GENERAL LAWS

OF THE

STATE OF IDAHO

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

Convened January 7, 2002
Adjourned March 15, 2002

Volume 1

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

PUBLISHED BY AUTHORITY OF THE
SECRETARY OF STATE

PETE T. CENARRUSA
Secretary of State
Boise, Idaho

CHAPTER 1
(H.B. No. 425)

AN ACT

RELATING TO THE NUMBER OF YEARS AN ELECTED OFFICIAL MAY SERVE; REPEALING SECTIONS 34-907, 50-478 AND 33-443, IDAHO CODE, RELATING TO THE NUMBER OF YEARS A PERSON MAY SERVE IN THE FOLLOWING ELECTIVE OFFICE BY RESTRICTING ELIGIBILITY TO APPEAR ON THE BALLOT AFTER SERVING A PRESCRIBED NUMBER OF YEARS: UNITED STATES HOUSE OF REPRESENTATIVES, UNITED STATES SENATE, STATE EXECUTIVE OFFICES, STATE LEGISLATURE, COUNTY ELECTED OFFICES, MUNICIPAL OFFICERS AND SCHOOL DISTRICT TRUSTEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Sections 34-907, 50-478 and 33-443, Idaho Code, be, and the same are hereby repealed.

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

Governor vetoed January 31, 2002
Veto overridden February 1, 2002

CHAPTER 2
(S.B. No. 1292)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2002; 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 246, Laws of 2001, there is hereby appropriated to the Department of Agriculture 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, 2001, through June 30, 2002:

PLANT INDUSTRIES:	
FOR:	
Personnel Costs	$ 45,600
Operating Expenditures	111,800
Total	$157,400
FROM:	
Pest Control Deficiency Fund	$157,400

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 $157,400, for the period July 1, 2001, through June 30, 2002.

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 5, 2002.

CHAPTER 3
(S.B. No. 1293)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2002; 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 232, Laws of 2001, 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 expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

BUREAU OF HAZARDOUS MATERIALS:

FOR:	
Operating Expenditures	$32,500
FROM:	
Hazardous Substance Emergency Response Fund	$32,500

SECTION 2. The State Controller shall make a cash transfer of $32,500 from the General Fund to the Hazardous Substance Emergency Response Fund for the period July 1, 2001, through June 30, 2002.

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 5, 2002.

CHAPTER 4
(S.B. No. 1301)

AN ACT

STATING FINDINGS OF THE LEGISLATURE; APPROPRIATING MONEYS FROM THE BUDGET STABILIZATION FUND TO THE GENERAL FUND; DIRECTING THE STATE CONTROLLER NOT TO TRANSFER ADDITIONAL GENERAL FUNDS INTO THE BUDGET STABILIZATION FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Legislature finds that the current economic situation facing the state of Idaho, and underscored by the revenue projection from the Governor's Office and the analysis done by the Legislature's Economic Outlook Committee, warrants setting aside the transfer of General Funds to the Budget Stabilization Fund in fiscal year 2002 in order to ensure a balanced budget.

SECTION 2. There is hereby appropriated and transferred from the Budget Stabilization Fund to the General Fund the sum of $9,923,000.

SECTION 3. Notwithstanding the provisions of Section 57-814, Idaho Code, to the contrary, the State Controller is hereby directed not to transfer any additional General Funds to the Budget Stabilization Fund pursuant to Section 57-814, Idaho Code, during fiscal year 2002.

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 5, 2002.

CHAPTER 5
(H.B. No. 408)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 13, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1334, IDAHO CODE, TO LIMIT THE DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION BY PERSONS REGULATED BY THE DEPARTMENT OF INSURANCE, TO PROVIDE FOR THE ADOPTION OF RULES AND TO PROVIDE THAT NOTHING IN THIS ACT SHALL BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 13, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1334, Idaho Code, and to read as follows:

41-1334. DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION. (1) No person required to be licensed or authorized pursuant to title 41, Idaho Code, shall disclose any nonpublic personal information contrary to the provisions of title V of the Gramm-Leach-Bliley act of 1999, public law 106-102.

(2) The director may adopt rules necessary to carry out this section. The rules shall be consistent with the provisions of title V of the Gramm-Leach-Bliley act of 1999.

(3) Nothing in this section shall be construed to create a private cause of action.

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

Approved February 5, 2002.

CHAPTER 6
(H.B. No. 410)

AN ACT
RELATING TO PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS; AMENDING SECTION 54-1202, IDAHO CODE, TO DEFINE "SIGNATURE"; AMENDING SECTION 54-1215, IDAHO CODE, TO CLARIFY THE USE OF SEALS AND SIGNATURES; AND AMENDING SECTION 54-1223, IDAHO CODE, TO PROVIDE THAT THE BOARD MAY EXEMPT FROM EXAMINATION REQUIREMENTS CERTAIN INDIVIDUALS WHO HAVE AT LEAST TWELVE YEARS OF EXPERIENCE.

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

SECTION 1. That Section 54-1202, Idaho Code, be, and the same is hereby amended to read as follows:

54-1202. DEFINITIONS. As used in this chapter, unless the context or subject matter requires otherwise:

(a) Engineer. The term "engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and engineering sciences, and the principles and methods of engineering analysis and design, acquired by professional education and engineering experience.

(b) Professional Engineer. The term "professional engineer" means a person who has been duly registered or licensed as a professional engineer by the board under this chapter.

(c) Professional Engineering and Practice of Professional Engineering. The terms "professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public for any project physically located in this state, such as consultation, investigation, evaluation, planning, designing, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public for any project physically located in this state or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is registered under this chapter, or holds himself out as able to perform or who does perform for the public for any project physically

located in this state any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

(d) Consulting Engineer. The term "consulting engineer" means a professional engineer whose principal occupation is the independent practice of professional engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.

(e) Professional Land Surveyor. The term "professional land surveyor" means a person who is qualified by reason of his knowledge of the principles of land surveying acquired by education and practical experience to engage in the practice of professional land surveying and who has been duly registered or licensed as a professional land surveyor by the board under this chapter.

(f) Professional Land Surveying and Practice of Professional Land Surveying. The terms "land surveying" and "professional land surveying" mean responsible charge of surveying of land to determine the correct boundary description, to convey, to establish or reestablish land boundaries, or to plat lands and subdivisions thereof. Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.

(g) Board. The term "board" means the Idaho board of registration of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(h) Responsible Charge. The term "responsible charge" means the control and direction of the investigation, studies, design, construction or operation of engineering work, or the control and direction of record research, field retracement, office calculations, boundary determination and mapping of land surveying work, requiring initiative, professional skill and independent judgment.

(i) Engineer-in-Training. The term "engineer-in-training" means a person who has qualified for, taken and passed an examination in the fundamentals of engineering subjects as provided in this chapter.

(j) Land Surveyor-in-Training. The term "land surveyor-in-training" means a person who has qualified for, taken and passed an examination in the fundamentals of land surveying subjects as provided in this chapter.

(k) Rules of Professional Responsibility. The term "rules of professional responsibility" means those rules, if any, promulgated by the board, as authorized by the Idaho Code.

(l) Public. The term "public" means any person, firm, corporation, partnership, company, government agency, institution or any other entity recognized by law.

(m) Business Entity. The term "business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

(n) Signature. The term "signature" shall mean either: an original handwritten message identification containing the name of the person who applied it; or a digital signature which is an electronic authentication process attached to or logically associated with an electronic document. The digital signature must be unique to the person using it; must be capable of verification; must be under the sole control of the person using it; and must be linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

SECTION 2. That Section 54-1215, Idaho Code, be, and the same is hereby amended to read as follows:

54-1215. CERTIFICATES -- SEALS. (1) The board shall issue a certificate of registration upon payment of the registration fee as provided for in this chapter to any applicant who, in the opinion of the board, has satisfactorily met all of the requirements of this chapter, and an enrollment certificate shall be issued to those who qualify as engineers-in-training and land surveyors-in-training. In the case of a registered professional engineer, the certificate shall authorize the practice of "professional engineering," and in the case of a registered professional land surveyor the certificate shall authorize the practice of "professional land surveying." Certificates of registration shall show the full name of the registrant, shall give a serial registration number, and shall be signed by the chairman and the secretary of the board under seal of the board.

