county, with or without compensation, any real or personal property or any interest in such property owned by the county or acquired by tax deed, after adoption of a resolution by the board of county commissioners that the grant or exchange of property is in the public interest. Notice of such grant or exchange shall be as provided in subsection (1) of this section and the decision may be made at any regularly or specially scheduled meeting of the board of county commissioners. The execution and delivery by the county of the deed conveying an interest in the property shall operate to discharge and cancel all levies, liens and taxes made or created for the benefit of the state, county or any other political subdivision or taxing district and to cancel all titles or claims of title including claims of redemption to such real property asserted or existing at the time of such conveyance. However, if the property conveyed is subject to a lien for one (1) or more unsatisfied special assessments, the lien shall continue until all special assessments have been paid in full. At no time shall a lien for a special assessment be extinguished prior to such special assessment having been paid in full. Any property conveyed to any local historical society by the county shall revert to the county when the property is no longer utilized for the purposes for which it was conveyed.

(10) A highway district or single countywide highway district shall follow the provisions of this section when selling real or personal property belonging to it, but not necessary for its use. The proceeds from such sale shall be paid to the highway district or single countywide highway district for its use.

Approved March 23, 1999.

CHAPTER 216
(H.B. No. 239)

AN ACT

RELATING TO CITY WATER, LIGHT, POWER AND GAS PLANTS; AMENDING SECTION 50-326, IDAHO CODE, TO PROVIDE THAT A CITY OWNING ITS OWN WATER, ELECTRIC POWER, OR NATURAL GAS PLANTS OR SYSTEMS MAY LEASE SUCH PLANTS OR SYSTEMS WITH THE OPTION TO SELL SAME AND TO REQUIRE VOTER APPROVAL.

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

SECTION 1. That Section 50-326, Idaho Code, be, and the same is hereby amended to read as follows:

50-326. WATER, LIGHT, POWER AND GAS PLANTS -- LEASING -- SELLING -- PROCEDURE. Whenever any city in this state shall own its own water plant, water system, electric power plant or electric light and power transmission and electric distribution system or natural gas distribution system, the city council of such city may lease and sell such systems, provided, however, that before doing so, the question of leasing or selling such property shall be submitted to the qualified electors who pay taxes on real property within said city, at a special election held for that purpose, and if a majority of the votes cast at such election are in favor of leasing or selling such property, the city council may then lease or sell the same; but in case the majority of the votes cast at such special election shall be against the leasing or selling of such property, the city council shall have no power to lease or sell the same. The election to be called shall be held only after notice thereof has been published at least once a week for two (2) consecutive weeks, before the election, in the official newspaper of said city. Notice of such special election shall also be posted by the city clerk in three (3) public places in such city, at least ten (10) days before such special election. A city council may enter into agreements pursuant to this section to lease with the option to sell any plant or system described in this section. A city council may only terminate such lease/option to sell agreements during the term of the agreement for default by the entity leasing such plant or system. Such lease/option to sell agreements are subject to the voter approval requirements of this section.

Approved March 23, 1999.

CHAPTER 217
(H.B. No. 263)

AN ACT
RELATING TO LATERAL DITCH WATER USERS' ASSOCIATIONS; AMENDING CHAPTER 13, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1308, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO APPOINT A LATERAL MANAGER IF THE WATER USERS OR BOARD OF DIRECTORS OF THE ASSOCIATION FAIL TO ELECT A LATERAL MANAGER.

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

SECTION 1. That Chapter 13, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1308, Idaho Code, and to read as follows:

42-1308. APPOINTMENT OF LATERAL MANAGER BY DIRECTOR OF DEPARTMENT OF WATER RESOURCES. (1) In the event that the water users or the board of directors of any lateral or ditch association do not meet and elect a lateral manager as provided for in this chapter or a lateral manager is not selected as otherwise provided by law, then, the director of the department of water resources may appoint and fix the compensation of a lateral manager, upon the written petition of a water user alleging that water is not being apportioned and distributed properly among the users from the ditch or lateral and that the rights of the water user are being injured thereby.

(2) If the water users also have failed to elect association officers, the lateral manager appointed by the director may exercise the duties of the association officers, including the making and collection of assessments, but not the borrowing of money, as is necessary to achieve the proper allocation and distribution of water from the ditch or lateral and without regard to the statutory dates for the performance of these duties.

(3) The lateral manager appointed by the director shall hold office only for the period of time fixed by the order of appointment and in no event beyond the remainder of the year in which appointed.

(4) If the lateral is located within a water district established pursuant to chapter 6, title 42, Idaho Code, the director shall advise the district watermaster of the receipt of the petition and invite the watermaster to make recommendations concerning the need for appointment of a lateral manager and the person to be appointed.

(5) Upon receipt of a petition filed pursuant to subsection (1) of this section, the director shall make a reasonable effort to provide written notice of the petition to any irrigation district, canal company, or other water distribution entity that supplies water to the lateral, and to all persons having rights to the use of water from the lateral. Except in the case of serious threat of imminent injury to person or property, the director shall allow fourteen (14) days for written response to the petition.

(6) Based upon a review of the petition, the responses thereto,

the recommendations of the watermaster, if any, and any investigation by the department of water resources, the director shall issue an order with findings either appointing a lateral manager or declining to appoint a lateral manager. Any person aggrieved by the order of the director shall be entitled to request a hearing before the director pursuant to section 42-1701A, Idaho Code.

Approved March 23, 1999.

CHAPTER 218
(H.B. No. 264)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2744, IDAHO CODE, TO CLARIFY THE AUTHORITY OF THE APPROPRIATE PROSECUTING ATTORNEY TO INSTITUTE PROCEEDINGS TO FORFEIT SEIZED PROPERTY AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744. FORFEITURES. (a) The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, acquired, possessed or held in violation of this act or with respect to which there has been any act by any person in violation of this act;

(2) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances or counterfeit substances in violation of this act;

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2) hereof;

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, delivery, receipt, possession or concealment, for the purpose of distribution or receipt of property described in paragraph (1) or (2) hereof, but:

(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act;

(B) No conveyance is subject to forfeiture under this section if the owner establishes that he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsec-

tion (a)(4) of this section;

(C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the security interest was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged.

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act.

(6) (A) All moneys, currency, negotiable instruments, securities or other items easily liquidated for cash, such as, but not limited to, jewelry, stocks and bonds, or other property described in paragraphs (2) and (3) hereof, found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section or which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession of property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section;

(B) Items described in paragraph (6)(A) above or other things of value furnished or intended to be furnished by any person in exchange for a contraband controlled substance in violation of this chapter, all proceeds, including items of property traceable to such an exchange, and all moneys or other things of value used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All drug paraphernalia as defined by section 37-2701, Idaho Code.

(8) All simulated controlled substances, which are used or intended for use in violation of this chapter.

(9) All weapons, or firearms, which are used in any manner to facilitate a violation of the provisions of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by the director, or any peace officer of this state, upon process issued by any district court, or magistrate's division thereof, having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal racketeering or civil forfeiture proceeding based upon a violation of this chapter;

(3) Probable cause exists to believe that the property is directly or indirectly dangerous to health or safety; or

(4) Probable cause exists to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted promptly.

(1) When property is seized under this section, the director or the peace officer who seized the property may:

(A) Place the property under seal;

(B) Remove the property to a place designated by it; or

(C) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) The peace officer who seized the property shall within five (5) days notify the director of such seizure.

(3) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted within thirty (30) days by the director <u>or appropriate prosecuting attorney.</u>

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the director, or appropriate prosecuting attorney, subject only to the orders and decrees of the district court, or magistrate's division thereof, having jurisdiction over the forfeiture proceedings. Forfeiture proceedings shall be civil actions against the property subject to forfeiture and the standard of proof shall be preponderance of the evidence.

(1) All property described in paragraphs (1), (7) and (8) of subsection (a) hereof shall be deemed contraband and shall be summarily forfeited to the state. Controlled substances which are seized or come into possession of the state, the owners of which are unknown, shall be deemed contraband and shall be summarily forfeited to the state.

(2) When property described in paragraphs (2), (3), (4), (5) and (6) of subsection (a) hereof is seized pursuant to this section, forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such property is seized. The procedure governing such proceedings shall be the same as that prescribed for civil proceedings by the Idaho Rules of Civil Procedure. The court shall order the property forfeited to the director, or appropriate prosecuting attorney, if he determines that such property was used, or intended for use, in violation of this chapter, or, in the case of items described in paragraph (6)(A) of subsection (a), was found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section.

(3) When conveyances, including aircraft, vehicles, or vessels are seized pursuant to this section a complaint instituting forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such conveyance is seized.

(A) Notice of forfeiture proceedings shall be given each owner or party in interest who has a right, title, or interest which in the case of a conveyance shall be determined by the record in the Idaho transportation department or a similar department of another state if the records are maintained in that state, by serving a copy of the complaint and summons

according to one (1) of the following methods:

(I) Upon each owner or party in interest by mailing a copy of the complaint and summons by certified mail to the address as given upon the records of the appropriate department.

(II) Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last-known address.

(B) Within twenty (20) days after the mailing or publication of the notice, the owner of the conveyance or claimant may file a verified answer and claim to the property described in the complaint instituting forfeiture proceedings.

(C) If at the end of twenty (20) days after the notice has been mailed there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use, or intent to use, and shall order the property forfeited to the director, or appropriate prosecuting attorney, if such fact is proved.

(D) If a verified answer is filed, the forfeiture proceeding shall be set for hearing before the court without a jury on a day not less than thirty (30) days therefrom; and the proceeding shall have priority over other civil cases.

(I) At the hearing any owner who has a verified answer on file may show by competent evidence that the conveyance was not used or intended to be used in any manner described in subsection (a)(4) of this section.

(II) At the hearing any owner who has a verified answer on file may show by competent evidence that his interest in the conveyance is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a)(4) of this section.

(III) If the court finds that the property was not used or was not intended to be used in violation of this act, or is not subject to forfeiture under this act, the court shall order the property released to the owner as his right, title, or interest appears on records in the appropriate department as of the seizure.

(IV) An owner, co-owner or claimant of any right, title, or interest in the conveyance may prove that his right, title, or interest, whether under a lien, mortgage, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged;

(i) In the event of such proof, the court shall order the conveyance released to the bona fide or innocent owner, purchaser, lienholder, mortgagee, or conditional sales vendor. The court may order payment of all costs incurred by the state or law

enforcement agency as a result of such seizure.

(ii) If the amount due to such person is less than the value of the conveyance, the conveyance may be sold at public auction by the director or appropriate prosecuting attorney. The director, or appropriate prosecuting attorney, shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the conveyance. The proceeds from such sale shall be distributed as follows in the order indicated;

1. To the bona fide or innocent owner, purchaser, conditional sales vendor, lienholder or mortgagee of the conveyance, if any, up to the value of his interest in the conveyance.

2. The balance, if any, in the following order:

A. To the director, or appropriate prosecuting attorney, for all expenditures made or incurred by it in connection with the sale, including expenditure for any necessary repairs, storage, or transportation of the conveyance, and for all expenditures made or incurred by him in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

B. To the law enforcement agency of this state which seized the conveyance for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any conveyance seized under this act.

C. The remainder, if any, to the director for credit to the drug enforcement donation account or to the appropriate prosecuting attorney for credit to the local drug enforcement donation account, or its equivalent.

(iii) In any case, the director, or appropriate prosecuting attorney, may, within thirty (30) days after judgment, pay the balance due to the bona fide lienholder, mortgagee or conditional sales vendor and thereby purchase the conveyance for use to enforce this act.

(e) When property is forfeited under this section, or is received from a federal enforcement agency, the director, or appropriate prosecuting attorney, may:

(1) Retain it for official use;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public.

The director, or appropriate prosecuting attorney, shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the property. The proceeds from such sale shall be distributed as follows in the order indicated:

(A) To the director, or prosecuting attorney on behalf of the county or city law enforcement agency, for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs, maintenance, storage or transportation, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited~~,~~ to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

(B) To the law enforcement agency of this state which seized the property for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under this act.

(C) The remainder, if any, to the director for credit to the drug enforcement donation account or to the appropriate prosecuting attorney for credit to the local agency's drug enforcement donation account.

(3) Take custody of the property and remove it for disposition in accordance with law; or

(f) (1) The director or any peace officer of this state seizing any of the property described in paragraphs (1) and (2) of subsection (a) of this section shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency. After all legal actions have been exhausted with respect to such property, the property shall be surrendered by the court, law enforcement agency, or person having custody of the same to the director to be destroyed pursuant to paragraph (2) hereof. The property shall be accompanied with a written inventory on forms furnished by the director.

(2) All property described in paragraphs (1) and (2) of subsection (a) which is seized or surrendered under the provisions of this act may be destroyed after all legal actions have been exhausted. The destruction shall be done under the supervision of the supervisory drug analyst of the department of law enforcement, a representative of the office of the director and a representative of the state board of pharmacy. An official record listing the property destroyed and the location of destruction shall be kept on file at the office of the director. Except, however, that the director of the department of law enforcement or his designee may authorize the destruction of drug or nondrug evidence, or store those items at government expense when, in the opinion of the director or his designee, it is not reasonable to remove or transport such items from the location of the seizure for destruc-

tion. In such case, a representative sample will be removed and preserved for evidentiary purposes and, when practicable, destroyed as otherwise is in accordance with this chapter. On-site destruction of such items shall be witnessed by at least two (2) persons, one (1) of whom shall be the director or his designee who shall make a record of the destruction.

(g) Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(h) The failure, upon demand by the director, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(i) The director shall have the authority to enter upon any land or into any dwelling pursuant to a search warrant, to cut, harvest, carry off or destroy such plants described in subsection (g) hereof.

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

Approved March 23, 1999.

CHAPTER 219
(H.B. No. 271)

AN ACT

RELATING TO CRIMINAL HISTORY CHECKS OF TEACHERS; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE THAT A SUBSTITUTE TEACHER WHO HAS UNDERGONE A CRIMINAL HISTORY CHECK AT THE REQUEST OF ONE SCHOOL DISTRICT WITHIN THE PREVIOUS THREE YEARS SHALL NOT BE REQUIRED TO UNDERGO ANOTHER CRIMINAL HISTORY CHECK IF EMPLOYED AS A SUBSTITUTE IN ANOTHER DISTRICT AND TO PROVIDE THAT IF A DISTRICT NEXT EMPLOYING THE TEACHER STILL ELECTS TO REQUIRE A CRIMINAL HISTORY CHECK WITHIN THE THREE YEAR PERIOD THE DISTRICT SHALL BE REQUIRED TO PAY THE COST THEREOF OR REIMBURSE THE TEACHER FOR SUCH COST AND TO CORRECT A CODE CITATION.

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

SECTION 1. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994.

15. To require that all persons hired for the first time by the district or who have been in the employ of the district five (5) years or less, undergo a criminal history check as provided in section 33-130, Idaho Code. All such employees who are required to undergo a criminal history check shall obtain the history check within three (3) months of starting employment, or for employees with five (5) years or less with the district, within three (3) months from the date such employee is notified that he must undergo a criminal history check.