(2) The issuance of a certificate of registration by the board shall be prima facie evidence that the person named therein is entitled to all the rights, privileges and responsibilities of a registered professional engineer or of a registered professional land surveyor, provided that said certificate of registration has not expired or has not been suspended or revoked.

(3) Each registrant hereunder shall, upon registration, obtain a seal, the use and design of which are described below. It shall be unlawful for any person to affix or to permit his seal and signature to be affixed to any documents after the certificate of the registrant named thereon has expired or has been suspended or revoked, unless said certificate shall have been renewed, reinstated, or reissued, or for the purpose of aiding or abetting any other person to evade or attempt to evade any portion of this chapter.

(a) The seal may be a rubber stamp, crimp or electronically generated image. Whenever the seal is applied, the registrant's ~~written~~ signature and date shall also be included. If the signature is handwritten, it shall be adjacent to or across the seal. No further words or wording is required. A facsimile signature generated by any method will not be acceptable unless accompanied by a digital signature.

(b) The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency. Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature and date shall be clearly marked as "preliminary," "draft," "not for construction" or with similar words to distinguish the document from a final document.

(c) The seal, signature and date shall be placed on all original documents. The application of the registrant's seal, signature and date shall constitute certification that the work thereon was done by him or under his responsible charge. Each plan or drawing sheet shall be sealed and signed by the registrant or registrants responsible for each sheet. In the case of a business entity, each plan or drawing sheet shall be sealed and signed by the registrant or registrants involved. The principal in responsible charge shall sign and seal the title or first sheet. Copies of electronically produced documents, listed in paragraph (b) of this subsection, distributed for informational uses such as for bidding purposes or working copies, may be issued with the registrant's seal and a notice that the original document is on file with the registrant's signature and date. The words "Original Signed By:" and "Date Original Signed:" shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications and like documents need bear the seal, signature and date of the registrant.

(d) The seal and signature shall be used by registrants only when the work being stamped was under the registrant's responsible charge.

(e) The design of the seal shall be as determined by the board.

(4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of this chapter, an enrollment certificate or card as an engineer-in-training or land surveyor-in-training, which indicates that his name has been recorded as such in the board office. The engineer-in-training or land surveyor-in-training enrollment card does not authorize the holder to practice as a professional engineer or a professional land surveyor.

SECTION 3. That Section 54-1223, Idaho Code, be, and the same is hereby amended to read as follows:

54-1223. SAVING CLAUSE -- EXEMPTIONS. A. This chapter shall not be construed to affect:

(1) The practice of any other profession or trade for which a license is required under any law of this state or the United States.

(2) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, provided such work does not include final engineering design or land surveying decisions and is done under the direct responsibility, checking, and supervision of, and verified by, a person holding a certificate of registration under this chapter.

(3) Any individual teaching upper division engineering subjects that are classified as engineering design for any college or university in this state as of July 1, 1988, and any such individual employed after July 1, 1988, for a period of three (3) years from the date of employment with any college or university in this state.

(4) An individual doing surveying work for himself, or through a business entity, on property owned or leased by the individual or business entity, or in which the individual or business entity has an interest, estate or possessory right and which affects exclusively the property or interests of the individual or business

entity; provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made and certified by a registered, professional land surveyor as provided in this chapter.

(5) An individual doing survey work for himself, or through a business entity with respect to the location, amendment, or relocation of a mining claim.

(6) The practice of engineering by employees of a business entity as long as the services provided by them are for internal business entity use only.

B. The board, at its discretion, may exempt an exceptional individual who has ~~twenty-five~~ twelve (~~25~~12) or more years of appropriate experience in engineering from the requirement for satisfactory completion of an examination in the fundamentals of engineering.

C. In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, safety or environment through the provision of engineering services, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt the provision of engineering services.

Approved February 5, 2002.

CHAPTER 7
(H.B. No. 411)

AN ACT

RELATING TO SURVEYS OF BOUNDARY LINES; AMENDING SECTION 35-110, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 35-110, Idaho Code, be, and the same is hereby amended to read as follows:

35-110. SURVEY OF LINE. The person building such fence, or the occupant or owner of the land whereon the same is built, may, upon notice to the other party, whenever doubts arise about the location of such fence, procure the services of a ~~registered~~ professional land surveyor ~~or--engineer~~ to ~~run~~ establish the ~~division~~ boundary line between their respective lands, and the line so ~~run~~ established is sufficient notice to the party making the mistake, so as to require him to remove such fence within one (1) year thereafter.

Approved February 5, 2002.

CHAPTER 8
(H.B. No. 413)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1325, IDAHO CODE, TO DECREASE THE PERIOD OF TIME THAT EMPLOYERS HAVE TO REMIT CONTRIBUTIONS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM AFTER EACH PAY DATE AND TO REQUIRE THAT CONTRIBUTIONS BE REMITTED TOGETHER WITH CONTRIBUTIONS REMITTED UNDER SUPPLEMENTAL BENEFIT PLAN CONTRIBUTIONS.

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) 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 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 and, unless extended in writing by the executive director, shall be remitted no later than ~~twenty~~ five (~~20~~5) days after each pay date. Such contributions shall be remitted together with contributions remitted pursuant to subsection (5) of section 59-1308, Idaho Code, as directed by the board. 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 interest. A copy of such certification and request shall be furnished the delinquent employer.

(3) The state controller shall 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 February 5, 2002.

CHAPTER 9
(H.B. No. 414)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1362, IDAHO CODE, TO ALLOW INACTIVE MEMBERS WHO ARE VESTED TO PURCHASE MEMBERSHIP FOR ACTIVE DUTY SERVICE IN THE ARMED FORCES OF THE UNITED STATES; AND AMENDING SECTION 59-1363, IDAHO CODE, TO PROVIDE THAT AN INACTIVE MEMBER WHO IS VESTED MAY PURCHASE UP TO FORTY-EIGHT MONTHS OF MEMBERSHIP SERVICE.

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

SECTION 1. That Section 59-1362, Idaho Code, be, and the same is hereby amended to read as follows:

59-1362. PURCHASE OF ACTIVE DUTY SERVICE IN THE ARMED FORCES. (1) Notwithstanding any other provision of this chapter, an active <u>or inactive</u> member who is vested may purchase membership service for active duty service in the armed forces of the United States that does not qualify for "military service" as defined in section 59-1302(23), Idaho Code. Provided, the combined amount of membership service acquired under section 59-1302(23), Idaho Code, and purchased under this section shall not exceed forty-eight (48) months.

(2) Purchases under this section are limited to active <u>or inactive</u> members who provide, as required by the board, evidence of such active duty service and who do not have a vested right to retirement benefits in any other retirement system based in whole or in part upon the same active duty service.

(3) The cost of purchases under this section shall be the full actuarial costs of the service as determined by the board. The board may provide for payment options, including periodic payments, but no service shall be credited until payment has been made in full. The member shall be solely responsible for the costs of such purchased service, except that an employer may participate in the costs at its option.

(4) For purposes of this section, "active duty service in the armed forces of the United States" means active duty, other than primarily for training purposes, in the army, navy, air force, marine corps or coast guard, concluding with other than a dishonorable discharge.

SECTION 2. That Section 59-1363, Idaho Code, be, and the same is hereby amended to read as follows:

59-1363. PURCHASE OF MEMBERSHIP SERVICE. (1) Notwithstanding any other provision of this chapter, an active <u>or inactive</u> member who is vested may purchase up to forty-eight (48) months of membership service.

(2) The cost of purchases under this section shall be the full actuarial costs of the service as determined by the board. The board may provide for payment options, including periodic payments, but no service shall be credited until payment has been made in full. The member shall be solely responsible for the costs of such purchased service, except that an employer may participate in the costs at its option.