Such employees shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. The district may require any or all persons who have been employed continuously with the same district for more than five (5) years, to undergo a criminal history check as provided in section 33-130, Idaho Code. If the district elects to require criminal history checks of such employees, the district shall pay the costs of the criminal history check or reimburse employees for such cost. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous three (3) years. If the district next employing the substitute still elects to require another criminal history check within the three (3) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost.

16. Each board of trustees of a school district shall be responsible for developing a system for registering volunteers or contractors consistent with maintaining a safe environment for their students.

Approved March 23, 1999.

CHAPTER 220
(H.B. No. 283)

AN ACT

RELATING TO SALES AND USE TAXES; AMENDING SECTION 63-3622I, IDAHO CODE, TO FURTHER DEFINE LITERATURE.

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

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

63-3622I. LITERATURE. (1) There is exempted from the taxes imposed by this chapter the sale or purchase, or the storage, use or other consumption of literature, pamphlets, periodicals, tracts and books published and sold by an entity qualified under section 501(c)(3) of the internal revenue code; no part of the net earnings of which inures to the benefit of a private individual or shareholder.

(2) As used in this section, "literature" includes information available in alternative forms, including audio-visual and magnetic, optical or other machine-readable media.

Approved March 23, 1999.

CHAPTER 221
(H.B. No. 288)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-702A, IDAHO CODE, TO INCREASE THE WRITE-IN CANDIDATE FILING DEADLINE FOR A PRIMARY OR GENERAL ELECTION TO FOURTEEN DAYS BEFORE SUCH ELECTION.

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

SECTION 1. That Section 34-702A, Idaho Code, be, and the same is hereby amended to read as follows:

34-702A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATES. No write-in vote for any office in a primary, special, or general election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of said office if elected. The declaration of intent shall be filed with the secretary of state if for a federal, state, or legislative district office and with the county clerk if for a county office. Such declaration of intent shall be filed not later than ~~eleven~~ fourteen (1~~1~~4) days before the day of election. The secretary of state shall prescribe the form for said declaration.

Approved March 23, 1999.

CHAPTER 222
(H.B. No. 289)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-714, IDAHO CODE, TO PROVIDE THE TIME WITHIN WHICH A COUNTY, LEGISLATIVE DISTRICT OR STATE CENTRAL COMMITTEE SHALL FILL A VACANCY IN THE SLATE OF CANDIDATES OCCURRING MORE THAN TEN DAYS BEFORE THE PRIMARY ELECTION; AMENDING SECTION 34-715, IDAHO CODE, TO PROVIDE THE TIME WITHIN WHICH A COUNTY, LEGISLATIVE DISTRICT OR STATE CENTRAL COMMITTEE SHALL FILL A VACANCY IN THE SLATE OF CANDIDATES OCCURRING LESS THAN TEN DAYS BEFORE THE PRIMARY ELECTION OR AFTER THE PRIMARY ELECTION; AND AMENDING SECTION 34-717, IDAHO CODE, TO PROVIDE THAT THE FILING OFFICER SHALL NOTIFY THE PROPER CENTRAL COMMITTEE UPON THE FILING OF A STATEMENT OF WITHDRAWAL, TO PROHIBIT WITHDRAWAL LATER THAN FORTY-FIVE DAYS BEFORE AN ELECTION OR, IF A GENERAL ELECTION, LATER THAN SEPTEMBER 7.

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

SECTION 1. That Section 34-714, Idaho Code, be, and the same is hereby amended to read as follows:

34-714. FILLING VACANCIES IN SLATE OF POLITICAL PARTY CANDIDATES OCCURRING PRIOR TO PRIMARY ELECTION. (1) Vacancies that occur before

the primary election in the slate of candidates of any political party because of the death, disqualification for any reason, or withdrawal from the nomination process by the candidate, shall be filled in the following manner if only one (1) candidate declared for that particular office:

(a) By the county central committee if the vacancy occurs for the office of precinct committeeman or for a county office.

(b) By the legislative district central committee if the vacancy occurs for the office of state representative or state senator.

(c) By the state central committee if the vacancy occurs for a federal or state office.

The county and legislative district central committee shall fill the vacancy within fifteen (15) days from the date the vacancy occurred. The state central committee shall fill the vacancy within thirty (30) days from the date the vacancy occurred.

Any political party candidate so appointed by the proper central committee must, in order to have his name on the primary ballot, file a declaration of candidacy and pay the required filing fee.

(2) No central committee shall fill any vacancy which occurs within ten (10) days prior to the primary election. Vacancies which occur during this ten (10) day period because of the death, disqualification for any reason, or withdrawal from the nomination process by the candidate shall be filled according to the provisions of section 34-715, Idaho Code.

(3) Vacancies that occur in a slate of candidates for precinct committeeman within ten (10) days prior to the primary election shall not be filled.

SECTION 2. That Section 34-715, Idaho Code, be, and the same is hereby amended to read as follows:

34-715. FILLING OF VACANCIES OCCURRING BEFORE OR AFTER PRIMARY ELECTION. Vacancies that occur during the ten (10) day period before a primary election, or after the primary election but at least ten (10) days before the general election in the slate of candidates of any political party, except candidates for precinct committeeman, shall be filled in the following manner:

(1) By the county central committee if it is a vacancy by a candidate for a county office.

(2) By the legislative district central committee if it is a vacancy by a candidate for the state legislature.

(3) By the state central committee if it is a vacancy by a candidate for a federal or a state office.

The county and legislative district central committee shall fill the vacancy within fifteen (15) days from the date the vacancy occurred. The state central committee shall fill the vacancy within thirty (30) days from the date the vacancy occurred.

Any political party candidate so appointed by the proper central committee must, in order to have his name on the general ballot, file a declaration of candidacy and pay the required filing fee.

Vacancies that occur in a slate of candidates for precinct committeeman within ten (10) days prior to the primary election shall not be filled.

SECTION 3. That Section 34-717, Idaho Code, be, and the same is hereby amended to read as follows:

34-717. WITHDRAWAL OF CANDIDACY. A candidate for nomination or candidate for election to an office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. The filing officer shall immediately notify the proper central committee of the party, if any, of the individual withdrawing. A candidate may not withdraw later than ~~thirty~~ forty-five (~~30~~45) days before an election, except in the case of a general election when the deadline shall be no later than September 7. Filing fees paid by the candidate shall not be refunded.

Any candidate who has filed a statement of withdrawal pursuant to this section shall not be allowed to be appointed to fill a vacancy unless such vacancy occurs because of the death of a previous candidate.

Approved March 23, 1999.

CHAPTER 223
(H.B. No. 320)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2000; 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 Labor the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. WAGE AND HOUR:			
FROM:			
General Fund	$276,900	$152,200	$429,100
Miscellaneous Revenue Fund		10,300	10,300
TOTAL	$276,900	$162,500	$439,400
II. RURAL PARTNERSHIP:			
FROM:			
Federal Grant Fund	$ 80,700	$ 49,500	$130,200
Miscellaneous Revenue Fund		24,000	24,000
Unemployment Penalty and Interest Fund		20,000	20,000
TOTAL	$ 80,700	$ 93,500	$174,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
GRAND TOTAL	$357,600	$256,000	$613,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Labor is authorized no more than seven (7) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 224
(H.B. No. 321)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2000; APPROPRIATING MONEYS FOR LEGISLATIVE TECHNOLOGY; AND REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES FOR LEGISLATIVE TECHNOLOGY.

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

SECTION 1. There is hereby appropriated to the Legislative Council the following amounts, to be expended from the listed funds for the period July 1, 1999, through June 30, 2000:

LEGISLATIVE COUNCIL:

FROM:	
General Fund	$3,710,400
Miscellaneous Revenue Fund	43,400
Professional Services Fund	1,018,900
TOTAL	$4,772,700

SECTION 2. There is hereby appropriated to the Legislative Council for the Legislative Technology Program $100,000 from the General Fund to be expended for the period July 1, 1999, through June 30, 2000.

SECTION 3. There is hereby reappropriated to the Legislative Council for the Legislative Technology Program any unexpended and unencumbered balance of the appropriation made in Section 2 of this act for the period July 1, 1999, through June 30, 2001.

Approved March 23, 1999.

CHAPTER 225
(H.B. No. 327)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho School for the Deaf and the Blind the following amounts, to be expended from the listed funds for the period July 1, 1999, through June 30, 2000:

FROM:

General Fund	$6,372,300
Idaho School for the Deaf and the Blind Income Fund	186,000
Federal Grant Fund	117,000
Miscellaneous Revenue Fund	93,100
TOTAL	$6,768,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho School for the Deaf and the Blind is authorized no more than one hundred twenty and fifty-two hundredths (120.52) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Board of Education for the Idaho School for the Deaf and the Blind, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any funds appropriated by Section 1, Chapter 365, Laws of 1998, to be used for nonrecurring expenditures only for the period July 1, 1999, through June 30, 2000.

SECTION 4. The General Fund 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, 1999, is zero, the reappropriation granted in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, 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 Idaho School for the Deaf and the Blind bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 23, 1999.

CHAPTER 226
(H.B. No. 328)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the State Library Board the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,673,600	$ 686,100	$172,000		$2,531,700
Federal Grant Fund	160,700	200,000	25,000	$606,900	992,600
Miscellaneous Revenue Fund		123,700	25,000	51,000	199,700
TOTAL	$1,834,300	$1,009,800	$222,000	$657,900	$3,724,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Library is authorized no more than forty-five (45) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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.

SECTION 3. There is hereby reappropriated to the State Board of Education for the State Library Board the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 318, Laws of 1998, to be used for nonrecurring expenditures for the period July 1, 1999, through June 30, 2000.

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, 1999, is zero, the reappropriation in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1999, 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 Library Board bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 23, 1999.

CHAPTER 227
(H.B. No. 329)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2000; 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 State Board of Education for the Idaho Educational Public Broadcasting System the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$ 910,700	$654,500	$347,700	$1,912,900
Federal Grant Fund	724,400	64,400		788,800
TOTAL	$1,635,100	$718,900	$347,700	$2,701,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-seven (37) full-time equivalent positions to be funded by the appropriation in Section 1 of this act, at any point during the period July 1, 1999, through June 30, 2000, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 1999.

CHAPTER 228
(H.B. No. 330)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2000; 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 Secretary of State for the Commission on the Arts, the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$269,000	$214,800	$24,000	$405,000	$ 912,800
Federal Grant Fund	191,500	127,500		183,000	502,000
Miscellaneous Revenue Fund		54,500		16,200	70,700
TOTAL	$460,500	$396,800	$24,000	$604,200	$1,485,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission on the Arts is authorized no more than eleven (11) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 229
(H.B. No. 332)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2000; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; 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 Attorney General 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Fund	$ 3,741,100	$ 448,200	$177,600	$ 4,366,900
Federal Grant Fund	87,300	62,700		150,000
Consumer Protection Fund	235,600	85,700		321,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
State Legal Services Fund	7,440,500	167,800	11,700	7,620,000
TOTAL	$11,504,500	$ 764,400	$189,300	$12,458,200
II. SPECIAL LITIGATION:				
FROM:				
General Fund		$2,289,400		$ 2,289,400
GRAND TOTAL	$11,504,500	$3,053,800	$189,300	$14,747,600

SECTION 2. It is legislative intent that an amount, not to exceed $1,000, of the amount appropriated in Section 1 of this act, may be used at the discretion of the Attorney General to assist in defraying expenses relating to or resulting from the discharge of the Attorney General's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred seventy-four and nine-tenths (174.9) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 230
(H.B. No. 333)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2000; 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 Juvenile Corrections 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 1,005,900	$ 665,200	$ 15,000		$ 1,686,100
Federal Grant Fund		1,000			1,000
Miscellaneous Revenue Fund	45,500	9,600	4,300		59,400
TOTAL	$ 1,051,400	$ 675,800	$ 19,300		$ 1,746,500
II. FIELD SERVICES:					
FROM:					
General Fund	$ 584,100	$ 114,600	$ 45,000	$ 2,900,900	$ 3,644,600
Juvenile Corrections - Cigarette/Tobacco Tax Fund				4,822,200	4,822,200
Miscellaneous Revenue Fund				100,000	100,000
TOTAL	$ 584,100	$ 114,600	$ 45,000	$ 7,823,100	$ 8,566,800
III. INSTITUTIONS:					
FROM:					
General Fund	$ 9,562,300	$1,139,100	$ 34,600	$14,035,600	$24,771,600
Juvenile Corrections Fund				143,600	143,600
State Juvenile Corrections Center Fund		841,300			841,300
Federal Grant Fund	46,400	231,700		1,400,000	1,678,100
Miscellaneous Revenue Fund		50,000	99,000	1,143,600	1,292,600
TOTAL	$ 9,608,700	$2,262,100	$133,600	$16,722,800	$28,727,200
IV. JUVENILE JUSTICE COMMISSION:					
FROM:					
General Fund	$ 75,100	$ 11,400			$ 86,500
Federal Grant Fund	121,700	593,000		$ 2,325,600	3,040,300
Miscellaneous Revenue Fund				51,300	51,300
TOTAL	$ 196,800	$ 604,400		$ 2,376,900	$ 3,178,100
GRAND TOTAL	$11,441,000	$3,656,900	$197,900	$26,922,800	$42,218,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than two hun-

dred seventy-two and one-half (272.5) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 231
(H.B. No. 334)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 2000; 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 Law Enforcement the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Fund	$ 1,252,400	$ 470,400	$4,500		$ 1,727,300
Idaho Law Enforcement Fund	10,700				10,700
Peace Officers Fund	700				700
Indirect Cost Recovery Fund	60,100				60,100
Miscellaneous Revenue Fund		10,300			10,300
TOTAL	$ 1,323,900	$ 480,700	$4,500		$ 1,809,100
II. POLICE SERVICES:					
FROM:					
General Fund	$ 6,887,700	$ 2,406,300	$ 633,000		$ 9,927,000
Drug Donation Fund		266,800			266,800
Idaho Law Enforcement Telecommunications Fund	191,800	269,900	250,000		711,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	155,900	533,700	25,000		714,600
Miscellaneous Revenue Fund	421,900	938,100	400,000		1,760,000
TOTAL	$ 7,657,300	$ 4,414,800	$1,308,000		$13,380,100
III. IDAHO STATE POLICE:					
FROM:					
General Fund	$ 3,367,600	$ 54,900	$1,767,700		$ 5,190,200
Idaho Law Enforcement Fund	10,324,700	2,863,700	694,000		13,882,400
Hazardous Materials/ Waste Enforcement Fund	119,300	42,200		$ 68,500	230,000
Federal Grant Fund	929,900	1,253,300		3,585,000	5,768,200
Miscellaneous Revenue Fund	60,500	13,100			73,600
TOTAL	$14,802,000	$ 4,227,200	$2,461,700	$3,653,500	$25,144,400
IV. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Fund	$ 339,300	$ 79,300	$ 23,500		$ 442,100
Miscellaneous Revenue Fund		5,000			5,000
TOTAL	$ 339,300	$ 84,300	$ 23,500		$ 447,100
V. PEACE OFFICER STANDARDS AND TRAINING ACADEMY:					
FROM:					
Peace Officers Fund	$ 629,800	$ 916,300	$ 102,700	$ 88,300	$ 1,737,100
Federal Grant Fund	71,300	476,800		335,000	883,100
Miscellaneous Revenue Fund		5,100			5,100
TOTAL	$ 701,100	$ 1,398,200	$ 102,700	$ 423,300	$ 2,625,300
VI. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 1,845,500	$ 255,100	$ 102,800		$ 2,203,400
VII. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 197,900	$ 349,900			$ 547,800
Pari-mutuel Distributions Fund				$ 367,500	367,500
TOTAL	$ 197,900	$ 349,900		$ 367,500	$ 915,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$26,867,000	$11,210,200	$4,003,200	$4,444,300	$46,524,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Law Enforcement is authorized no more than five hundred eleven and eight-tenths (511.8) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 232
(H.B. No. 337)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 2000; 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 State Liquor Dispensary the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Personnel Costs	$5,899,400
Operating Expenses	2,693,800
Capital Outlay	318,200
TOTAL	$8,911,400
FROM:	
Liquor Control Fund	$8,911,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Liquor Dispensary is authorized no more than one hundred forty-two (142) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 233
(H.B. No. 338)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 2000; 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 expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
Public Employee Retirement System Fund	$1,915,500	$1,100,400	$ 18,100	$3,034,000
II. PORTFOLIO INVESTMENT:				
FROM:				
Public Employee Retirement System Fund	$ 272,700	$ 202,300	$ 7,000	$ 482,000
III. 401(k) ADMINISTRATION:				
FROM:				
PERSI 401(k) Administration Fund		$ 5,100		$ 5,100
GRAND TOTAL	$2,188,200	$1,307,800	$ 25,100	$3,521,100