(3) In no event shall any member be allowed to purchase in the

aggregate more than forty-eight (48) months of membership service whether purchased under this section or any other provision authorizing purchase of membership service.

Approved February 5, 2002.

CHAPTER 10
(H.B. No. 434)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2002; 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 230, Laws of 2001, there is hereby appropriated to the Department of Lands 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, 2001, through June 30, 2002:

FOREST RESOURCES MANAGEMENT:	
FOR:	
Personnel Costs	$ 229,700
Operating Expenditures	2,545,400
TOTAL	$2,775,100
FROM:	
Pest Control Deficiency Fund	$2,775,100

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 Lands, not to exceed $2,685,900 for the period July 1, 2001, through June 30, 2002.

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 5, 2002.

CHAPTER 11
(S.B. No. 1311)

AN ACT

APPROPRIATING SEVEN MILLION DOLLARS OR A LESSER AMOUNT AS MAY BECOME AVAILABLE TO THE DEPARTMENT OF LABOR OF THE STATE OF IDAHO PURSUANT TO SECTION 903 OF THE FEDERAL SOCIAL SECURITY ACT, AS AMENDED, FOR EXPENSES INCURRED FOR THE ADMINISTRATION OF THE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE PROGRAMS AND PROVIDING THAT NO PORTION OF THESE FUNDS MAY BE USED FOR THE PURCHASE OR CONSTRUCTION OF

OFFICE BUILDINGS; AND PROVIDING THAT NO PART OF THE MONEY APPROPRIATED SHALL BE OBLIGATED AFTER THE EXPIRATION OF THE TWO YEAR PERIOD BEGINNING WITH THE FIRST DAY OF JULY 2002.

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

SECTION 1. There is hereby appropriated out of the funds made available to the Department of Labor of the State of Idaho, pursuant to Section 903 of the federal Social Security Act, as amended, the sum of $7,000,000 or a lesser amount as may become available as this state's share of funds allocated under the provisions of Section 903 of the federal Social Security Act, as amended, for the payment of expenses incurred for the administration of the Unemployment Insurance and the Employment Service Programs, as authorized by and subject to the limitations of Section 72-1346(4), Idaho Code, and Section 72-1348(3), Idaho Code. No portion of these funds may be used for the purchase or construction of office buildings.

SECTION 2. No part of the money appropriated shall be obligated after the expiration of the two year period beginning with the first day of July 2002.

Approved February 7, 2002.

CHAPTER 12
(H.B. No. 415)

AN ACT

RELATING TO THE ADJUDICATION OF WATER RIGHTS; AMENDING SECTION 42-1411, IDAHO CODE, TO REDUCE THE PERIOD FOR FILING RESPONSES TO OBJECTIONS IN THE SNAKE RIVER BASIN ADJUDICATION FROM 120 DAYS TO 60 DAYS.

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

SECTION 1. That Section 42-1411, Idaho Code, be, and the same is hereby amended to read as follows:

42-1411. REPORT OF THE DIRECTOR. (1) The director shall prepare a director's report on the water system. The director may file the director's report in parts as the director deems appropriate. The director may include such explanatory material as he deems appropriate in the director's report. Such explanatory material shall not impose any conditions or restrictions on the rights reported and shall not be subject to objection. This explanatory material shall not be used to support any notice of claim, objection to a notice of claim, or response to an objection.

(2) The director shall determine the following elements, to the extent the director deems appropriate and proper, to define and administer the water rights acquired under state law:

(a) the name and address of the claimant;

(b) the source of water;

(c) the quantity of water used describing the rate of water diver-

sion or, in the case of an instream flow right, the rate of water flow in cubic feet per second or annual volume of diversion of water for use or storage in acre-feet per year as necessary for the proper administration of the water right;

(d) the date of priority;

(e) the legal description of the point(s) of diversion; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow;

(f) the purpose of use;

(g) the period of the year when water is used for such purposes;

(h) a legal description of the place of use; if one (1) of the purposes of use is irrigation, then the number of irrigated acres within each forty (40) acre subdivision, except as provided in section 42-219, Idaho Code;

(i) conditions on the exercise of any water right included in any decree, license, or approved transfer application; and

(j) such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director.

(3) The director may include such general provisions in the director's report, as the director deems appropriate and proper, to define and to administer all water rights.

(4) The director shall file the director's report with the district court, and the director's report shall be a part of the record. Upon filing with the court, the director's report, except for the explanatory material referred to in subsection (1) of this section, shall constitute prima facie evidence of the nature and extent of the water rights acquired under state law. The unobjected to portions of the director's report shall be decreed as reported.

(5) Each claimant of a water right acquired under state law has the ultimate burden of persuasion for each element of a water right. Since the director's report is prima facie evidence of the nature and extent of the water rights acquired under state law, a claimant of a water right acquired under state law has the burden of going forward with the evidence to establish any element of a water right which is in addition to or inconsistent with the description in a director's report. Any party filing an objection to any portion of the director's report shall have the burden of going forward with the evidence to rebut the director's report as to all issues raised by the objection. Any other party to the proceeding may submit evidence in opposition to the objector's position and in support of the director's report. All such proceedings shall be governed by the Idaho rules of civil procedure and Idaho rules of evidence.

(6) The director shall file an original of the director's report with the district court. The director shall also distribute for display and review at least one (1) copy of the director's report to the office of the clerk of the district court for each county in which any part of the water system is located. The director shall also serve on each claimant or the claimant's attorney whose water right is listed in the director's report a notice of filing of the director's report. Notice shall be sent to the last known address of the claimant or the claimant's attorney. The notice shall be prepared by the director using plain and concise language and shall include:

(a) a statement that the director's report of the various water rights acquired under state law has been filed with the district court, naming the district court(s) to which the report was filed;
(b) a copy of that portion of the report setting forth the claimant's water right;
(c) a statement that a complete copy of the director's report is available for inspection, listing the locations at which the director's report is available, which shall include the office of the clerk of the district court for each county in which any part of the water system is located, the offices of the department, and any other locations the director may designate;
(d) a statement that all or a portion of the director's report is available upon request at the offices of the department, subject to payment of a reasonable fee to cover costs of reproduction and mailing;
(e) a statement that any claimant may file objections to any portion of the director's report with the district court specified in the notice and must mail a copy of the objection to the director, and to the claimant of each claimed right objected to, if the objector is not also the claimant of the right for which the objection is filed;
(f) the date prior to which all objections must be filed, which shall not be less than sixty (60) days for any director's report containing five hundred (500) claims or less, one hundred twenty (120) days for any director's report containing more than five hundred (500) claims and not more than five thousand (5,000) claims, and one hundred eighty (180) days for any director's report containing more than five thousand (5,000) claims; the above-stated periods of time shall commence on the date of service by mail of the notice of filing;
(g) a statement that claimants may file responses with the court to objections filed against their claims, and that a copy of any response must be mailed to the director and to the objector;
(h) the date prior to which all responses to objections must be filed with the court, which shall not be less than ~~one--hundred twenty~~ sixty (~~12~~60) days following receipt of a copy of the objection; and
(i) a statement that any part of the report to which no objections are filed shall be decreed by the district court and the time and location set for the hearing at which the unobjected parts of the report will be decreed, which time shall not be less than sixty (60) days following the expiration of the period for filing responses to objections.

(7) The director shall file an affidavit with the district court demonstrating compliance with the notice requirements of subsection (6) of this section.

Approved February 12, 2002.

CHAPTER 13
(H.B. No. 416)

AN ACT

RELATING TO THE ADJUDICATION OF WATER RIGHTS; AMENDING SECTION 42-1411, IDAHO CODE, TO CLARIFY THE PERIOD OF TIME TO BE SET FORTH IN CERTAIN NOTICES BETWEEN FILING OF THE REPORT OF THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES AND THE HEARING AT WHICH TIME THE UNOBJECTED PARTS OF THE REPORT WILL BE DECREED; AND AMENDING SECTION 42-1412, IDAHO CODE, TO CLARIFY THE TIME IN WHICH THE DIRECTOR SHALL FILE CERTAIN STATEMENTS WITH THE DISTRICT COURT.

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

SECTION 1. That Section 42-1411, Idaho Code, be, and the same is hereby amended to read as follows:

42-1411. REPORT OF THE DIRECTOR. (1) The director shall prepare a director's report on the water system. The director may file the director's report in parts as the director deems appropriate. The director may include such explanatory material as he deems appropriate in the director's report. Such explanatory material shall not impose any conditions or restrictions on the rights reported and shall not be subject to objection. This explanatory material shall not be used to support any notice of claim, objection to a notice of claim, or response to an objection.

(2) The director shall determine the following elements, to the extent the director deems appropriate and proper, to define and administer the water rights acquired under state law:

(a) the name and address of the claimant;

(b) the source of water;

(c) the quantity of water used describing the rate of water diversion or, in the case of an instream flow right, the rate of water flow in cubic feet per second or annual volume of diversion of water for use or storage in acre-feet per year as necessary for the proper administration of the water right;

(d) the date of priority;

(e) the legal description of the point(s) of diversion; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow;

(f) the purpose of use;

(g) the period of the year when water is used for such purposes;

(h) a legal description of the place of use; if one (1) of the purposes of use is irrigation, then the number of irrigated acres within each forty (40) acre subdivision, except as provided in section 42-219, Idaho Code;

(i) conditions on the exercise of any water right included in any decree, license, or approved transfer application; and

(j) such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director.

(3) The director may include such general provisions in the director's report, as the director deems appropriate and proper, to

define and to administer all water rights.

(4) The director shall file the director's report with the district court, and the director's report shall be a part of the record. Upon filing with the court, the director's report, except for the explanatory material referred to in subsection (1) of this section, shall constitute prima facie evidence of the nature and extent of the water rights acquired under state law. The unobjected to portions of the director's report shall be decreed as reported.

(5) Each claimant of a water right acquired under state law has the ultimate burden of persuasion for each element of a water right. Since the director's report is prima facie evidence of the nature and extent of the water rights acquired under state law, a claimant of a water right acquired under state law has the burden of going forward with the evidence to establish any element of a water right which is in addition to or inconsistent with the description in a director's report. Any party filing an objection to any portion of the director's report shall have the burden of going forward with the evidence to rebut the director's report as to all issues raised by the objection. Any other party to the proceeding may submit evidence in opposition to the objector's position and in support of the director's report. All such proceedings shall be governed by the Idaho rules of civil procedure and Idaho rules of evidence.

(6) The director shall file an original of the director's report with the district court. The director shall also distribute for display and review at least one (1) copy of the director's report to the office of the clerk of the district court for each county in which any part of the water system is located. The director shall also serve on each claimant or the claimant's attorney whose water right is listed in the director's report a notice of filing of the director's report. Notice shall be sent to the last known address of the claimant or the claimant's attorney. The notice shall be prepared by the director using plain and concise language and shall include:

(a) a statement that the director's report of the various water rights acquired under state law has been filed with the district court, naming the district court(s) to which the report was filed;

(b) a copy of that portion of the report setting forth the claimant's water right;

(c) a statement that a complete copy of the director's report is available for inspection, listing the locations at which the director's report is available, which shall include the office of the clerk of the district court for each county in which any part of the water system is located, the offices of the department, and any other locations the director may designate;

(d) a statement that all or a portion of the director's report is available upon request at the offices of the department, subject to payment of a reasonable fee to cover costs of reproduction and mailing;

(e) a statement that any claimant may file objections to any portion of the director's report with the district court specified in the notice and must mail a copy of the objection to the director, and to the claimant of each claimed right objected to, if the objector is not also the claimant of the right for which the objection is filed;

(f) the date prior to which all objections must be filed, which

shall not be less than sixty (60) days for any director's report containing five hundred (500) claims or less, one hundred twenty (120) days for any director's report containing more than five hundred (500) claims and not more than five thousand (5,000) claims, and one hundred eighty (180) days for any director's report containing more than five thousand (5,000) claims; the above-stated periods of time shall commence on the date of service by mail of the notice of filing;

(g) a statement that claimants may file responses with the court to objections filed against their claims, and that a copy of any response must be mailed to the director and to the objector;

(h) the date prior to which all responses to objections must be filed with the court, which shall not be less than one hundred twenty (120) days following receipt of a copy of the objection; and

(i) a statement that any part of the report to which no objections are filed shall be decreed by the district court and the time and location set for the hearing at which the unobjected parts of the report will be decreed, which time shall not be less than sixty (60) days following the expiration of the period for filing ~~responses--to~~ objections.

(7) The director shall file an affidavit with the district court demonstrating compliance with the notice requirements of subsection (6) of this section.

SECTION 2. That Section 42-1412, Idaho Code, be, and the same is hereby amended to read as follows:

42-1412. OBJECTIONS -- RESPONSES TO OBJECTIONS -- HEARING BEFORE DISTRICT JUDGE -- ENTRY OF FINAL DECREE. (1) Any claimant who desires to object to a water right, or to a general provision in the director's report, shall file an objection with the district court within the time specified in the notice of filing of the director's report. The claimant shall also send a copy of the objection to the claimant whose water right claim is the subject of the objection and to the director.

(2) The director may file with the district court a supplemental report to any objection to the director's report within the time specified in the notice of filing of the report. The director shall file with the district court the original of the notice of claim. The director shall mail a copy of the supplemental report to the objector and the claimant whose right is the subject of the objection. A claimant may file with the district court a response to any objection filed with respect to the claimant's water right within the time specified in the notice of filing of the report. If a party other than the claimant or the objector desires to participate in the proceeding concerning a particular objection, the party shall file a response to the objection that states the position of the party. In addition, any party may intervene in any objection proceeding in accordance with rules of practice and procedure established by the district court.

(3) The notice of claim, objections, and responses to objections, shall identify the issues to be heard for water rights acquired under state law.

(4) Following expiration of the period for filing objections and responses thereto, the district court shall hear and determine the objections to any water right or to any general provision in the

director's report. The court shall before any trial, however, order a settlement conference to determine whether the matter can be settled. The court may request the director to conduct a further investigation and to submit a supplemental report for any water right acquired under state law that is the subject of an objection. In addition, the district court or a party may request the director or his designee to present the basis for the recommendations in the director's report.

(5) The district court or special master shall conduct the trial without a jury on an objection or any group of objections in accordance with the Idaho rules of civil procedure.

(6) The district court shall enter a partial decree determining the nature and extent of the water right which is the subject of the objection or other matters which are the subject of the objection. The decree shall contain or incorporate a statement of each element of a water right as stated in subsections (2) and (3) of section 42-1411, Idaho Code, as applicable. The decree shall also contain an express statement that the partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights. Upon entry of the decree, the clerk of the district court shall send a certified copy of the decree to the director in accordance with section 42-1403, Idaho Code. The clerk of the district court shall notify the objector and claimant of each right as to which an objection was determined by the district court of entry of the decree in the manner provided in the Idaho rules of civil procedure.

(7) Not less than sixty (60) days after the expiration of the period for filing ~~responses to~~ objections, the director shall file with the district court a statement of those portions of the director's report for which no objection was filed. Following hearing, the district court shall enter a partial decree as to those portions of the director's report for which no objection has been filed. However, the district court may exclude unobjected claims from this list if the unobjected claim may be affected by the outcome of a contested matter. The decree shall contain or incorporate a statement of those elements of a water right contained in the director's report for water rights acquired under state law. Upon entry of the decree, the clerk of the district court shall send a certified copy of the decree to the director in accordance with section 42-1403, Idaho Code. The clerk of the district court shall notify each claimant of entry of the decree in the manner provided in the Idaho rules of civil procedure.

(8) Upon resolution of all objections to water rights acquired under state law, to water rights established under federal law, and to general provisions, and after entry of partial decree(s), the district court shall combine all partial decrees and the general provisions into a final decree.

(9) The district court may extend or shorten the time for filing any objection to the director's report or any response to an objection.