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 Investment Program as provided in Section 59-1311(3), Idaho Code. Amounts necessary to pay all other investment expenses related to the Portfolio Investment 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, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 234
(H.B. No. 339)

AN ACT

APPROPRIATING MONEYS FOR THE COMMISSION ON AGING FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO DIRECT SERVICES AND UNIFORM EXPENSE CODES.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission on Aging the following amounts, to be expended according to the designated expense classes from the listed funds, for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
COMMISSION ON AGING:				
FROM:				
General Fund	$406,300	$105,500	$3,280,500	$3,792,300
Federal Grant Fund	326,200	111,400	5,120,900	5,558,500
Miscellaneous Revenue Fund		18,700		18,700
TOTAL	$732,500	$235,600	$8,401,400	$9,369,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than thirteen and seventy-four hundredths (13.74) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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.

SECTION 3. It is the intent of the Legislature that all revenues provided the Commission on Aging be spent on direct services to its clients to the maximum extent possible and hold administrative and care coordination costs (uniformly defined) to a minimum. To that end, the Commission on Aging is directed to utilize uniform expense codes among all area agencies that clearly classify each expenditure as

required under Section 67-1903, Idaho Code, and report the same by area agency and total in connection with the commission's year 2000 budget request hearing.

Approved March 23, 1999.

CHAPTER 235
(H.B. No. 340)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2000; 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 Office of the State Appellate Public Defender the following amounts, to be expended for the designated program according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Personnel Costs	$ 678,700
Operating Expenditures	343,900
TOTAL	$1,022,600
FROM:	
General Fund	$1,022,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of the State Appellate Public Defender is authorized no more than eleven (11) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 236
(H.B. No. 341)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2000; AND LIMITING THE NUMBER OF 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 Division of Building Safety in the Department of Self-Governing Agen-

cies not exceed the following amount for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Electrical Fund	$2,230,500	$ 636,600	$188,400	$3,055,500
Building Fund	712,200	157,800	28,400	898,400
Plumbing Fund	1,317,200	493,700	215,800	2,026,700
Manufactured Housing Fund	46,300	15,900		62,200
Federal Grant Fund	105,000	40,400		145,400
Miscellaneous Revenue/ Industrial Safety Fund	490,700	145,300	48,200	684,200
Miscellaneous Revenue/ Logging Fund	233,400	76,100	2,200	311,700
TOTAL	$5,135,300	$1,565,800	$483,000	$7,184,100

SECTION 2. There is hereby appropriated to the Division of Building Safety in the Department of Self-Governing Agencies 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
Electrical Fund	$ 183,100	$ 25,200		$ 208,300
Building Fund	74,700	10,400		85,100
Plumbing Fund	95,600	13,100		108,700
Miscellaneous Revenue/ Industrial Safety Fund	41,600	5,800		47,400
Miscellaneous Revenue/ Logging Fund	20,900	2,900		23,800
TOTAL	$ 415,900	$ 57,400		$ 473,300
II. BUILDING SAFETY:				
FROM:				
Electrical Fund	$2,047,400	$ 611,400	$188,400	$2,847,200
Building Fund	637,500	147,400	28,400	813,300
Plumbing Fund	1,221,600	480,600	215,800	1,918,000
Manufactured Housing Fund	46,300	15,900		62,200
Federal Grant Fund	105,000	40,400		145,400
Miscellaneous Revenue/ Industrial Safety Fund	449,100	139,500	48,200	636,800
Miscellaneous Revenue/ Logging Fund	212,500	73,200	2,200	287,900
TOTAL	$4,719,400	$1,508,400	$483,000	$6,710,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
GRAND TOTAL	$5,135,300	$1,565,800	$483,000	$7,184,100

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Division of Building Safety in the Department of Self-Governing Agencies is authorized no more than one hundred nine (109) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 237
(H.B. No. 342)

AN ACT
APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2000; 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 Industrial Commission 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:					
FROM:					
Industrial Administration Fund	$1,899,700	$1,023,300	$ 75,400	$ 997,100	$ 3,995,500
Federal Grant Fund	2,700	2,300			5,000
Miscellaneous Revenue Fund		20,500			20,500
TOTAL	$1,902,400	$1,046,100	$ 75,400	$ 997,100	$ 4,021,000
II. REHABILITATION:					
FROM:					
Industrial Administration Fund	$2,416,700	$ 624,000	$ 82,400		$ 3,123,100
III. CRIME VICTIMS COMPENSATION:					
FROM:					
Crime Victims Compensation Fund	$ 311,300	$ 119,500	$ 34,200	$2,056,100	$ 2,521,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund				445,800	445,800
TOTAL	$ 311,300	$ 119,500	$ 34,200	$2,501,900	$ 2,966,900
IV. ADJUDICATION:					
FROM:					
Industrial Administration Fund	$1,240,300	$ 403,400	$ 39,200		$ 1,682,900
GRAND TOTAL	$5,870,700	$2,193,000	$231,200	$3,499,000	$11,793,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-six (136) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 238
(H.B. No. 343)

AN ACT
APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR FISCAL YEAR 2000; 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 Self-Governing Agencies 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ATHLETIC COMMISSION:					
FROM:					
State Regulatory Fund	$ 24,500	$ 15,500			$ 40,000
II. BOARD OF PHARMACY:					
FROM:					
State Regulatory Fund	$ 388,800	$ 288,700	$19,200		$ 696,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 207,500	$ 205,000	$ 4,000		$ 416,500
IV. BOARD OF DENTISTRY:					
FROM:					
State Regulatory Fund	$ 131,900	$ 105,600			$ 237,500
V. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 165,800	$ 169,100	$ 9,000		$ 343,900
VI. BOARD OF MEDICINE:					
FROM:					
State Regulatory Fund	$ 512,800	$ 607,200	$67,900		$1,187,900
VII. BOARD OF NURSING:					
FROM:					
State Regulatory Fund	$ 340,100	$ 307,800	$34,400		$ 682,300
VIII. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 690,000	$ 510,500		$ 50,000	$1,250,500
IX. PUBLIC WORKS CONTRACTORS LICENSE BOARD:					
FROM:					
State Regulatory Fund	$ 215,000	$ 97,600	$20,000		$ 332,600
X. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 670,100	$ 291,100	$11,500		$ 972,700
XI. BOARD OF PROFESSIONAL GEOLOGISTS:					
FROM:					
State Regulatory Fund	$ 25,200	$ 16,500			$ 41,700
XII. BOARD OF OPTOMETRY:					
FROM:					
State Regulatory Fund	$ 2,500	$ 23,800			$ 26,300
XIII. CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 10,600	$ 12,300			$ 22,900
XIV. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 225,300	$ 175,400	$ 8,800		$ 409,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
XV. BOARD OF VETERINARY MEDICINE:					
FROM:					
State Regulatory Fund	$ 85,400	$ 88,400			$ 173,800
XVI. COMMISSION ON HISPANIC AFFAIRS:					
FROM:					
General Fund	$ 79,000	$ 28,300			$ 107,300
Federal Grant Fund	54,800	48,800		$15,400	119,000
Miscellaneous Revenue Fund	81,800	57,200			139,000
TOTAL	$ 215,600	$ 134,300		$15,400	$ 365,300
XVII. BOARD OF EXAMINERS:					
FROM:					
General Fund				$ 7,500	$ 7,500
GRAND TOTAL	$3,911,100	$3,048,800	$174,800	$72,900	$7,207,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, each of the programs in the Department of Self-Governing Agencies listed below is authorized no more than the number of full-time equivalent positions shown at any point during the period July 1, 1999, through June 30, 2000, 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.

State Athletic Commission ..... Zero (0)
Board of Pharmacy ..... Eight and seventy-five hundredths (8.75)
Board of Accountancy ..... Five (5)
Board of Dentistry ..... Two (2)
Board of Professional Engineers and Land Surveyors ..... Three (3)
Board of Medicine ..... Twelve (12)
Board of Nursing ..... Eight (8)
Bureau of Occupational Licenses ..... Seventeen (17)
Public Works Contractors State Licensing Board ..... Five (5)
Idaho Real Estate Commission ..... Sixteen (16)
Professional Geologists Board ..... Sixty-two hundredths (.62)
Board of Optometry ..... Zero (0)
Idaho Certified Shorthand Reporters Board
..... Twenty-five hundredths (.25)
Outfitters and Guides Board ..... Four and fifty hundredths (4.50)
Board of Veterinary Medicine ..... Two (2)
Commission on Hispanic Affairs ..... Four (4)
Board of Examiners ..... Zero (0)

Approved March 23, 1999.

CHAPTER 239
(H.B. No. 344)

AN ACT

APPROPRIATING MONEYS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2000; 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 Endowment Fund Investment Board the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
ENDOWMENT FUND INVESTMENT BOARD:				
FROM:				
General Fund	$243,000	$147,400	$2,000	$392,400
Miscellaneous Revenue Fund	129,200	63,500	1,000	193,700
TOTAL	$372,200	$210,900	$3,000	$586,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than five and five-tenths (5.5) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 240
(H.B. No. 345)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2000; 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 Water Resources the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 781,200	$ 703,400	$528,700		$ 2,013,300
Water Administration Fund	32,900	20,800			53,700
Indirect Cost Recovery Fund	216,900	46,900			263,800
TOTAL	$1,031,000	$ 771,100	$528,700		$ 2,330,800
II. PLANNING AND POLICY DIVISION:					
FROM:					
General Fund	$1,746,200	$ 524,400	$ 36,100	$ 856,300	$ 3,163,000
Federal Grant Fund	387,000	666,400			1,053,400
Indirect Cost Recovery Fund	55,200	5,700			60,900
Miscellaneous Revenue Fund	11,200	367,800			379,000
TOTAL	$2,199,600	$1,564,300	$ 36,100	$ 856,300	$ 4,656,300
III. ENERGY RESOURCES DIVISION:					
FROM:					
General Fund	$ 29,800	$ 2,900			$ 32,700
Petroleum Price Violation Fund	431,900	1,588,900			2,020,800
Federal Grant Fund	342,500	585,500			928,000
Indirect Cost Recovery Fund	41,800	120,400			162,200
Miscellaneous Revenue Fund	337,600	1,020,500	$ 10,500		1,368,600
TOTAL	$1,183,600	$3,318,200	$ 10,500		$ 4,512,300
IV. WATER MANAGEMENT DIVISION:					
A. SNAKE RIVER BASIN ADJUDICATION:					
FROM:					
General Fund	$1,631,300	$ 817,500	$ 35,500		$ 2,484,300
Water Claims Adjudication Fund				$ 500,000	500,000
TOTAL	$1,631,300	$ 817,500	$ 35,500	$ 500,000	$ 2,984,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. WATER MANAGEMENT:					
FROM:					
General Fund	$2,614,600	$ 536,800	$145,000		$ 3,296,400
Water Administration Fund	493,700	95,900			589,600
Federal Grant Fund	101,500	186,800			288,300
Indirect Cost Recovery Fund	41,900	3,300			45,200
Miscellaneous Revenue Fund	399,400	105,700			505,100
TOTAL	$3,651,100	$ 928,500	$145,000		$ 4,724,600
GRAND TOTAL	$9,696,600	$7,399,600	$755,800	$1,356,300	$19,208,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred eighty-two (182) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 23, 1999.

CHAPTER 241
(H.B. No. 346)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT AS TO PAYMENTS FOR HOUSING STATE PRISONERS.