Approved February 12, 2002.

CHAPTER 14
(H.B. No. 435)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2002; 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 230, Laws of 2001, there is hereby appropriated to the Department of Lands $5,020,800 from the Fire Suppression Deficiency Fund to be expended for the Forest and Range Fire Protection Program for the period July 1, 2001, through June 30, 2002.

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 $3,982,500, for the period July 1, 2001, through June 30, 2002.

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, 2002.

CHAPTER 15
(H.B. No. 436)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2002; 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 117, Laws of 2001, there is hereby appropriated to the Lieutenant Governor the following amount to be expended for the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

FOR:	
Operating Expenditures	$11,200
FROM:	
General Fund	$11,200

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, 2002.

CHAPTER 16
(H.B. No. 449)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2002; 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 242, Laws of 2001, there is hereby appropriated to the Industrial Commission the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

COMPENSATION:
FOR:

Trustee and Benefit Payments	$152,300
FROM:	
Industrial Administration Fund	$152,300

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

Approved February 12, 2002.

CHAPTER 17
(H.B. No. 450)

AN ACT
APPROPRIATING ADDITIONAL MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2002; 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 312, Laws of 2001, there is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

VOCATIONAL REHABILITATION:
FOR:

Trustee and Benefit Payments	$170,200
FROM:	
Miscellaneous Revenue Fund	$170,200

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, 2002.

CHAPTER 18
(H.B. No. 451)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO FOR FISCAL YEAR 2002; AUTHORIZING ONE FULL-TIME EQUIVALENT POSITION FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO FOR FISCAL YEAR 2002; 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 116, Laws of 2001, there is hereby appropriated to the office of the Governor for the Public Employee Retirement System of Idaho the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

PORTFOLIO INVESTMENT:

FOR:	
Personnel Costs	$73,300
FROM:	
Public Employee Retirement System Special Fund	$73,300

SECTION 2. In addition to the full-time equivalent positions authorized in Section 3, Chapter 116, Laws of 2001, the Public Employee Retirement System of Idaho is authorized one (1) full-time equivalent positions for the period July 1, 2001, through June 30, 2002.

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, 2002.

CHAPTER 19
(H.B. No. 452)

AN ACT

RELATING TO THE IDAHO CODE FUND; AMENDING SECTION 73-215, IDAHO CODE, TO PROVIDE THAT AT THE BEGINNING OF EACH FISCAL YEAR THOSE MONEYS IN THE IDAHO CODE FUND THAT EXCEED THE PRIOR YEAR'S EXPENDITURES, EXCLUDING A TRANSFER BY APPROPRIATION, BY TWENTY-FIVE PERCENT OR MORE SHALL BE TRANSFERRED TO THE GENERAL FUND AND TO MAKE A TECHNICAL CORRECTION; APPROPRIATING MONEYS FROM THE IDAHO CODE FUND FOR DEPOSIT IN THE GENERAL FUND; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 73-215, Idaho Code, be, and the same is hereby amended to read as follows:

73-215. CODE FUND CREATED. There is hereby created in the hands of the state treasurer a fund to be known as the "Code Fund." All funds in the hands of the state treasurer credited to the "~~1947~~ "Idaho Code Fund" are hereby transferred, appropriated to and made a part of the code fund, together with any and all moneys now or hereafter remitted to and received by the state treasurer for deposit in the code fund pursuant to section 73-213, Idaho Code. ~~of this act~~ At the beginning of each fiscal year those moneys in the Idaho code fund that exceed the prior year's expenditures, excluding a transfer by appropriation, by twenty-five percent (25%) or more shall be transferred to the general fund.

SECTION 2. There is hereby appropriated from the Idaho Code Fund for deposit in the General Fund the amount of $1,300,000.

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. Section 1 of this act shall be in full force and effect on and after July 1, 2002.

Approved February 12, 2002.

CHAPTER 20
(H.B. No. 453)

AN ACT

APPROPRIATING ADDITIONAL MONEYS FOR THE BOARD OF PHARMACY FOR FISCAL YEAR 2002; REDUCING THE APPROPRIATION TO THE BOARD OF PHARMACY FOR FISCAL YEAR 2002; 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 225, Laws of 2001, there is hereby appropriated to Department of Self-Governing Agencies for the Board of Pharmacy the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

BOARD OF PHARMACY:

FOR:

Personnel Costs	$32,000

FROM:

State Regulatory Fund	$32,000

SECTION 2. The appropriation to the Department of Self-Governing Agencies for the Board of Pharmacy made in Section 1, Chapter 225, Laws of 2001, is hereby reduced by the following amount from the designated expense class from the listed fund for the period July 1, 2001, through July 1, 2002:

BOARD OF PHARMACY:

FOR:

Operating Expenditures	$17,000

FROM:

State Regulatory Fund	$17,000

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

Approved February 12, 2002.

CHAPTER 21
(H.B. No. 454)

AN ACT

RELATING TO TAXES; AMENDING SECTION 63-113, IDAHO CODE, AS ADDED BY CHAPTER 64, SECTION 1, LAWS OF 1997, TO REDESIGNATE THE SECTION AND TO PERMIT THE STATE TAX COMMISSION TO GRANT EXTENSIONS OF TIME TO FILE TAX RETURNS AND PAY TAXES IN THE EVENT OF CERTAIN DISASTERS; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Section 63-113, Idaho Code, as added by Chapter 64, Section 1, Laws of 1997, be, and the same is hereby amended to read as follows:

63-113~~4~~. FILING AND PAYMENT EXTENSIONS AS DISASTER RELIEF. (1) The state tax commission may grant an extension of time for any filing, or any payment, which is required under any tax law administered or enforced by the state tax commission, to those persons whose ability to timely comply with their filing or payment requirement was adversely affected by a ~~natural~~ disaster declared by the President of the United States or by the governor of ~~the state in~~ a state or territory of the United States. The state tax commission may grant any person entitled to an extension under section 7508A of the Internal Revenue Code, or regulations promulgated thereunder, an automatic extension for similar returns and payments due to this state.

(2) The state tax commission shall provide a procedure for affected taxpayers to justify the extension and provide such other information as the commission may require to support the taxpayer's application. A notice of denial of an extension application shall be given in the manner provided for notices of deficiencies in section 63-3629, Idaho Code, which shall be subject to review as provided in section 63-3631, Idaho Code.

(3) No extension granted under this section shall be for a period in excess of one (1) year.

(4) In all cases where the state tax commission has granted an extension under this section, payment of the tax shall not be subject to any late filing penalty or interest if payment of the tax is made on or before the extended due date. Failure to file on the extended due date will thereafter cause the imposition of penalty and interest. Section 63-3033, Idaho Code, shall not apply to taxpayers who receive extensions under this section.

(5) Any rule, activity, procedure or form adopted by the commission to facilitate the provisions of this section, are exempt from 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 September 10, 2001.

Approved February 12, 2002.

CHAPTER 22
(H.B. No. 458)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2002; 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 245, Laws of 2001, there is hereby appropriated to the Department of Water Resources 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, 2001, through June 30, 2002:

PLANNING AND TECHNICAL SERVICES:	
FOR:	
Personnel Costs	$43,200
Operating Expenditures	6,500
TOTAL	$49,700
FROM:	
Indirect Cost Recovery Fund	$49,700

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

Approved February 12, 2002.

CHAPTER 23
(H.B. No. 460)

AN ACT
REDUCING THE APPROPRIATION TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2002; REDUCING THE FULL-TIME EQUIVALENT POSITIONS FOR THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2002; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2002; AUTHORIZING AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR THE DEPARTMENT OF COMMERCE FOR FISCAL YEAR 2002; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Department of Labor in Section 1, Chapter 244, Laws of 2001, is hereby reduced by the following amounts from the designated program according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
RURAL PARTNERSHIP:			
FROM:			
Federal Grant Fund	$90,900	$50,200	$141,100
Miscellaneous Revenue Fund		24,300	24,300
Unemployment Penalty and Interest Fund		20,000	20,000
TOTAL	$90,900	$94,500	$185,400

SECTION 2. Notwithstanding any other provision of law to the contrary, the full-time equivalent positions authorized for the Department of Labor in Section 2, Chapter 244, Laws of 2001, are hereby reduced by one (1) full-time equivalent position for the period July 1, 2001, through June 30, 2002.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 349, Laws of 2001, there is hereby appropriated to the Department of Commerce the following amounts, to be expended for the designated program according to the designated expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
RURAL PARTNERSHIP:			
FROM:			
Federal Grant Fund	$90,900	$50,200	$141,100
Miscellaneous Revenue Fund		24,300	24,300
TOTAL	$90,900	$74,500	$165,400

SECTION 4. In addition to the full-time equivalent positions authorized in Section 3, Chapter 349, Laws of 2001, the Department of Commerce is authorized one (1) full-time equivalent position for the period July 1, 2001, through June 30, 2002.

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

Approved February 12, 2002.

CHAPTER 24
(H.B. No. 461)

AN ACT

APPROPRIATING ADDITIONAL MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2002; 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 236, Laws of 2001, there is hereby appropriated to the Agricultural Research and Cooperative Extension Service the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

FOR:	
Capital Outlay	$76,000
FROM:	
General Fund	$76,000

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 12, 2002.

CHAPTER 25
(H.B. No. 462)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2002; REDUCING THE FISCAL YEAR 2002 APPROPRIATION FOR THE MILITARY DIVISION; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding the provisions of Section 57-1601, Idaho Code, and in addition to the appropriation made in Section 1, Chapter 232, Laws of 2001, 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 expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

MILITARY MANAGEMENT:	
FOR:	
Personnel Costs	$108,600
FROM:	
Governor's Emergency Fund	$108,600

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made to the Office of the Governor for the Military Division in Section 1, Chapter 232, Laws of 2001, is

hereby reduced by the following amount from the designated program according to the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

BUREAU OF HAZARDOUS MATERIALS:

FOR:	
Capital Outlay	$40,000
FROM:	
General Fund	$40,000

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

Approved February 12, 2002.

CHAPTER 26
(H.B. No. 392)

AN ACT

RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 54-1705, IDAHO CODE, TO FURTHER DEFINE TERMS RELATING TO INTERNSHIP AND PRECEPTORS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4702, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AND AMENDING SECTION 37-3201, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION.

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

SECTION 1. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. (1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.

(2) "Counseling or counsel" means the effective communication by the pharmacist of information as set out in this chapter, to the patient or caregiver, in order to improve therapeutic outcomes by maximizing proper use of prescription medications and devices. Specific areas of counseling shall include, but are not limited to:

(a) Name and strength and description of the medication;

(b) Route of administration, dosage, dosage form, continuity of therapy and refill information;

(c) Special directions and precautions for preparation, administration, storage and use by the patient as deemed necessary by the pharmacist;

(d) Side effects or adverse effects and interactions and therapeutic contraindications that may be encountered, including their avoidance, which may interfere with the proper use of the medication or device as was intended by the prescriber, and the action required if they occur;

(e) Techniques for self-monitoring drug therapy; and

(f) Action to be taken in the event of a missed dose.

(3) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one (1) person to another,

whether or not for a consideration.

(4) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, invitro reagent or other similar related article including any component part or accessory which is:

(a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Intended to effect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(5) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

(6) "Distribute" means the delivery of a drug other than by administering or dispensing.

(7) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(8) "Drug order" means a written order, in a hospital or other health care institution, for an ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, which is immediately reduced to writing by a pharmacist, registered nurse or other licensed health care practitioner authorized by the hospital or institution. The order shall contain the name and bed number of the patient, the name and strength or size of the drug or device, unless specified by individual institution policy or guideline, the amount to be dispensed, either in quantity or days, adequate directions for the proper use of the drug or device when it is administered to the patient, and the name of the prescriber.

(9) "Drug outlet" means all pharmacies, nursing homes, residential or assisted living facilities, convalescent homes, extended care facilities, drug abuse treatment centers, penal institutions, hospitals, family planning clinics, retail stores, wholesalers, manufacturers and mail order vendors with facilities located in this state which are engaged in dispensing, delivery or distribution of drugs and drug manufacturers and wholesalers with facilities located outside the state, but doing business within this state.

(10) "Prospective drug review" includes, but is not limited to, the following activities:

(a) Evaluation of the prescription or medication order for:

1. Known allergies;
2. Rational therapy contraindications;
3. Reasonable dose and route of administration; and
4. Reasonable directions for use.

(b) Evaluation of the prescription or medication order for duplication of therapy.

(c) Evaluation of the prescription or medication order for interactions:

1. Drug-drug;
2. Drug-food; and
3. Drug-disease.

(d) Evaluation of the prescription or medication order for proper utilization:

1. Over or under utilization; and
2. Abuse/misuse.

(11) "Extern" means a bona fide student enrolled in an approved college of pharmacy who has not received his first professional degree in pharmacy.

(12) "Externship" means a structured practical experience program in pharmacy, approved by the board and administered by a college of pharmacy.

(13) "Intern" means any person who has completed a course of study at an approved college of pharmacy, received the first professional degree in pharmacy and is registered with the board as an intern. Interns must register with the board prior to commencement of an internship program.

(14) "Internship" means a postgraduate practical experience program under the supervision of a ~~licensed pharmacist registered as a~~ preceptor at a preceptor site.

(15) "Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

(16) "Labeling" means the process of preparing and affixing of a label to any drug container, exclusive however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation.

(17) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for his own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a pharmacist or practitioner as an incident to his administering or dispensing of a drug in the course of his professional practice; or

(b) By a practitioner or by his authorization under his supervision for the purpose of or as an incident to research, teaching or chemi-

cal analysis and not for sale.

(18) "Manufacturer" means a person who by compounding, cultivating, harvesting, mixing or other process, produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

(19) "Precursor" means a substance, other than a legend drug which is an immediate chemical intermediate that can be processed or synthesized into a legend drug, and is used or produced primarily for use in the manufacture of a legend drug by persons other than persons licensed to manufacture such legend drugs by the Idaho board of pharmacy, registered by the state board of health and welfare, or licensed to practice pharmacy by the Idaho board of pharmacy.

(20) "Person" means an individual, corporation, partnership, association or any other legal entity.

(21) "Pharmaceutical care" means drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the board.

(22) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(23) "Pharmacy" means any facility, department or other place where prescriptions are filled or compounded and are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public.

(24) "Practitioner" shall mean a physician, dentist, veterinarian, scientific investigator or other person (other than a pharmacist) licensed in this state and permitted by such license to dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this state.

(25) "Preceptor" means a pharmacist licensed in the state and in good standing, who supervises the internship training of a registered intern. The preceptor ~~must be registered as a preceptor and~~ shall be actively engaged in the practice of pharmacy on a full-time employment basis ~~in the approved training area~~ at a registered preceptor site.

(26) "Preceptor site" means any training site for pharmacy interns and externs registered with the board pursuant to board rule.

(27) "Prescription drug or legend drug" means a drug which, under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements:

(a) "Caution: Federal law prohibits dispensing without a prescription"; or

(b) "Rx Only"; or

(c) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

(2~~7~~8) "Prescription drug order" means a lawful written or verbal order of a practitioner for a drug.

(2~~8~~9) "Nonprescription drugs" means medicines or drugs which may be

sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

(~~29~~30) "Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects which are used in any way in connection with the purchase, sale or handling of any drug or device.

(~~30~~1) "Sale" means every sale and includes:

(a) Manufacturing, processing, transporting, handling, packaging or any other production, preparation or repackaging;

(b) Exposure, offer, or any other proffer;

(c) Holding, storing or any other possession;

(d) Dispensing, giving, delivering or any other supplying; and

(e) Applying, administering or any other usage.

(~~31~~2) "Warehouseman" means a person who stores legend drugs for others and who has no control over the disposition of such drugs except for the purpose of such storage.