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

SECTION 1. There is hereby appropriated to the Department of Correction 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION DIVISION:					
FROM:					
General Fund	$ 2,944,500	$ 2,235,000	$ 200,000	$5,059,300	$10,438,800
Parolee Supervision Fund	52,300	14,700			67,000
Federal Grant Fund		180,500		1,544,500	1,725,000
Miscellaneous Revenue Fund	800	7,200			8,000
TOTAL	$ 2,997,600	$ 2,437,400	$ 200,000	$6,603,800	$12,238,800
II. PRISONS DIVISION:					
A. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$13,888,200	$ 2,321,300	$ 100,000		$16,309,500
Penitentiary Endowment Fund		1,187,600	139,000		1,326,600
Miscellaneous Revenue Fund	266,700	63,100			329,800
TOTAL	$14,154,900	$ 3,572,000	$ 239,000		$17,965,900
B. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 4,216,200	$ 1,247,800	$ 49,100		$ 5,513,100
Inmate Labor Fund	336,300	341,300			677,600
Miscellaneous Revenue Fund	81,500	31,800			113,300
TOTAL	$ 4,634,000	$ 1,620,900	$ 49,100		$ 6,304,000
C. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 1,925,500	$ 774,500	$ 63,700		$ 2,763,700
Miscellaneous Revenue Fund	35,500	118,200			153,700
TOTAL	$ 1,961,000	$ 892,700	$ 63,700		$ 2,917,400
D. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 3,682,400	$ 1,152,600	$ 122,600		$ 4,957,600
Inmate Labor Fund	675,600	400,200	54,000		1,129,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund	41,500	34,900			76,400
TOTAL	$ 4,399,500	$ 1,587,700	$ 176,600		$ 6,163,800
E. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 6,369,400	$ 1,702,900	$ 214,000		$ 8,286,300
Miscellaneous Revenue Fund	37,100	38,000			75,100
TOTAL	$ 6,406,500	$ 1,740,900	$ 214,000		$ 8,361,400
F. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,285,000	$ 205,400	$ 49,900		$ 1,540,300
Inmate Labor Fund	317,100	464,300	2,600		784,000
Miscellaneous Revenue Fund		6,200			6,200
TOTAL	$ 1,602,100	$ 675,900	$ 52,500		$ 2,330,500
G. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 2,728,000	$ 902,500	$ 17,000		$ 3,647,500
Federal Grant Fund		29,200			29,200
Inmate Labor Fund	111,600	21,000			132,600
Miscellaneous Revenue Fund	125,100	14,800			139,900
TOTAL	$ 2,964,700	$ 967,500	$ 17,000		$ 3,949,200
H. INSTITUTIONAL SUPPORT:					
FROM:					
General Fund	$ 2,362,000	$ 8,578,800	$ 23,300	$ 272,700	$11,236,800
Federal Grant Fund	843,100	557,900			1,401,000
Miscellaneous Revenue Fund	46,500	99,200			145,700
TOTAL	$ 3,251,600	$ 9,235,900	$ 23,300	$ 272,700	$12,783,500
DIVISION TOTAL	$39,374,300	$20,293,500	$ 835,200	$ 272,700	$60,775,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Fund	$10,616,300	$ 1,886,300	$ 112,100		$12,614,700
Parolee Supervision Fund	1,292,400	195,000			1,487,400
Inmate Labor Fund		695,600	143,000		838,600
Miscellaneous Revenue Fund		20,400			20,400
TOTAL	$11,908,700	$ 2,797,300	$ 255,100		$14,961,100
IV. COMMISSION FOR PARDONS AND PAROLE:					
FROM:					
General Fund	$ 764,900	$ 194,500			$ 959,400
GRAND TOTAL	$55,045,500	$25,722,700	$1,290,300	$6,876,500	$88,935,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand three hundred fifty-two and sixty-nine hundredths (1,352.69) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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. It is legislative intent that the Department of Correction shall pay all bills for housing state prisoners in county jails and other facilities from its operating budget in the event funds appropriated to the department for this purpose are expended prior to the time the legislature can act on a supplemental appropriation request. If costs accrue for housing prisoners in county jails and other facilities, which are higher than the amount designated in the current year appropriation, the department shall pay these bills to the extent possible from departmental savings.

Approved March 23, 1999.

CHAPTER 242
(H.B. No. 21)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 67-5339, IDAHO CODE, TO CLARIFY THAT THE STATE INSURANCE FUND AND PUBLIC HEALTH DISTRICTS ARE PARTICIPATING EMPLOYERS IN THE UNUSED SICK LEAVE ACCOUNT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5339, Idaho Code, be, and the same is hereby amended to read as follows:

67-5339. USE OF UNUSED SICK LEAVE. (1) Upon separation from state employment by retirement in accordance with chapter 13, title 59 or chapter 1, title 33, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, and shall be reported by the employer to the public employee retirement system. A sum equal to one-half (1/2), or the maximum amount allowed by subsection (2) hereof, whichever is the lesser, of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement, shall be transferred from the sick leave account provided by subsection (3) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the Idaho ~~P~~public ~~E~~employees ~~R~~retirement ~~B~~board to pay premiums for such group health, accident, and life insurance programs as may be maintained by the state, to the extent of the funds credited to the employee's account pursuant to this section. Upon an employee's death, any unexpended sums remaining in the account shall revert to the sick leave account.

(2) For the purposes of determining the monetary value of unused sick leave, the maximum unused sick leave which may be considered, shall be:

(a) During the first ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be one hundred ninety-two (192) hours;

(b) During the second ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be two hundred forty (240) hours;

(c) During the third ten thousand four hundred (10,400) hours of credited state service, the maximum unused sick leave which may be considered shall be two hundred eighty-eight (288) hours; and

(d) Thereafter, the maximum unused sick leave which may be considered shall be three hundred thirty-six (336) hours.

(3) Each employer in state government shall contribute to a sick leave account maintained by the public employee retirement system exclusively for the purpose of the provisions of this section. The rate of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings

therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. All moneys payable to the sick leave account are hereby perpetually appropriated to the board, and shall not be included in its departmental budget. The state insurance fund and public health districts shall be considered employers in state government for purposes of participation under this section.

Approved March 23, 1999.

CHAPTER 243
(H.B. No. 37, As Amended)

AN ACT

RELATING TO THE IDAHO PERSONNEL SYSTEM; AMENDING SECTION 67-5302, IDAHO CODE, TO DEFINE HOURS WORKED TO INCLUDE WORK ON HOLIDAYS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5316, IDAHO CODE, TO CORRECT A CODE REFERENCE; AMENDING SECTION 67-5332, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE, TO REVISE HOW ONE HOUR OF CREDITED STATE SERVICE SHALL BE EARNED BY EACH ELIGIBLE OFFICER OR EMPLOYEE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5333, IDAHO CODE, TO CLARIFY PROCEDURES FOR COMPUTATION OF SICK LEAVE; AND AMENDING SECTION 67-5334, IDAHO CODE, TO CLARIFY PROCEDURES FOR COMPUTATION OF VACATION TIME.

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

SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified appointed to a position which meets the following criteria:

1. (a) Responsible office or nonmanual work directly related to the management policies of a department or section; or
   (b) Responsible work that is directly related to academic instruction or training carried on in the administration of a school system or educational establishment; and
2. The employee must customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures. The employee must have the authority to make important decisions; and
3. The employee must:
   (a) Regularly assist a bona fide executive or administrative employee; or
   (b) Perform work under general supervision along specialized or technical lines requiring special training, experience or

knowledge; or

(c) Execute under only general supervision special assignments; and

4. The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.

5. Final designation of a classified position as "administrative" within this definition shall be made by the Idaho personnel commission.

(2) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(3) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(4) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(5) "Commission" means the Idaho personnel commission.

(6) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(7) "Department" means any department, agency, institution or office of the state of Idaho.

(8) "Disabled veteran" means an individual who has served on military duty in the armed forces of the United States during any period of war recognized by the United States department of veterans affairs for the purposes of awarding federal veterans' benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), or during any other conflict recognized by the award of a campaign or service medal of the United States; and has been separated therefrom under honorable conditions; and has established the present existence of a service-connected disability; and is receiving compensation, disability retirement benefits, or pension under a public statute as administered by the department of veterans affairs or a military department.

(9) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(10) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:

1. An individual whose primary duty is management of a department, division or section; and

2. Who customarily and regularly directs the work of at least two (2) or more other employees therein; and

3. Who has the authority to hire and fire, or to recommend hiring

and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and

4. Who customarily and regularly exercises discretionary powers; and

5. Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by section 67-5309C, Idaho Code.

6. Final designation of a classified position as "executive" in this definition shall be made by the Idaho personnel commission.

(11) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or administrative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the Idaho personnel commission.

(12) "Full-time employee" means any employee working a forty (40) hour work week.

(13) "Holiday" means the following:

January 1 (New Year's Day);
Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);
Third Monday in February (Washington's Birthday);
Last Monday in May (Decoration Day);
July 4 (Independence Day);
First Monday in September (Labor Day);
Second Monday in October (Columbus Day);
November 11 (Veterans Day);
Fourth Thursday in November (Thanksgiving);
December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the President of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to employees during which said employees shall be compensated as if they actually worked.

(14) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays, and shall not include ~~holidays,~~ vacation or sick leave or other approved leave of absence.

(15) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(16) "Normal work week" means any forty (40) hours worked during a particular one hundred and sixty-eight (168) hour period as previously established by the employee's appointing authority.

(17) "Open competitive examination" means an examination which may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(18) "Overtime work" means time worked on holidays and time worked

in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter.

(19) "Participating department" means any department of the state of Idaho which employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(20) "Part-time employee" means any employee whose usually scheduled work is less than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours.

(21) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(22) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(23) "Political organization" means a party which sponsors candidates for election to political office.

(24) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(25) "Professional employee" means any person, nonclassified or classified, appointed to a position which meets the following criteria:

1. The employee's primary duty must be either:

(a) Work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study; or

(b) Work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on his invention, imagination, or talent; or

(c) Work as a teacher certified or recognized as such in a school system or educational institution by which he is employed; and

2. The employee must consistently exercise discretion and judgment; and

3. The employee must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

4. The employee is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established in section 67-5309C, Idaho Code.

5. Final designation of a classified position as "professional" within this definition shall be made by the Idaho personnel commission.

(26) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(27) "Qualifying examination" means an examination given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(28) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the commission.

(29) "Seasonal appointment" means an appointment to a position which is permanent in nature, but which has intermittent work periods throughout the year.

(30) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(31) "Temporary appointment" means appointment to a position which is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the director of the personnel commission may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(32) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(33) "Veteran" means any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States department of veterans affairs for the purpose of awarding federal veterans' benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), or during any other conflict recognized by the award of a campaign or service medal of the United States, and who has been discharged under other than dishonorable conditions.

SECTION 2. That Section 67-5316, Idaho Code, be, and the same is hereby amended to read as follows:

67-5316. APPEAL PROCEDURE. (1) Appeals shall be limited to the following:

(a) Any classified employee who has successfully completed the entrance probationary period may, after completing the departmental due process procedure, appeal a disciplinary dismissal, demotion or suspension.

(b) Any classified employee may, after completing the departmental problem solving procedure, appeal the failure of an appointing authority to provide a right and/or benefit to which the employee is entitled by law.

(c) Any interested person may appeal any decision or action taken by the state personnel director or staff of the Idaho personnel commission in the performance of their official duties.

(d) Any interested person may appeal any other matters as may now or later be assigned to the commission by law.

(2) The decision or action of the appointing authority shall be final and conclusive unless a classified employee files an appeal within thirty-five (35) days after completing the departmental problem solving or due process procedure concerning the actions referred to in subsection (1)(a), (b), (c) and (d) of this section. A decision of the personnel commission director or staff shall be final and conclusive as to any other interested person unless an appeal is filed within thirty-five (35) days of written notice of that decision.

(3) The commission shall assign the matter for hearing to a duly appointed hearing officer, who may be a member of the commission.

(4) Where the action in dispute was the discharge, demotion, or suspension, upon determination that proper cause did not in fact exist within the definitions set forth in section 67-5309(mn), Idaho Code, or that the action was taken by reason of illegal discrimination, the commission or the hearing officer shall order the reinstatement of the employee in the same position or a position of like status and pay, with or without loss of pay for the period of discharge, demotion, or suspension, or may order such other remedy as may be determined to be appropriate. In all other disputed matters, the commission and the hearing officer may order such action as may be appropriate.

(5) Process and procedure under this act shall be as summary and simple as reasonably may be. The hearing officer appointed by the commission shall have the power to subpoena witnesses, administer oaths, and examine such of the books and records of the parties to a proceeding as relate to the questions in dispute. A verbatim record of the proceedings at hearings before the commission or a hearing officer shall be maintained either by electrical devices or by stenographic means, as the commission or hearing officer may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of transcribing the proceedings.

The district court, in and for the county in which any proceedings before the Idaho personnel commission are held, shall have the power to enforce by proper proceedings the attendance and testimony of witnesses, and production and examination of books, papers, and records.

(6) If the parties reach an agreement in regard to the matters of dispute, a memorandum of the agreement shall be filed with the commission and, if approved by it, the memorandum shall be enforceable for all purposes.

(7) The hearing officer shall give written notice of the time and place of hearing, either by personal service or by mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party's last known address, as shown in the records and files of the commission. An affidavit of personal service shall be filed by the person making the same.

(8) The hearing officer to whom the matter has been assigned shall make such inquiry and investigations as shall be deemed necessary. The hearings shall be held in such place as the hearing officer may designate. The decision of the hearing officer, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings, shall be filed in the office of the Idaho personnel commission. A copy of the hearing

officer's decision shall be immediately sent to the parties by United States mail. The decision of the hearing officer shall be final and conclusive between the parties, unless a petition for review is filed with the commission within thirty-five (35) days. The petition for review shall specifically cite the alleged errors of fact or law made by the hearing officer.

(9) Any party in interest may file in the district court for the county in which any party to the proceedings resides, a certified copy of the final decision of the hearing officer, which the district court shall have the power to enforce by proper proceedings.

(10) Where the decision and order of the hearing officer directed the reinstatement of an employee, the employee shall be reinstated upon receipt of a copy of the decision unless a petition for review is filed.

SECTION 3. That Section 67-5332, Idaho Code, be, and the same is hereby amended to read as follows:

67-5332. CREDITED STATE SERVICE -- APPLICABILITY -- COMPUTATION. (1) For the purposes of payroll, vacation or annual leave, sick leave and other applicable purposes, credited state service shall be earned by:

(a) Classified officers and employees of any department, commission, division, agency or board of the executive department;

(b) Such other classified officers and employees as may be prescribed by law or by order of the state board of examiners.

(2) Service in the employ of any of the following units of government, or other similar units, shall not earn credited state service: counties, cities, school districts, ~~junior~~ community college districts, irrigation districts and highway districts. Service as an independent contractor or consultant is not state service.

(3) One (1) hour of credited state service shall be earned by each eligible state officer or employee for each hour, or major fraction thereof, ~~that the officer or employee receives pay, whether for hours~~ worked or on approved leave as provided in subsection (4) of this section.

(4) Credited state service shall be earned when on approved leave with pay, on approved vacation leave, approved military leave, on approved sick leave, and holiday~~s~~ leave.

(5) Service for retirement purposes shall be as provided in chapter 13, title 59, Idaho Code.

SECTION 4. That Section 67-5333, Idaho Code, be, and the same is hereby amended to read as follows:

67-5333. SICK LEAVE COMPUTATION. (1) The rate per hour at which sick leave shall accrue to classified officers and employees earning credited state service shall be at the rate represented by the proportion 96/2080. Sick leave shall accrue without limit, and shall be transferable from department to department.

(2) Sick leave shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff~~, or when working overtime~~. Sick leave shall accrue while an

officer or employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay, and on approved sick leave.

(3) All accrued sick leave shall be forfeited at the time of separation from state service and no officer or employee shall be reimbursed for accrued sick leave at the time of separation, except as provided in section 67-5339, Idaho Code. If such officer or employee returns to credited state service within three (3) years of such separation, all sick leave credits accrued at the time of separation shall be reinstated, except to the extent that unused sick leave was utilized for the purposes specified in section 67-5339, Idaho Code.

(4) Sick leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of sick leave shall not be counted against sick leave. Sick leave shall not be taken in advance of being earned.

(5) In cases where absences for sick leave exceed three (3) consecutive working days, the appointing authority may require verification by a physician or other authorized practitioner.

(6) If an absence for illness or injury extends beyond the sick leave accrued to the credit of the officer or employee, the officer or employee may be granted leave without pay.

(7) The personnel commission shall prescribe additional requirements for sick leave for classified officers and employees on a part-time or irregular schedule, for maintaining sick leave records, for funeral leave, and such other applicable purposes as necessary.

SECTION 5. That Section 67-5334, Idaho Code, be, and the same is hereby amended to read as follows:

67-5334. VACATION TIME COMPUTATION. (1) Vacation time shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff~~, or when working overtime~~.

(2) The rate per hour at which vacation leave shall accrue to eligible classified officers and employees earning credited state service shall be at the rate represented by the proportion 96/2080 during the first 10,400 hours of credited state service; at the rate represented by the proportion 120/2080 during the second 10,400 hours of credited state service; at the rate represented by the proportion 144/2080 during the third 10,400 hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

Approved March 23, 1999.

CHAPTER 244
(H.B. No. 310, As Amended in the Senate)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5203, IDAHO CODE, TO PROVIDE THAT THE DATE FOR CALCULATING UNUSED ALLOTMENTS SHALL BE JUNE FIRST OF EACH YEAR RATHER THAN OCTOBER FIRST; AMEND-

ING SECTION 33-5204, IDAHO CODE, TO CLARIFY THAT SALES TO OR PURCHASES BY A PUBLIC CHARTER SCHOOL ARE EXEMPT FROM SALES OR USE TAXES; AMENDING SECTION 33-5205, IDAHO CODE, TO PROVIDE THAT A PETITION FOR A CHARTER SCHOOL SHALL CONTAIN A PROVISION WHICH ENSURES THE CHARTER SCHOOL SHALL BE ACCREDITED AND A PROVISION WHICH DESCRIBES THE MANNER IN WHICH ELIGIBLE CHARTER SCHOOL STUDENTS SHALL BE ALLOWED TO PARTICIPATE IN NONCHARTER SCHOOLS PURSUANT TO DUAL ENROLLMENT PROVISIONS OF LAW; AMENDING SECTION 33-5206, IDAHO CODE, TO PROVIDE THAT A CHARTER SCHOOL'S ANNUAL REPORT TO ITS SPONSORING ENTITY SHALL INCLUDE A COPY OF THE SCHOOL'S ACCREDITATION REPORT; AMENDING SECTION 33-5208, IDAHO CODE, TO CLARIFY COMPUTATION OF PER STUDENT FINANCIAL SUPPORT AND TO CLARIFY STUDENT QUALIFICATIONS FOR ATTENDANCE AT CHARTER ALTERNATIVE SCHOOLS; AMENDING SECTION 33-5210, IDAHO CODE, TO PROVIDE THAT CHARTER SCHOOLS SHALL BE SUBJECT TO STATE BOARD OF EDUCATION RULES RELATING TO SCHOOL ACCREDITATION STANDARDS AND QUALIFICATION OF STUDENTS FOR ATTENDANCE AT CHARTER ALTERNATIVE SCHOOLS; AMENDING SECTION 63-36220, IDAHO CODE, TO INCLUDE PUBLIC CHARTER SCHOOLS WITHIN THE STATE TAX COMMISSION'S DEFINITION OF AN EDUCATIONAL INSTITUTION FOR PURPOSES OF SALES TAX LAW AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 33-5203, Idaho Code, be, and the same is hereby amended to read as follows:

33-5203. AUTHORIZATION -- LIMITATIONS. (1) The creation of public charter schools is hereby authorized. Charter schools shall be part of the state's program of public education.

(2) It is the intent of the legislature that the number of charter schools which may be approved in each of the first five (5) years after the effective date of this act be limited in number and geographic distribution in accordance with the following:

(a) Not more than sixty (60) schools may be approved in the first five (5) years after the effective date of this act, and

(b) Not more than twelve (12) schools may be approved in any one (1) year, and

(c) Not more than two (2) charters per year may be granted within an educational classification region as established by the state board of education, and

(d) Not more than one (1) charter may be granted for any one (1) school district in a year, and

(e) No whole school district may be converted to a charter district or any configuration which includes all schools as charter schools.

The legislature further finds that, notwithstanding the limitations of this subsection (2), if fewer than twelve (12) charters are approved by ~~October~~ June 1 of a year, the unused allotments shall be assigned to a statewide pool for use by other requesting districts. Distributions from the pool shall be made by random drawing.

(3) A charter school may be formed by creating a new school or

converting an existing public school to charter status. No charter shall be granted under this chapter which authorizes the conversion of any private or parochial school to a charter school. No charter shall be granted to or operated by a for-profit entity.

SECTION 2. That Section 33-5204, Idaho Code, be, and the same is hereby amended to read as follows:

33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a charter school shall be deemed public agents authorized by a public school district or the state board of education to control the charter school. A charter school shall be considered a public school for all purposes. For the purposes of section 59-1302(15), Idaho Code, a charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax.

(2) A charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of public school districts and other public schools. The approving authority of a charter school shall have no liability for the acts, omissions, debts or other obligations of a charter school, except as may be provided in an agreement or contract with such charter school.

(3) Charter schools shall secure insurance for liability and property loss.

SECTION 3. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. PETITION TO ESTABLISH CHARTER SCHOOL. (1) Any person may request the board of trustees of a school district to establish a charter school, or to convert an existing school within the school district to charter status. A petition to convert an existing school shall be submitted to the board of trustees of the district for review after the petition has been signed by not less than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not less than sixty percent (60%) of the students currently attending the school to be converted. A petition to establish a new charter school shall be submitted to the board of trustees of the district for review after the petition has been signed by not less than thirty (30) qualified electors of the district.

(2) Not later than thirty (30) days after receiving a petition signed in accordance with the specifications in subsection (1) of this section, the board of trustees shall hold a meeting open to the public for the purpose of discussing the provisions of the charter, at which time the board shall consider the merits of the petition and the level of employee and parental support for the petition. Following review of

the petition and the public hearing, the board of trustees shall either grant or deny the charter within sixty (60) days of receipt of the petition, provided however, that the date may be extended by an additional sixty (60) days if the petition fails to meet the signature requirements or fails to contain all of the information required in this section, or if both parties agree to the extension.

(3) A board of trustees may grant a charter for operation of a school under the provisions of this chapter if it determines that the petition contains the number of signatures required, a statement of each of the conditions described in subsection (4) of this section, and descriptions of all of the following:

(a) The educational program of the charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the school, and the process to be followed by the charter school to ensure parental involvement.

(~~f~~g) The qualifications to be met by individuals employed by the charter school. Instructional staff shall be certified teachers, or may apply for a waiver or any of the limited certification options as provided by rule of the state board of education.

(~~g~~h) The procedures that the charter school will follow to ensure the health and safety of students and staff.

(~~h~~i) Admission procedures, including provision for overenrollment which specifies admission will be determined by lottery or other random method.

(~~i~~j) The manner in which an annual audit of the financial and programmatic operations of the charter school is to be conducted.

(~~j~~k) The procedures by which students can be suspended, expelled and reenrolled.

(~~k~~l) A provision which ensures all staff members of the charter school will be covered by the public employee retirement system, federal social security, unemployment insurance and worker's compensation insurance.

(~~l~~m) The public school attendance alternative for students residing within the school district who choose not to attend the

charter school.

(~~m~~n) A description of the transfer rights of any employee choosing to work in a charter school and the rights of such employees to return to any noncharter school in the school district after employment at a charter school.

(~~n~~o) A provision which ensures that the staff of the charter school shall be considered a separate unit for purposes of collective bargaining.

(~~o~~p) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(~~p~~q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act.

(r) The manner by which eligible students from the charter school shall be allowed to participate in dual enrollment in noncharter schools within the district as provided for in chapter 2, title 33, Idaho Code.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the school including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided and the potential civil liability effects upon the school and upon the district.

SECTION 4. That Section 33-5206, Idaho Code, be, and the same is hereby amended to read as follows:

33-5206. REQUIREMENTS AND PROHIBITIONS UPON APPROVAL OF A CHARTER SCHOOL. (1) In addition to any other requirements imposed in this chapter, a charter school shall be nonsectarian in its programs, affiliations, admission policies, employment practices, and all other operations, shall not charge tuition, levy taxes or issue bonds, and shall not discriminate against any student on any basis prohibited by the federal or state constitutions or any federal, state or local law. Admission to a charter school shall not be determined according to the place of residence of the student, or of the student's parent or guardian within the district, except that a charter school established under the provisions of this chapter shall adopt and maintain a policy giving admission preference to students who reside within the attendance area of that school.

(2) No board of trustees shall require any employee of the school district to be involuntarily assigned to work in a charter school.

(3) Certified teachers in a charter school shall be considered public school teachers. Educational experience shall accrue for service in a charter school and such experience shall be counted by any school district to which the teacher returns after employment in a charter school.

(4) No board of trustees shall require any student enrolled in the school district to attend a charter school.

(5) Upon approval of the petition by the board of trustees, the petitioner shall provide written notice of that approval, including a copy of the petition, to the state board of education. For the purpose

of implementing the provisions of section 33-5203(2), Idaho Code, the state board of education shall assign a number to each petition it receives. Petitions shall be numbered based on the chronological order in which notice of the approved petition is received by the state board of education.

(6) Each charter school shall annually submit a report to the local board of trustees which approved its charter. In the case of a new charter school whose charter was granted by the state board of education pursuant to section 33-5207, Idaho Code, the annual report shall be submitted to the state board of education. The report shall contain the audit of the fiscal and programmatic operations as required in section 33-5205(3)(~~i~~j), Idaho Code, ~~as well as~~ a report on student progress based on the charter school's student educational standards identified in section 33-5205(3)(b), Idaho Code, and a copy of the charter school's accreditation report.

SECTION 5. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. CHARTER SCHOOL FINANCIAL SUPPORT. From the state educational support program the state department of education shall make the following apportionment to each charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002 6., Idaho Code, except that charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply. Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code.

(2) Special education. For each student enrolled in the charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the charter school is located.

(3) Alternative school support. Charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each charter school shall furnish the department with an enrollment count as of the first Friday in November, of charter school students living more than one and one-half (1 1/2) miles from the school.

(5) Payment schedule. The state department of education is authorized to make a one-time advance payment of twenty-five percent (25%) of a charter school's estimated annual apportionment for its first year of operation to assist the school with initial start-up costs.

(a) For a state charter school to receive the advance payment,

the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the charter school in the same manner as other public schools in accordance with the provisions of section 33-1009, Idaho Code.

A charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to charter schools: section 33-1003B, Idaho Code, relating to guaranteed minimum support; that portion of section 33-1004, Idaho Code, relating to reduction of the instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(6) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a charter school.

(7) Nothing in this chapter shall prevent a charter school from applying for federal grant moneys.

SECTION 6. That Section 33-5210, Idaho Code, be, and the same is hereby amended to read as follows:

33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION FROM STATE RULES. (1) All public charter schools are under the general supervision of the state board of education.

(2) The local board of trustees and the state board of education are responsible to ensure that each charter school program approved by it meets the terms of the charter, and operates in accordance with the state educational standards of thoroughness as defined in section 33-1612, Idaho Code.

(3) Each charter school is otherwise exempt from rules governing school districts which have been promulgated by the state board of education or by the superintendent of public instruction, with the exception of state rules relating to:

(a) Wwaiver of teacher certification as necessitated by the provisions of section 33-5205(3)(~~f~~g), Idaho Code;

(b) Accreditation of the school as necessitated by the provisions of section 33-5205(3)(e), Idaho Code; and

(c) Qualifications of a student for attendance at an alternative school as necessitated by the provisions of section 33-5208(3), Idaho Code.

SECTION 7. That Section 63-3622O, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622O. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are

exempted from the taxes imposed by this chapter:

(a) Sales to or purchases by hospitals, health-related entities, educational institutions, ~~forest-protective~~ forest protective associations and canal companies which are nonprofit organizations; and

(b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and

(c) 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 growing, storage, preparation or service of food, but not including licensed motor vehicles or trailers; and

(d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and

(e) Sales to or purchases by centers for independent living; and

(f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions.

(2) As used in this section, these words shall have the following meanings:

(a) "Educational institution" shall mean nonprofit colleges, universities, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, and other 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 any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities 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.

(i) "Center for independent living" shall mean a private, nonprofit, ~~non-residential~~ nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(i) Is designed and operated within a local community by individuals with disabilities;

(ii) Provides an array of independent living services and programs; and

(iii) Is cross-disability.

(j) "Political subdivision" means:

(i) A governmental organization which:

1. Embraces a certain territory,

2. Is organized for public advantage and not in the interest of private individuals or classes,

3. Has been delegated functions of government, and

4. Has the statutory power to levy taxes; or

(ii) A public health district created by section 39-408, Idaho Code; or

(iii) A soil conservation district as defined in section 22-2717, Idaho Code; or

(iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or

(v) An irrigation district created pursuant to title 43, Idaho Code; or

(vi) A state grazing board created by section 57-1204, Idaho Code; or

(vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or

(viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.

(ix) An agency of the state of Idaho is an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemption granted by subsection (1)(f) of this section does not include the use of tangible personal property by a contractor

used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) 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 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1999.

Approved March 24, 1999.

CHAPTER 245
(H.B. No. 312)

AN ACT

RELATING TO DOGS RUNNING AT LARGE; AMENDING SECTION 25-2803, IDAHO CODE, TO PRESCRIBE AN INFRACTION PENALTY FOR DOGS AT LARGE WITHOUT A COLLAR; AND AMENDING SECTION 25-2805, IDAHO CODE, TO REDUCE THE PENALTY FOR A VIOLATION OF SUBSECTION (1) PERTAINING TO DOGS AT LARGE FROM A MISDEMEANOR TO AN INFRACTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 25-2803, Idaho Code, be, and the same is hereby amended to read as follows:

25-2803. DOGS AT LARGE -- COLLAR AND TAG REQUIRED. No dog shall be permitted to go at large within the said county without having a collar about its neck with a license tag or disc attached thereto bearing the number of the license issued by the county as herein set forth, or by some municipality within said county. A violation of this section is an infraction punishable as provided in section 18-113A, Idaho Code.

SECTION 2. That Section 25-2805, Idaho Code, be, and the same is hereby amended to read as follows:

25-2805. DOGS RUNNING AT LARGE -- VICIOUS DOGS -- PENALTY. (1) Any person, who, after complaint has been made by any person to the sheriff, who shall serve a copy of said notice upon such person complained of, willfully or negligently permits any dog owned or possessed or harbored by him to be, or run, at large without a competent and responsible attendant or master, within the limits of any city, town, or village or in the vicinity of any farm, pasture, ranch, dwelling house, or cultivated lands of another, or who willfully or negligently fails, neglects or refuses to keep any such dog securely

confined within the limits of his own premises when not under the immediate care and control of a competent and responsible attendant or master, shall be guilty of an ~~misdemeanor~~ infraction punishable as provided in section 18-113A, Idaho Code.

(2) Any dog which, when not physically provoked, physically attacks, wounds, bites or otherwise injures any person who is not trespassing, is vicious. It shall be unlawful for the owner or for the owner of premises on which a vicious dog is present to harbor a vicious dog outside a secure enclosure. A secure enclosure is one from which the animal cannot escape and for which exit and entry is controlled by the owner of the premises or owner of the animal. Any vicious dog removed from the secure enclosure must be restrained by a chain sufficient to control the vicious dog. Persons guilty of a violation of this subsection, and in addition to any liability as provided in section 25-2806, Idaho Code, shall be guilty of a misdemeanor. For a second or subsequent violation of this subsection, the court may, in the interest of public safety, order the owner to have the vicious dog destroyed or may direct the appropriate authorities to destroy the dog.