(~~32~~3) "Wholesaler" means a person engaged in the business of distributing legend drugs that he himself has not produced or prepared, to persons included in any of the classes named in subsection (2) (a) through (f) of section 54-1734, Idaho Code.

SECTION 2. That Section 54-4702, Idaho Code, be, and the same is hereby amended to read as follows:

54-4702. DEFINITIONS. As used in this chapter:

(1) "Acupuncture" means that theory of health care developed from traditional and modern Oriental medical philosophies that employs diagnosis and treatment of conditions of the human body based upon stimulation of specific acupuncture points on meridians of the human body for the promotion, maintenance, and restoration of health and for the prevention of disease. Therapies within the scope of acupuncture include manual, mechanical, thermal, electrical and electromagnetic treatment of such specific indicated points. Adjunctive therapies included in, but not exclusive to, acupuncture include herbal and nutritional treatments, therapeutic exercise and other therapies based on traditional and modern Oriental medical theory.

(2) "Board" means the Idaho state board of acupuncture.

(3) "NCCAOM" means "National Certification Commission for Acupuncture and Oriental Medicine."

(4) "Practice of acupuncture" means the insertion of acupuncture needles and use of similar devices and therapies, including application of moxibustion, to specific indicated points on the skin of the human body as indicated pursuant to traditional and modern theories of Oriental medicine. The "practice of acupuncture" does not include:

(a) surgery; or

(b) prescribing, dispensing or administering any prescription drug or legend drug as defined in section 54-1705(26~~7~~), Idaho Code.

SECTION 3. That Section 37-3201, Idaho Code, be, and the same is hereby amended to read as follows:

37-3201. DEFINITIONS. As used in this chapter:

(1) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer or distributor of the drug, or both;

(2) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label even though he is not the actual manufacturer of the drug;

(3) "Solid dosage form" means capsules or tablets intended for oral use;

(4) "Legend drug" means any drug defined by section 54-1705(23~~7~~), Idaho Code.

Approved February 19, 2002.

CHAPTER 27
(H.B. No. 400)

AN ACT

RELATING TO THE IDAHO PUBLIC RECORDS ACT; REPEALING SECTION 3, CHAPTER 194, LAWS OF 2000; AND AMENDING SECTION 4, CHAPTER 194, LAWS OF 2000, TO STRIKE THE SUNSET CLAUSE AND CONTINGENCY CLAUSE.

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

SECTION 1. That Section 3, Chapter 194, Laws of 2000, be, and the same is hereby repealed.

SECTION 2. That Section 4, Chapter 194, Laws of 2000, be, and the same is hereby amended to read as follows:

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval. ~~The provisions of Section 1 of this act shall be null, void and of no force and effect on and after July 1, 2002. Section 3 of this act shall be in full force and effect only if the provisions of Section 1 become null, void and of no force and effect.~~

Approved February 19, 2002.

CHAPTER 28
(H.B. No. 401)

AN ACT

RELATING TO THE EXTRADITION OF FUGITIVES; AMENDING SECTION 19-4523, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF CORRECTION OR THE HEAD OF ANY FACILITY OR INSTITUTION OPERATED BY THE DEPARTMENT MAY APPLY FOR THE REQUISITION FOR THE RETURN OF PERSONS WHO HAVE UNSATISFIED TERMS OF IMPRISONMENT OR OTHER SUPERVISION REMAINING PURSUANT TO THEIR CRIMINAL CONVICTIONS AND WHO ARE ABSENT

FROM THE STATE FOR ANY REASON, TO PROVIDE THAT THE APPLICATION SHALL INCLUDE A STATEMENT OF THE CIRCUMSTANCES OF THE PERSON'S ABSENCE FROM THE STATE, TO PROVIDE THAT THE DIRECTOR OR THE HEAD OF A CORRECTIONAL FACILITY MAY ATTACH AFFIDAVITS OR OTHER DOCUMENTS TO APPLICATIONS FOR REQUISITION AND TO PROVIDE THAT CERTIFIED COPIES OF JUDGMENTS OF CONVICTION AND SENTENCES SHALL BE FILED WITH THE OFFICE OF THE SECRETARY OF STATE.

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

SECTION 1. That Section 19-4523, Idaho Code, be, and the same is hereby amended to read as follows:

19-4523. MANNER OF APPLYING FOR REQUISITION. (a) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney of the county in which the offense is committed shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, and the approximate time, place and circumstances of its committal, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim.

(b) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, or who has an unsatisfied term of imprisonment or other supervision remaining pursuant to his conviction of a crime and who is absent from this state for any reason, the prosecuting attorney of the county in which the offense was committed, the commission of pardons and parole, the director of the department of correction or his designee, or the ~~warden~~ head of ~~the~~ any facility or institution operated by the department of correction, or sheriff of the county from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, or other circumstances of his absence from this state, and the state in which he is believed to be, including the location of the person therein at the time application is made.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, commission of pardons and parole, ~~warden~~ director of the department of correction, correctional facility head, or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One (1) copy of the application with the action of the governor indicated by indorsement thereon, and one (1) of the certified copies of the indictment or complaint or information, or judgment of conviction and

sentence, and affidavit, shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

Approved February 19, 2002.

CHAPTER 29
(H.B. No. 405)

AN ACT

RELATING TO MARKING OF STATE VEHICLES; AMENDING SECTION 49-2426, IDAHO CODE, TO PROVIDE AN EXCEPTION FROM STATUTORY REQUIREMENTS REGARDING MARKING FOR CERTAIN VEHICLES UNDER THE CUSTODY AND CONTROL OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF JUVENILE CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-2426, Idaho Code, be, and the same is hereby amended to read as follows:

49-2426. MARKING OF VEHICLES -- CERTAIN VEHICLES EXCEPTED. (1) Every motor vehicle owned by or under control and custody of the state of Idaho, except as provided in subsections (2) and (3) of this section, or in section 49-2427, Idaho Code, shall be indelibly and conspicuously lettered on each side, in plain letters not less than one and one-half (1 1/2) inches high, with the words "State of Idaho" or "Idaho" with the name of the proper department, as defined in section 67-2402, Idaho Code, in each case inserted following either of these words. The words shall be kept clear, distinct and visible at all times. The provisions of this section shall not be applicable to any motor vehicle in the personal service of the governor, except that upon the front doors of any motor vehicle in his personal service there shall be placed the Great Seal of the state of Idaho.

(2) Motor vehicles under the custody and control of the director of the Idaho state police and used for confidential investigative purposes when necessary to enforce the laws of this state or motor vehicles under the custody and control of the director of the department of health and welfare and used for official state business need not be marked as provided in subsection (1) ~~above~~ of this section. Any other department, agency, or entity of the state shall apply in writing to the director for permission to use one (1) or more unmarked vehicles for confidential investigative purposes. Permission shall be granted only in writing and upon a finding of good cause.

(3) Motor vehicles under the custody and control of the director of the Idaho department of juvenile corrections, when used for official state business and to enforce laws of the juvenile corrections system, including investigation of juveniles under its purview, need not be marked as provided in subsection (1) of this section.

Approved February 19, 2002.

CHAPTER 30
(H.B. No. 426)

AN ACT

RELATING TO FUELS TAX LAW; AMENDING SECTION 63-2401, IDAHO CODE, TO DEFINE "BIODIESEL" AND TO EXPAND THE DEFINITIONS OF "INTERNATIONAL FUEL TAX AGREEMENT," "JURISDICTION" AND "PERSON"; AMENDING SECTION 63-2405, IDAHO CODE, TO DELETE THE PREFERENTIAL TAX RATE FOR GASOHOL AND DIESEL FUEL CONTAINING AGRICULTURAL PRODUCTS; AMENDING SECTION 63-2407, IDAHO CODE, TO PROVIDE A DEDUCTION FOR GASOHOL AND BIODIESEL NOT EXCEEDING TEN PERCENT OF THE TOTAL GALLONS OF GASOHOL OR BIODIESEL REPORTED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2410, IDAHO CODE, TO CLARIFY THE THREE YEAR STATUTE OF LIMITATION OF REFUND CLAIMS FOR MOTOR FUEL TAXES; AND AMENDING SECTIONS 63-2421, 63-2438, 63-2440 AND 63-2441, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE IN REFERENCE TO TEMPORARY TRIP PERMITS.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

(a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and

(b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Biodiesel" means any fuel or mixture of fuels that is:

(a) Derived in whole or in part from agricultural products or animal fats or the wastes of such products; and

(b) Suitable for use as fuel in diesel engines.