Approved March 24, 1999.

CHAPTER 246
(H.B. No. 314)

AN ACT

RELATING TO PENALTIES OF PERSONS UNDER TWENTY-ONE WITH LESS THAN 0.08 ALCOHOL CONCENTRATION; AMENDING SECTION 18-8004A, IDAHO CODE, TO PROVIDE FOR A JAIL SENTENCE OF UP TO THIRTY DAYS UPON A SECOND CONVICTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-8004A, Idaho Code, be, and the same is hereby amended to read as follows:

18-8004A. PENALTIES -- PERSONS UNDER 21 WITH LESS THAN 0.08 ALCOHOL CONCENTRATION. (1) Any person found guilty of a violation of subsection (1)(d) of section 18-8004, Idaho Code, shall be guilty of a misdemeanor; and, for a first offense:

(a) Shall be fined an amount not to exceed one thousand dollars ($1,000);

(b) Shall have his driving privileges suspended by the court for a period of one (1) year, ninety (90) days of which shall not be reduced and during which period absolutely no driving privileges of any kind may be granted. After the period of absolute suspension of driving privileges has passed, the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court~~.~~;

(c) Shall be advised by the court in writing at the time of sen-

tencing of the penalties that will be imposed for any subsequent violation of the provisions of this section or any violation of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney~~.~~;

(d) Shall be required to undergo an alcohol evaluation and otherwise comply with the requirements of sections 18-8005(9) and 18-8005(12), Idaho Code, as ordered by the court.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of subsection (1)(d) of section 18-8004, Idaho Code, who previously has been found guilty of or has pled guilty to a violation of section 18-8004(1)(d), Idaho Code, or any substantially conforming foreign criminal violation, as defined in section 18-8005(8), Idaho Code, notwithstanding the form of the judgment or withheld judgment, is guilty of a misdemeanor; and:

(a) May be sentenced to jail for a period not to exceed thirty (30) days;

(b) Shall be fined an amount of not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000);

(~~b~~c) Shall have his driving privileges suspended by the court for a period not to exceed two (2) years, one hundred eighty (180) days of which shall be absolute and shall not be reduced and during which period absolutely no driving privileges of any kind may be granted;

(~~c~~d) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of this section or section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(~~d~~e) Shall undergo an alcohol evaluation and comply with the other requirements of subsections (9) and (12) of section 18-8005, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of subsection (1)(d) of section 18-8004, Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1)(d), Idaho Code, or any substantially conforming foreign criminal violation, within five (5) years, notwithstanding the form of the judgment or withheld judgment, shall be guilty of a misdemeanor; and:

(a) May be sentenced to jail for a period not to exceed six (6) months;

(b) Shall be fined an amount of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000);

(c) Shall surrender his driver's license or permit to the court; ~~and~~

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year, during which period absolutely no driving privileges of any kind may be granted, or until such person reaches the age of twenty-one (21), whichever is greater; and

(e) Shall undergo an alcohol evaluation and comply with all other

requirements imposed by the court pursuant to sections 18-8005(9) and 18-8005(12), Idaho Code.

(4) All provisions of section 18-8005, Idaho Code, not otherwise in conflict with or provided for in this section shall apply to any sentencing imposed under the provisions of this section.

(5) A person violating the provisions of section 18-8004(1)(d), Idaho Code, may be prosecuted under title 16, Idaho Code.

Approved March 24, 1999.

CHAPTER 247
(H.B. No. 315)

AN ACT

RELATING TO ASSAULT OR BATTERY UPON CERTAIN PERSONNEL; AMENDING SECTION 18-915, IDAHO CODE, TO CLARIFY THAT A JUSTICE AND A MAGISTRATE ARE INCLUDED WITHIN THE APPLICATION OF THE SECTION, TO PROVIDE THAT IT IS A FELONY TO COMMIT AN ASSAULT OR BATTERY UPON A JUSTICE, JUDGE OR MAGISTRATE AND TO MAKE A TECHNICAL CORRECTION.

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 justice, judge, magistrate, 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 justice, judge

or magistrate, 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 justice, judge or magistrate, 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 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 24, 1999.

CHAPTER 248
(H.B. No. 319, As Amended)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-525A, IDAHO CODE, TO PROVIDE A LIST OF OFFENSES WHICH MAY NOT BE EXPUNGED FROM A JUVENILE'S RECORD, AND TO PROVIDE FOR EXPUNGEMENT WITH RESPECT TO OTHER OFFENSES IF THE JUVENILE HAS NOT BEEN CONVICTED OF A FELONY OR A MISDEMEANOR INVOLVING VIOLENCE AND OTHER CONDITIONS HAVE BEEN MET.

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

SECTION 1. That Section 20-525A, Idaho Code, be, and the same is hereby amended to read as follows:

20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY -- SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated in a case under this act may, after the expiration of five (5) years from the date of termination of the continuing jurisdiction of the court, or, in case the juvenile was committed to the juvenile corrections center, five (5) years from the date of his release from the juvenile corrections center, or after reaching age eighteen (18), whichever occurs ~~first~~ last, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and of the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(2) The court may not expunge a conviction for any of the following crimes from a juvenile's record:

(a) Administering poison with intent to kill (18-4014, Idaho Code);

(b) Aggravated battery (18-907, Idaho Code);

(c) Armed robbery (chapter 65, title 18, Idaho Code);
(d) Arson (chapter 8, title 18, Idaho Code);
(e) Assault with intent to commit a serious felony (18-909, Idaho Code);
(f) Assault with intent to murder (18-4015, Idaho Code);
(g) Assault or battery upon certain personnel, felony (18-915, Idaho Code);
(h) Forcible sexual penetration by use of a foreign object (18-6608, Idaho Code);
(i) Infamous crime against nature, committed by force or violence (18-6605, Idaho Code);
(j) Injury to child, felony (18-1501, Idaho Code);
(k) Kidnapping (18-4501, Idaho Code);
(l) Murder of any degree (18-4001 and 18-4003, Idaho Code);
(m) Rape, excluding statutory rape (18-6101 and 18-6108, Idaho Code);
(n) Ritualized abuse of a child (18-1506A, Idaho Code);
(o) Sexual exploitation of a child (18-1507, Idaho Code);
(p) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
(q) Voluntary manslaughter (18-4006 1., Idaho Code);
(r) 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;
(s) A violation of the provisions of section 37-2732B, Idaho Code, related to drug trafficking or manufacturing of illegal drugs.

(3) If the court finds after hearing that the petitioner has not been adjudicated as a juvenile for ~~a felony or a misdemeanor involving moral turpitude if committed by an adult~~ any of the crimes identified in subsection (2) of this section, and has not been convicted of a felony, or of a misdemeanor ~~involving moral turpitude~~ wherein violence toward another person was attempted or committed since the termination of the court's jurisdiction or his release from the juvenile corrections center, and that no proceeding involving such felony or misdemeanor is pending or being instituted against him, and if the court further finds to its satisfaction that the petitioner has been held accountable, is developing life skills necessary to become a contributing member of the community and that the expungement of the petitioner's record will not compromise public safety, it shall order all records in the petitioner's case in the custody of the court and all such records in the custody of any other agency or official sealed; and shall further order all references to said adjudication removed from all indices and from all other records available to the public. However, a special index of the expungement proceedings and records shall be kept by the court ordering expungement, which index shall not be available to the public and shall be revealed only upon order of a court of competent jurisdiction. Copies of the order shall be sent to each agency or official named in the order. Upon the entry

of the order the proceedings in the petitioner's case shall be deemed never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter be permitted only by the court upon petition by the person who is the subject of the records or by any other court of competent jurisdiction, and only to persons named in the petition.

Approved March 24, 1999.

CHAPTER 249
(H.B. No. 348)

AN ACT

RELATING TO CRIMINAL HISTORY RECORDS AND CRIME INFORMATION; REPEALING SECTIONS 67-2909, 67-2910, 67-2911 AND 67-2912, IDAHO CODE; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 30, TITLE 67, IDAHO CODE, TO DEFINE TERMS, TO REQUIRE THAT CRIMINAL HISTORY RECORDS BE SUPPORTED BY FINGERPRINTS, TO PROVIDE DUTIES OF THE DEPARTMENT OF LAW ENFORCEMENT, TO ESTABLISH PROCEDURES FOR FINGERPRINTING AND IDENTIFICATION FOR CRIMINAL JUSTICE PURPOSES, TO PROVIDE REPORTING REQUIREMENTS FOR CRIMINAL JUSTICE AGENCIES, TO PROVIDE FOR REPORTING OF UNIFORM CRIME INFORMATION, TO ESTABLISH PROCEDURES ENSURING COMPLETE, ACCURATE AND SECURE INFORMATION, TO PROVIDE FOR THE RELEASE AND AUTHORIZED USE OF CRIMINAL HISTORY INFORMATION, TO PROVIDE CRIMINAL PENALTIES, TO AUTHORIZE FEES FOR NONCRIMINAL JUSTICE SERVICES AND TO PROVIDE FOR NONCOMPLIANCE WITH REPORTING REQUIREMENTS; AMENDING SECTION 9-340B, IDAHO CODE, AS ADDED BY SECTION 3, HOUSE BILL NO. 93, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-FIFTH IDAHO LEGISLATURE, TO EXEMPT FROM DISCLOSURE CRIMINAL HISTORY RECORDS MAINTAINED PURSUANT TO THE ACT; AND AMENDING SECTION 18-8306, IDAHO CODE, TO PROVIDE A CORRECT CITATION.

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

SECTION 1. That Sections 67-2909, 67-2910, 67-2911 and 67-2912, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 30, Title 67, Idaho Code, and to read as follows:

CHAPTER 30
CRIMINAL HISTORY RECORDS AND CRIME INFORMATION

67-3001. DEFINITIONS. As used in this act:

(1) "Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal

identification activities and the collection, storage and dissemination of criminal history record information.

(2) "Bureau" means the bureau of criminal identification in the Idaho department of law enforcement.

(3) "Court" means any court created by the constitution and laws of the state of Idaho; and clerks of the district court.

(4) "Criminal history records" means physical and automated information on individuals collected and maintained by the department of law enforcement as a result of arrest or the initiation of a criminal proceeding by felony summons or information. A criminal history record includes, as defined by department rule, any or all of the following information relating to each event that is subject to fingerprinting under section 67-3004, Idaho Code:

(a) Information relating to offenders;

(b) Information relating to arrests;

(c) Information relating to prosecutions;

(d) Information relating to the disposition of cases by courts;

(e) Information relating to sentencing;

(f) Information relating to probation and parole status; and

(g) Information relating to offenders received by a correctional agency, facility or other institution.

The term shall not include statistical or analytical records, reports in which individuals are not identified and from which their identities are not ascertainable, criminal intelligence information or criminal investigative information, and source information or records maintained by and held at another criminal justice agency or the court.

(5) "Criminal justice agency" means a governmental agency or subdivision of a government entity that performs the administration of criminal justice pursuant to a statute, and that allocates a substantial portion of its budget to the administration of criminal justice.

(6) "Department" means the Idaho department of law enforcement.

(7) "Director" means the director of the Idaho department of law enforcement.

(8) "Disposition" means the formal or informal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(9) "Fingerprints" means the fingerprint impressions submitted to and compiled by the bureau, in a manual or automated form, pursuant to section 67-3004, Idaho Code.

(10) "Pecuniary benefit" means any benefit to a person or member of his household in the form of money, property or commercial interests, the primary significance of which is economic gain.

(11) "Retainable offense" means:

(a) A felony; or

(b) A serious misdemeanor as defined by rule adopted under section 67-3003(2), Idaho Code.

(12) "Subject of record" means the person who is or may be the primary subject of a record of criminal justice information or any representative of the person designated by power of attorney or notarized authorization.

(13) "Working day" means each day except Saturday, Sunday, or a legal state holiday.

67-3002. POSITIVE IDENTIFICATION -- FINGERPRINTS REQUIRED. To ensure positive identification and system integrity, criminal history records shall be supported by fingerprints, which may be maintained manually, electronically or on optical disk. The records shall be linked to an automated fingerprint identification system. For the purpose of including prescribed information categories, the system may be linked with databases maintained by other state agencies. Whenever possible, the reporting of information by criminal justice agencies relating to the categories identified in section 67-3001(4), Idaho Code, shall be conducted electronically or by magnetic medium. Any technology used in this process will conform to the standards, guidelines and conventions established by the information technology resource management council.

67-3003. DUTIES OF THE DEPARTMENT. (1) The department shall establish a bureau of criminal identification to:

(a) Serve as the state's central repository of criminal history records;

(b) Conduct criminal background checks as authorized by law or rule and provide fingerprint identification services;

(c) Obtain and electronically file information relating to in-state stolen vehicles and in-state wanted persons;

(d) Establish and maintain an automated fingerprint identification system;

(e) Establish a uniform crime reporting system for the periodic collection and reporting of crimes, and compile and publish statistics and other information on the nature and extent of crime in the state;

(f) Maintain, pursuant to department rule, other identification information, which may include, but is not limited to, palm prints and photographs;

(g) Cooperate with other criminal justice agencies of the state, state and federal courts, the criminal records repositories of other states, the federal bureau of investigation criminal justice information services, the national law enforcement telecommunications system, and other appropriate agencies and systems, in the operation of an effective interstate and national system of criminal identification, records and statistics; and

(h) Develop and implement a training program to assist criminal justice agencies with the recordkeeping and reporting requirements of this chapter.

(2) In accordance with chapter 52, title 67, Idaho Code, the department may adopt rules necessary to implement the provisions of this chapter. Rules relating to information maintained and reported by the court shall be made after consultation with and approval by the Idaho supreme court.

67-3004. FINGERPRINTING AND IDENTIFICATION. (1) The bureau shall:

(a) Obtain and file fingerprints, physical descriptions and any other available identifying data on persons who have been arrested or served a criminal summons in this state for a retainable offense;

(b) Accept fingerprints and other identifying data taken by a law

enforcement agency for the purpose of identification or conducting a records review for criminal justice purposes; and

(c) Have the capacity to conduct crime scene investigations for the detection and identification of latent fingerprints.

(2) The bureau shall establish policy regarding an arrest fingerprint card and procedures for the taking of fingerprints under this section.

(3) When a person is arrested for a retainable offense, with or without a warrant, fingerprints of the person shall be taken by the law enforcement agency making the arrest. A law enforcement agency may contract or make arrangements with a jail or correctional facility or other criminal justice agency to take the required fingerprints from a person who is arrested by the law enforcement agency.

(4) If a person was arrested and is in the custody of a law enforcement agency, jail or correctional facility and a felony summons or information is filed for an offense separate from the offense for which the person is in custody, the agency, jail or correctional facility shall take the fingerprints of the person in connection with the new offense.

(5) At the initial court appearance or arraignment of a person for an offense pursuant to a felony summons or information, the court, upon notice from the prosecuting attorney, shall order a law enforcement agency to fingerprint the person if he has not been previously fingerprinted for the same offense.

(6) When a defendant is convicted or otherwise adjudicated for a felony offense for which the defendant has not been previously fingerprinted, the court shall order, upon notice from the prosecuting attorney, a law enforcement agency to fingerprint the defendant as a condition of sentence, probation or release.

(7) When a person is received by a state correctional facility, the department of correction shall ensure that legible fingerprints of the person are taken and submitted to the bureau.

(8) When the bureau receives fingerprints of a person in connection with an arrest or incarceration, the bureau shall make a reasonable effort to confirm within five (5) working days the identity of the person fingerprinted. In an emergency situation when an immediate positive identification is needed, a criminal justice agency may request the department to provide immediate identification service.

(9) If the arresting officer, the law enforcement agency that employs the officer, or the jail or correctional facility where fingerprints were taken is notified by the bureau that fingerprints taken under this section are not legible, the officer, agency or facility shall make a reasonable effort to obtain a legible set of fingerprints. If legible fingerprints cannot be obtained within a reasonable period of time, and if illegible fingerprints were taken under a court order, the officer or agency shall inform the court, which shall order the defendant to submit to fingerprinting again.

(10) Any person who was arrested or served a criminal summons and who subsequently was not charged by indictment or information within one (1) year of the arrest or summons and any person who was acquitted of all offenses arising from an arrest or criminal summons may have the fingerprint and criminal history record taken in connection with the incident expunged pursuant to the person's written request

directed to the department.

67-3005. RECORDS AND REPORTING -- DUTIES OF OTHER CRIMINAL JUSTICE AGENCIES AND THE COURT. (1) Each criminal justice agency shall:

(a) Transmit to the department, when and in the manner prescribed by this chapter or any rules adopted pursuant thereto, all information required by section 67-3001(4), Idaho Code, for inclusion in the criminal history records;

(b) Provide the department and its accredited agents access to source records and files for the purpose of assessing the accuracy, completeness and timeliness of the criminal history records maintained by the department; and

(c) Cooperate with the department so that it may properly perform the duties that are mandated by this chapter.

(2) When a law enforcement agency or jail facility fingerprints a person as required by section 67-3004, Idaho Code, the agency or facility shall initiate the reporting process by transmitting to the department the authorized and fully completed arrest fingerprint card and identification information within ten (10) working days after the arrest, arraignment or court-ordered fingerprinting. A law enforcement agency or jail facility required to take fingerprints shall ensure that the process control number on the arrest fingerprint card is transmitted to the appropriate court clerk for recording in the court's automated information system. When appropriate, the law enforcement agency or jail facility shall report, in a manner and in a form prescribed by the department, the disposition relating to the charge or arrest.

(3) The clerk of the court exercising jurisdiction over a case relating to a retainable offense shall report the court disposition of the case to the department, in a manner and format determined by the department after consultation with and approval by the Idaho supreme court.

(4) The department of correction shall report, in a manner and on a form prescribed by the department, information on an individual committed to and released from a state correctional facility.

(5) The department of correction shall report, in a manner and on a form prescribed by the department, information on an individual committed to and released from its supervision as a result of probation, parole or other judicial action.

(6) With the approval of the department, a criminal justice agency or the court may report required information by electronic medium either directly to the department or indirectly through a sharing of information via the linkage of automated systems or databases.

67-3006. REPORTING OF UNIFORM CRIME INFORMATION. A law enforcement agency shall submit to the department, at the time, in the manner, and in the form prescribed by the department, data regarding crimes committed within that agency's jurisdiction. The department shall publish an annual report, available no later than July 1 of the following year, containing the statistical information gathered under this section that relates to the number and nature of criminal offenses, arrests, and clearances, and any other data the director determines to be appropriate relating to the method, frequency, cause

and prevention of crime.

67-3007. COMPLETENESS, ACCURACY AND SECURITY OF CRIMINAL HISTORY RECORDS. (1) The department shall:

(a) Adopt reasonable procedures to ensure that criminal justice information it maintains is accurate and complete;

(b) Notify a criminal justice agency or persons known to have received information of a material nature that is inaccurate or incomplete;

(c) Provide adequate procedures and facilities to protect criminal justice information from unauthorized access and from accidental or deliberate damage; and

(d) Provide procedures for screening, supervising and disciplining department personnel in order to minimize the risk of security violations.

(2) The department shall, by rule, adopt procedures for a person to review and challenge the accuracy and completeness of an Idaho criminal history record pertaining to that person. The rules shall provide for administrative review of any challenge and the necessary correction of inaccurate and incomplete information.

(3) The department of health and welfare shall furnish monthly to the department without fee a listing showing the name, date of birth, and social security number of each Idaho resident who has died during the preceding month. The listing shall be used only for the administration of criminal justice and shall not be disseminated by the department.

(4) The department shall review each year a sample of records held by randomly selected agencies to verify adherence to the requirements of this chapter and other applicable state and federal laws.

(5) The department is immune from any civil or criminal liability arising from the accuracy or completeness of any records it receives from the federal bureau of investigation or another state central repository, if the department acts in good faith.

67-3008. RELEASE OF CRIMINAL HISTORY RECORD INFORMATION. (1) All units of state, city and local governments, as well as any agency of the state created by the legislature which require by statute, rule, or local or county ordinance, fingerprinting of applicants or licensees, are authorized to submit fingerprints to the bureau for examination and further submission, if necessary, to the federal bureau of investigation. The bureau shall be the state's sole source of fingerprint submissions for criminal justice and applicant or licensing purposes to the federal bureau of investigation.

(2) The department shall provide copies of or communicate information from criminal history records to the following:

(a) Criminal justice agencies and the court;

(b) A person or public or private agency, upon written application on a form approved by the director and provided by the department, subject to the following restrictions:

(i) A request for criminal history records must be submitted in writing or as provided by rule. However, the department shall accept a request presented in person by the subject of the record; and

(ii) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required to establish positive identification; and

(iii) Responding to the request does not interfere with the secure and orderly conduct of the department and would not substantially prejudice or prevent the carrying out of the functions of the department; and

(iv) A record of an arrest that does not contain a disposition after twelve (12) months from the date of arrest may only be disseminated by the department to criminal justice agencies, to the subject of the record, or to a person requesting the criminal history information with a signed release from the subject of the record; and

(v) Any release of criminal history data by the department shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."

(3) Judicial review of the department's denial of a request for records shall be in accordance with the provisions of section 9-343, Idaho Code.

(4) A request for a criminal history record by a criminal justice agency or a court shall take precedence over all other requests. The department shall adopt rules to set forth the manner by which criminal justice agencies and courts without direct terminal access to the law enforcement telecommunications network established by section 19-5202, Idaho Code, may request Idaho criminal history record information.

(5) Unless otherwise provided by law, access authorized under this section to criminal history records does not create a duty upon a person, employer, private agency, or public agency to examine the criminal history record of an applicant, employee or volunteer.

(6) A person or private agency, or public agency, other than the department, shall not disseminate criminal history record information obtained from the department to a person or agency that is not a criminal justice agency or a court without a signed release of the subject of record or unless otherwise provided by law.

(7) Direct terminal access to criminal history record information is regulated by chapter 52, title 19, Idaho Code, and the rules adopted pursuant to that chapter.

67-3009. CRIMINAL PENALTIES. (1) It is unlawful for a person for personal gain to request, obtain, or attempt to obtain criminal history records under false pretenses or willfully communicate or attempt to communicate criminal history records to any agency or person not authorized to receive the information by law. A violation of this subsection is a misdemeanor.

(2) It is unlawful for a person to willfully solicit, accept or agree to accept from another any pecuniary benefit as consideration for either willfully falsifying criminal history records or for willfully requesting, obtaining, or seeking to obtain criminal history records for a purpose not authorized by law. A violation of this subsection is a felony, and the punishment shall be a fine up to ten thousand dollars ($10,000) and imprisonment in a state prison not exceeding five (5) years.

67-3010. FEES AUTHORIZED. The department, by rule, shall establish and collect fees for taking fingerprints and for processing a request for criminal record review when the purpose is other than the administration of criminal justice. 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.

67-3011. NONCOMPLIANCE WITH REPORTING REQUIREMENTS. (1) If any criminal justice agency subject to the fingerprinting and reporting requirements under section 67-3005, Idaho Code, fails to comply with such requirements, the director may order the bureau to deny the agency access to criminal history records until the agency comes into compliance with reporting requirements prescribed by this chapter.

(2) On the request of a criminal justice agency, the department may provide the agency with technical staff assistance to achieve or maintain compliance with reporting requirements.

SECTION 3. That Section 9-340B, Idaho Code, as added by Section 3, House Bill No. 93, enacted by the First Regular Session of the Fifty-fifth Idaho Legislature, be, and the same is hereby amended to read as follows:

9-340B. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) 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.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, 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 juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. 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.

(3) Records 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. Records exempt from disclosure shall include, but not be limited to, those containing the names and addresses of witnesses or victims or those

containing information identifying victims or witnesses.

(4) Voting records of the sexual offender classification board. In accordance with section 18-8315, Idaho Code, the written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that board member shall be exempt from disclosure to the public and shall be made available upon request only to the governor, the chairman of the senate judiciary and rules committee, and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes.

(5) Records of the sheriff or department of law enforcement received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

(11) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the department of law enforcement. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

SECTION 4. That Section 18-8306, Idaho Code, be, and the same is hereby amended to read as follows:

18-8306. NOTICE OF DUTY TO REGISTER AND INITIAL REGISTRATION. (1) When a person is sentenced for an offense identified in section 18-8304, Idaho Code, the prosecuting attorney shall seek and the court shall order a designated law enforcement agency to immediately fingerprint that person unless the person has been fingerprinted and photographed previously for the same offense. Fingerprints and photographs may be taken at the jail or correctional facility to which the person is remanded or sentenced. The fingerprints and photographs taken pursuant to this subsection shall be submitted to the department as provided in section 67-~~2911~~3005, Idaho Code.

(2) A person convicted of an offense identified in section 18-8304, Idaho Code, and released on probation without a sentence of incarceration in a county jail or correctional facility, including release pursuant to a withheld judgment or release from any mental institution, shall be notified by the sentencing court of the duty to register pursuant to the provisions of this chapter. The written notification shall be a form provided by the department and approved by the attorney general and shall be signed by the defendant. The court shall retain one (1) copy, provide one (1) copy to the offender, and submit one (1) copy to the central registry within three (3) working days of release.

(3) With respect to an offender convicted of a sexual offense identified in section 18-8304, Idaho Code, and sentenced to a period of incarceration in a jail or correctional facility and subsequently released, placed on probation, or paroled, the department of correction or jail shall provide, prior to release from confinement, written notification of the duty to register. The written notification shall be a form provided by the department and approved by the attorney general and shall be signed by the offender. The department of correction or jail shall retain one (1) copy, provide one (1) copy to the offender, and submit one (1) copy to the central registry within three (3) working days of release.

(4) The sheriff of each county shall provide written notification, on a form provided by the department of transportation and approved by the attorney general, of the registration requirements of this chapter to any person who enters this state from another jurisdiction and makes an application for a license to operate a motor vehicle in this state. The written notice shall be signed by the person and one (1) copy shall be retained by the sheriff's office and one (1) copy shall be provided to the person.

(5) Notification of the duty to register as set forth in subsec-

tions (2) and (3) of this section shall constitute an initial registration for the purpose of establishing a record in the central registry.

(6) The notification form provided by the department and approved by the attorney general shall:

(a) Explain the duty to register, the procedure for registration and penalty for failure to comply with registration requirements;

(b) Inform the offender of the requirement to provide notice of any change of address within Idaho or to another state within five (5) days of such change;

(c) Inform the offender of the requirement to register in a new state within ten (10) days of changing residence to that state; and

(d) Obtain from the offender and agency or court, information required for initial registration in the central registry, as prescribed by rules promulgated by the department.

(7) The official conducting the notice and initial registration shall ensure that the notification form is complete, that the offender has read and signed the form, and that a copy is forwarded to the central repository within the required time period.

(8) Information required for initial registration in the central registry shall include, but is not limited to: name and aliases of the offender; social security number; physical descriptors; current address or physical description of current residence; offense for which convicted, sentence and conditions of release; treatment or counseling received; and risk assessment or special category of offender.

(9) No person subject to registration shall willfully furnish false or misleading information when complying with registration and notification requirements of this chapter.

Approved March 24, 1999.

CHAPTER 250
(H.B. No. 349)

AN ACT

RELATING TO THE SALARIES OF JUSTICES, JUDGES, AND MAGISTRATES; AMENDING SECTION 1-2222, IDAHO CODE, TO INCREASE THE BASE ANNUAL SALARY OF NONATTORNEY MAGISTRATES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 59-502, IDAHO CODE, TO INCREASE THE ANNUAL SALARIES OF JUSTICES AND DISTRICT JUDGES.

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

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

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

(1) Beginning on July 1, 1998, the annual salary of each magis-

trate who is an attorney shall be seven thousand eight hundred eight dollars ($7,808) less than the annual salary of a district judge. Beginning on July 1, 1999, the annual salary of each magistrate who is an attorney shall be seven thousand one hundred six dollars ($7,106) less than the salary of a district judge. Beginning on July 1, 2000, the annual salary of each magistrate who is an attorney shall be six thousand four hundred four dollars ($6,404) less than the salary of a district judge. Beginning on July 1, 2001, the annual salary of each magistrate who is an attorney shall be five thousand seven hundred two dollars ($5,702) less than the salary of a district judge. Beginning July 1, 2002, the annual salary of each magistrate who is an attorney shall be five thousand dollars ($5,000) less than the salary of a district judge.

(2) Beginning July 1, 1998, the following schedule is adopted as the base annual salary schedule for all nonattorney magistrates:

STATE OF IDAHO
BASE ANNUAL SALARY SCHEDULE FOR NONATTORNEY MAGISTRATES

Pay Class	Annual Case Dispositions	Annual Salary
Nonattorney Magistrate Judge I	more than 4,500 cases	$46,222
Nonattorney Magistrate Judge II	3,000 to 4,500 cases	41,663
Nonattorney Magistrate Judge III	1,750 to 3,000 cases	37,105
Nonattorney Magistrate Judge IV	under 1,750 cases	31,027

Commencing on July 1, 1999, the amount of the base annual salary for all nonattorney magistrates shall be increase by four percent (4%).

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

(4) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (~~1~~2) of this section, receive an additional seven hundred fifty dollar ($750) longevity increment added to his base salary for each complete five (5) year period of service as a magistrate. No additional longevity increment shall be awarded after the twentieth year of service. For purposes of this subsection, magistrates who entered state service on January 11, 1971, shall receive credit for years of service as a police court judge, city court judge, justice of the peace, or probate judge.

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

(6) Regardless of any other provision of this section, beginning July 1, 1997, no nonattorney magistrate shall receive an annual salary of more than fifty-five thousand two hundred seventy-six dollars

($55,276), and beginning July 1, 1998, there shall be no maximum salary limitation on nonattorney magistrate salaries.

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

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

59-502. SALARIES OF JUDGES. Commencing on July 1, 1998, the salary of the justices of the supreme court shall be ninety thousand seven hundred ninety-one dollars ($90,791) per annum, and the salary of the judges of the district courts shall be eighty-five thousand ninety-five dollars ($85,095) per annum. Commencing on July 1, 1999, the annual salaries of the justices of the supreme court and the annual salaries of judges of the district courts shall be increased by four percent (4%). Salaries of magistrates shall be as prescribed by chapter 22, title 1, Idaho Code. Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court as due out of the state treasury, but no justice of the supreme court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

Approved March 24, 1999.

CHAPTER 251
(H.B. No. 350)

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6526, IDAHO CODE, TO PROVIDE A TIME CERTAIN FOR MEETING THE REQUIREMENTS OF LAW RELATING TO IDENTIFYING AN AREA OF CITY IMPACT WITHIN THE UNINCORPORATED AREA OF A COUNTY, TO REQUIRE THAT RECOMMENDATIONS BY THE NINE PERSON COMMITTEE SHALL BE SUBMITTED TO THE GOVERNING BOARDS WITHIN ONE HUNDRED EIGHTY DAYS OF APPOINTING AT-LARGE MEMBERS OF THE COMMITTEE AND TO PROVIDE THAT EITHER THE CITY OR THE COUNTY MAY SEEK A DECLARATORY JUDGMENT IN THE EVENT THE CITY OR COUNTY FAILS TO ENACT ORDINANCES AS REQUIRED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. 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 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. A separate ordinance providing for application of plans and ordinances for the area of city impact shall be adopted. Subject to the provisions of section 50-222, Idaho Code, an area of city impact must be established before a city may annex adjacent territory. This separate ordinance shall provide for one (1) 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 by January 1, 2000, 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 after the city officials have been confirmed by the council, 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 submitted to the governing boards within one hundred eighty (180) days after the selection of the three (3) at-large members and 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, either 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 conduct an 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 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 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.

Approved March 24, 1999.

CHAPTER 252
(H.B. No. 354)

AN ACT

RELATING TO THE ADMINISTRATION OF SALES AND USE TAXES; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AND AMENDING SECTION 63-3620B, IDAHO CODE, TO AUTHORIZE THE STATE TAX COMMISSION TO PARTICIPATE IN THE NORTHWEST REGIONAL SALES TAX PILOT PROJECT AND TO PROVIDE A SUNSET FOR CERTAIN AGREEMENTS.

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

SECTION 1. The intent of the Idaho Legislature by this act is:

(1) To reduce sales tax administration costs for businesses participating in the Northwest Regional Sales Tax Pilot Project;

(2) To enhance efficiency of state tax administration while maintaining sales tax revenues; and

(3) To develop from this pilot project a model for regional and national sales tax simplification.

SECTION 2. That Section 63-3620B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3620B. AGREEMENTS TO COLLECT AND REMIT SALES TAX. (1) The state tax commission may enter into agreements with persons who may not be otherwise liable to collect and remit sales or use taxes for the collection of sales and use taxes due on their sales of tangible personal property or taxable services to customers in this state. These agreements shall be made on terms and conditions determined by the commission to be in the best interests of the state.

(2) The state tax commission is authorized to participate in the northwest regional sales tax pilot project with states, especially the states of Washington and Utah, and selected businesses, to simplify the sales and use tax administration and to enter into joint agreements for that purpose.

(a) Agreements to participate in the pilot project shall establish provisions for the administration, imposition and collection of sales and use taxes resulting in revenues paid that are substantially the same as would be paid under this chapter.

(b) Business parties to the agreements are excused from complying with the provisions of this chapter to the extent a different procedure is required by the agreements.

(c) Agreements authorized in subsection (2) of this section shall terminate on June 30, 2001.

Approved March 24, 1999.

CHAPTER 253
(H.B. No. 356)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2000; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED FUND BALANCES; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1999; AND DECLARING AN EMERGENCY FOR SECTION 4 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. SUPPORT SERVICES:						
FROM:						
General Fund	$ 1,123,800	$ 655,700	$ 13,300			$ 1,792,800
Department of Lands Fund	264,000	256,600	37,300			557,900
Land Improvement Fund	191,800	608,500	78,800			879,100
Federal Grant Fund	51,400	126,300				177,700
TOTAL	$ 1,631,000	$1,647,100	$129,400			$ 3,407,500
II. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 753,400	$ 245,500	$ 40,200			$ 1,039,100
Department of Lands Fund	1,561,600	1,011,300	32,000			2,604,900
Land Improvement Fund	4,538,600	2,283,200	287,400			7,109,200
Community Forestry Fund				$ 78,500		78,500
Federal Grant Fund	473,600	235,900		156,000		865,500
TOTAL	$ 7,327,200	$3,775,900	$359,600	$234,500		$11,697,200
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 1,867,800	$ 284,500				$ 2,152,300
Department of Lands Fund	15,000	131,700	$ 1,000			147,700
Land and Building Rental Fund	1,000	61,900				62,900
Land Improvement Fund	298,700	309,500				608,200
TOTAL	$ 2,182,500	$ 787,600	$ 1,000			$ 2,971,100
IV. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$2,175,200	$ 2,175,200
Department of Lands Fund					3,565,700	3,565,700
Fire Suppression Deficiency Fund					115,700	115,700
Land Improvement Fund					476,200	476,200
Federal Grant Fund					400,500	400,500
TOTAL					$6,733,300	$ 6,733,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
V. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 270,300	$ 56,000				$ 326,300
GRAND TOTAL	$11,411,000	$6,266,600	$490,000	$234,500	$6,733,300	$25,135,400

SECTION 2. There is hereby reappropriated to the Department of Lands the unexpended and unencumbered balance of any funds previously appropriated for the Triumph Mine Remediation Project to be used for the same purpose for the period July 1, 1999, through June 30, 2000.

The reappropriation is limited to $108,000 in General Funds, $500,000 in Hazardous Waste Management Funds, and $499,300 in spending authority for money collected from other potentially responsible parties.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred forty-two and sixty-one hundredths (242.61) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 4. In addition to the appropriation made in Section 1, Chapter 321, Laws of 1998, there is hereby appropriated to the Idaho Department of Lands the following amount, to be expended for the Support Services Program according to the designated expense class from the listed fund for the period July 1, 1998, through June 30, 1999:

FOR:	
Operating Expenditures	$50,000
FROM:	
General Fund	$50,000

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 4 of this act shall be in full force and effect on and after its passage and approval.

Approved March 24, 1999.

CHAPTER 254
(H.B. No. 357)

AN ACT

APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 2000; GRANTING A CONTINUOUS APPROPRIATION FOR THE BUREAU OF HAZARDOUS MATERIALS' MISCELLANEOUS REVENUE FUND FOR FISCAL YEAR 2000; RE-

APPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED FUNDS; 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 Military Division, the following amounts to be expended for the listed programs according to the designated expense classes from the listed funds for the period July 1, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:					
FROM:					
General Fund	$1,175,600	$ 787,600	$25,500	$200,000	$ 2,188,700
Federal Grant Fund		161,700			161,700
Miscellaneous Revenue Fund	16,600	21,100			37,700
TOTAL	$1,192,200	$ 970,400	$25,500	$200,000	$ 2,388,100
II. FEDERAL AND STATE CONTRACTS:					
FROM:					
General Fund	$ 527,400	$ 341,300	$ 7,400		$ 876,100
Federal Grant Fund	4,622,100	4,112,500	12,600		8,747,200
Professional Services Fund	450,000				450,000
TOTAL	$5,599,500	$4,453,800	$20,000		$10,073,300
III. DISASTER SERVICES:					
FROM:					
General Fund	$ 653,800	$ 80,200			$ 734,000
Federal Grant Fund	446,700	211,300		$407,300	1,065,300
Indirect Cost Recovery Fund	56,200	8,600			64,800
TOTAL	$1,156,700	$ 300,100		$407,300	$ 1,864,100
IV. BUREAU OF HAZARDOUS MATERIALS:					
FROM:					
General Fund	$ 157,100	$ 135,900			$ 293,000
Federal Grant Fund		185,700		$ 76,500	262,200
TOTAL	$ 157,100	$ 321,600		$ 76,500	$ 555,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$8,105,500	$6,045,900	$45,500	$683,800	$14,880,700

SECTION 2. The Military Division is hereby granted continuous appropriation authority for the Bureau of Hazardous Materials' Miscellaneous Revenue Fund for the period July 1, 1999, through June 30, 2000.

SECTION 3. There is hereby reappropriated to the Military Division the unexpended and unencumbered balance of moneys transferred to the Natural Restoration Fund in Section 5, Chapter 18, Laws of 1998, to be used only for nonrecurring expenditures related to the Milo Creek Containment Project for the period July 1, 1999, through June 30, 2000.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than one hundred seventy and eighty hundredths (170.80) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 24, 1999.

CHAPTER 255
(H.B. No. 358)

AN ACT
APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2000; 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 Board of Tax Appeals in the Department of Revenue and Taxation the following amounts, to be expended according to the designated expense classes from the listed fund for the period July 1, 1999, through June 30, 2000:

FOR:	
Personnel Costs	$247,800
Operating Expenditures	57,100
Capital Outlay	7,300
TOTAL	$312,200
FROM:	
General Fund	$312,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 24, 1999.

CHAPTER 256
(H.B. No. 361)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2000; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; TRANSFERRING CERTAIN FUNDS TO THE FISH AND GAME FUND FOR AN AUTOMATED LICENSING SYSTEM; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO REDUCING ADDITIONAL POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO THE ALLOCATION OF UPLAND GAME SET-ASIDE FUNDS; AND DECLARING AN EMERGENCY FOR SECTION 3 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Department of Fish and Game 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, 1999, through June 30, 2000:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Fund	$ 1,771,400	$ 3,196,600	$ 104,400	$260,000	$ 5,332,400
Fish and Game Set-aside Fund	17,500	22,600			40,100
Fish and Game Depredation Fund		2,000			2,000
Fish and Game Expendable Trust Fund		4,500			4,500
Fish and Game Nonexpendable Trust Fund		1,500			1,500
Fish and Game Federal Fund	2,225,600	1,724,100	68,700		4,018,400
TOTAL	$ 4,014,500	$ 4,951,300	$ 173,100	$260,000	$ 9,398,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. ENFORCEMENT:					
FROM:					
Fish and Game Fund	$ 5,778,900	$ 1,119,500	$ 150,900		$ 7,049,300
Fish and Game Set-aside Fund		10,300			10,300
Fish and Game Expendable Trust Fund		20,500			20,500
TOTAL	$ 5,778,900	$ 1,150,300	$ 150,900		$ 7,080,100
III. FISHERIES:					
FROM:					
Fish and Game Fund	$ 3,242,600	$ 2,077,700	$ 189,700		$ 5,510,000
Fish and Game Set-aside Fund	119,400	163,600	100,000		383,000
Fish and Game Expendable Trust Fund	197,800	49,700			247,500
Fish and Game Nonexpendable Trust Fund		32,200			32,200
Fish and Game Federal Fund	6,700,400	3,161,500	686,900		10,548,800
TOTAL	$10,260,200	$ 5,484,700	$976,600		$16,721,500
IV. WILDLIFE:					
FROM:					
Fish and Game Fund	$ 2,462,200	$ 2,564,000	$ 30,800		$ 5,057,000
Fish and Game Set-aside Fund	356,600	170,000			526,600
Fish and Game Expendable Trust Fund	285,200	320,700	2,500		608,400
Fish and Game Nonexpendable Trust Fund	8,000	1,900			9,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Federal Fund	2,224,000	912,300			3,136,300
TOTAL	$ 5,336,000	$ 3,968,900	$ 33,300		$ 9,338,200
V. INFORMATION AND EDUCATION:					
FROM:					
Fish and Game Fund	$ 1,084,200	$463,100	$ 64,000		$ 1,611,300
Fish and Game Set-aside Fund	55,800	115,900			171,700
Fish and Game Expendable Trust Fund		24,600			24,600
Fish and Game Federal Fund	382,200	328,500			710,700
TOTAL	$ 1,522,200	$ 932,100	$ 64,000		$ 2,518,300
VI. ENGINEERING:					
FROM:					
Fish and Game Fund	$ 719,300	$ 51,700	$ 15,000		$ 786,000
VII. NATURAL RESOURCE POLICY:					
FROM:					
Fish and Game Fund	$ 529,700	$ 72,000	$ 6,500		$ 608,200
Fish and Game Set-aside Fund	11,700				11,700
Fish and Game Federal Fund	1,158,100	304,800			1,462,900
TOTAL	$ 1,699,500	$ 376,800	$ 6,500		$ 2,082,800
VIII. WINTER FEEDING AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game Fund	$ 371,300	$ 51,300			$ 422,600
Fish and Game Set-aside Fund	35,100	2,076,700	$1,238,300		3,350,100
Fish and Game Primary Depredation Fund				$200,000	200,000
Fish and Game Secondary Depredation Fund				200,000	200,000
TOTAL	$ 406,400	$ 2,128,000	$1,238,300	$400,000	$ 4,172,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$29,737,000	$19,043,800	$2,657,700	$660,000	$52,098,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than four hundred ninety-six (496) full-time equivalent positions at any point during the period July 1, 1999, through June 30, 2000, 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 and transferred the sum of $1,000,000 from the Fish and Game Set-aside Fund to the Fish and Game Fund. Such transfer is intended to cover the appropriation in Section 1 of this act in the Administration Program to provide operating expenses and capital outlay for the development of a new automated licensing system. In the event the existing system is continued and the development moneys are not needed, the funds shall remain unspent in the Fish and Game Fund for future appropriation.

SECTION 4. It is legislative intent that the Department of Fish and Game work to identify five (5) additional positions to reduce, not to include enforcement officers, and report to the Joint Finance-Appropriations Committee at the fall interim meeting.

SECTION 5. It is legislative intent that the Department of Fish and Game allocate fifty percent (50%) of the Upland Game Set-aside Funds for stocking of pheasants, in cooperation with local sportsmen's groups.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, the appropriation contained in Section 3 of this Act shall be in full force and effect on and after its passage and approval.

Approved March 24, 1999.

CHAPTER 257
(H.B. No. 362)

AN ACT

RELATING TO INCOME TAX CREDITS; AMENDING SECTION 63-3029C, IDAHO CODE, TO ADD THE HOPE HOUSE, INC. OR ITS FOUNDATION AS AN ENTITY QUALIFYING FOR CONTRIBUTIONS ELIGIBLE FOR A STATE INCOME TAX CREDIT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3029C, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029C. INCOME TAX CREDIT FOR REHABILITATION FACILITIES -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to the anchor house or its foundation, to the children's home society of Idaho, inc., to the Idaho youth ranch or its foundation, to the hope house, inc. or its foundation, to the north Idaho children's home or its foundation, to a center for independent living located within the state of Idaho, or to a nonprofit rehabilitation facility located within the state of Idaho or its foundation.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars ($100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five hundred dollars ($500), whichever is less.

(3) For the purposes of this section, "center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(a) Is designed and operated within a local community by individuals with disabilities;

(b) Provides an array of independent living services and programs; and

(c) Is cross-disability.

(4) For the purposes of this section, "nonprofit rehabilitation facility" means only a facility that is accredited by the commission on accreditation of rehabilitation facilities.

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, 1999.

Approved March 24, 1999.