(3) "Bond" means:

(a) ~~A sure~~ty bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

(~~3~~4) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(~~4~~5) "Commission" means the state tax commission of the state of Idaho.

(~~5~~6) "Distributor" means any person who receives gasoline, special

fuels, and/or aircraft fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(~~6~~7) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements of the internal revenue service, or the environmental protection agency.

(~~7~~8) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

(~~8~~9) "Gasohol" means gasoline containing a mixture of no more than ten percent (10%) blend anhydrous ethanol.

(~~9~~10) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(~~10~~11) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuel's tax liability or refund.

(~~11~~12) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(~~12~~13) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in title 49, U.S.C., section 31701, including subsequent amendments to that agreement.

(~~13~~14) "Jurisdiction" means a state of the United States, the District of Columbia, ~~or~~ a province or territory of Canada, or a state, territory or agency of Mexico in the event that the state, territory or agency participates in the international fuel tax agreement.

(~~14~~15) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code.

(~~15~~16) "Motor fuel" means gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(~~16~~17) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(~~17~~18) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any

clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(1~~8~~9) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; and any vehicular type unit either as an integral part of, or required for the movement of, units defined in section 39-4105(15), Idaho Code.

(~~19~~20) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(2~~0~~1) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(2~~1~~2) "Special fuels dealer" means "distributor" under subsection (5~~6~~) of this section.

(2~~2~~3) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(2~~3~~4) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2405, Idaho Code, be, and the same is hereby amended to read as follows:

63-2405. IMPOSITION OF TAX. ~~(1)~~ An excise tax is hereby imposed on all gasoline received. The tax is to be paid by the licensed distributor, and measured by the total number of gallons of gasoline received by him, at the rate of twenty-five cents (25¢) per gallon. That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

~~(2) The excise tax rate set forth in this section shall, when applied to gasohol or to special fuels designed for use in diesel engines, be reduced by the same percentage that the quantity of denatured anhydrous ethanol contained in the gasoline or, in the case of special fuels the quantity of such special fuel which is derived from agricultural products or the wastes of such products, bears to the total fuel subject to tax. Provided however, in no event shall the rate set forth in this section be reduced more than ten percent (10%).~~

SECTION 3. That Section 63-2407, Idaho Code, be, and the same is hereby amended to read as follows:

63-2407. DEDUCTIONS AUTHORIZED. Each licensed distributor shall

deduct from his monthly report:

(1) Motor fuel exported from this state other than in the supply tanks of motor vehicles, motor boats or aircraft when supported by a shipping document, an invoice signed by the purchaser, or other proper documents approved by the commission but only if:

(a) ~~t~~The purchaser is not a licensed distributor and the seller can establish that any tax due in the jurisdiction to which the motor fuel is destined is paid~~,~~; or

(b) ~~t~~The purchaser is a licensed distributor in the jurisdiction to which the motor fuel is destined.

(2) Motor fuel returned to a licensed distributor's refinery or pipeline terminal storage when supported by proper documents approved by the commission.

(3) Motor fuel lost or destroyed by fire, lightning, flood, tornado, windstorm, explosion, or other accidental casualty, after presenting to the commission satisfactory proof of loss.

(4) The number of gallons which would be equal to one ~~per-cent~~ percent (1%) of the total number of gallons received during the reporting period, less the total number of gallons deducted under subsections (1) through (3) of this section, which credit is granted to the licensed distributor to reimburse him for the expense incurred on behalf of the state of Idaho in collecting and remitting motor fuel tax moneys, maintaining necessary records for the state, preparing necessary reports and remittances in compliance with this chapter, and for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty as provided in subsection (3) of this section. The licensed distributor may, in addition to the above, deduct the number of gallons equal to one ~~per-cent~~ percent (1%) of the total number of gallons received during the preceding calendar month, less the total number of gallons deducted under subsections (1) through (3) of this section, to cover shrinkage, evaporation, spillage and handling losses of a retail dealer. The latter deductions are to be allowed only upon filing with the commission satisfactory evidence as may be prescribed by it indicating the credit allowance has been made in favor of the retail dealer or paid to him. The evidence shall be submitted together with the report wherein this portion of the deduction is claimed. A licensed distributor who sells and delivers motor fuel directly to the consumer and not for resale shall, with respect to those sales, be deemed a retail dealer for the purposes of this section.

(5) Motor fuel sold to the Idaho national guard for use in aircraft and in vehicles used off public highways provided, however, such deduction is supported by an exemption certificate signed by an authorized officer of the Idaho national guard.

(6) For sales made on or after July 1, 1995, taxes previously paid on gallons 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, the tax per gallon shall be paid based upon the amount actually received divided by the price per gallon of the original sale multiplied by the appropriate tax rate.

(7) In the case of motor fuel received during the reporting period and included in the report that is:

(a) Gasohol, deduct the number of gallons of denatured anhydrous

ethanol contained in the gasohol.

(b) Biodiesel, in whole or in part, deduct the number of gallons of agricultural products or animal fats or the wastes of such products contained in the fuel.

The deduction provided in this subsection shall not exceed ten percent (10%) of (i) the volume of gasohol reported on the report or (ii) the special fuel which is or contains biodiesel.

SECTION 4. That Section 63-2410, Idaho Code, be, and the same is hereby amended to read as follows:

63-2410. REFUND OF GASOLINE TAX PROCEDURE. (1) Any person who shall purchase fifty (50) gallons or more, and use the gasoline in motor vehicles operated on highways outside of the state of Idaho where a duplicate tax is assessed for the same gasoline, shall be entitled to refund when a claim is presented to the commission in the manner required in subsection (5)(c) of this section. Claimant shall present to the commission a statement accompanied by a verification of the use determined by an audit of his operations conducted as prescribed by the tax commission; or his claim may be verified by the filing of a receipt or proof showing the payment of tax on the gasoline used in any other state.

(2) Any person who shall purchase within any one (1) calendar year fifty (50) gallons or more of gasoline used for the purposes described in this subsection shall be entitled to be refunded the amount of gasoline tax previously paid on that gasoline. Exempt uses are:

(a) Operating stationary gasoline engines;

(b) Propelling equipment or vehicles which are not licensed to be operated on a highway; and

(c) Operating commercial motor boats.

(3) No refund of gasoline tax shall be allowed for any gasoline which is:

(a) Used in motor vehicles required to be licensed or used in any motor vehicle exempt from registration by reason of the ownership or residence; or

(b) Aircraft engine fuel placed in aircraft, provided however, if tax has been paid at the rate provided in section 63-2405, Idaho Code, on any motor fuel placed in the fuel supply tank of an aircraft the user of the fuel may apply for a refund of the difference between the tax paid on the fuel and the tax imposed in section 63-2408, Idaho Code; or

(c) Gasoline used in recreational vehicles; or

(d) Gasoline used in noncommercial motor boats or in boats operated by a governmental entity.

(4) Any licensed distributor paying the gasoline tax and/or aircraft engine fuel tax to the state of Idaho erroneously shall be allowed a credit or refund of the amount of tax paid by him if a written claim for refund is filed with the commission within three (3) years after the date those taxes were paid. Such credit or refund shall include interest at the rate established in section 63-3045, Idaho Code, computed from the date taxes to be refunded or credited were paid to the commission.

(5) (a) All claims for refund of gasoline taxes arising under subsection (1), (2) or (3)(b) of this section shall be filed in conjunction with the claimant's income tax return due pursuant to chapter 30, title 63, Idaho Code. The gasoline tax refund claimed shall

be tax paid on gasoline actually purchased during the taxable year to which the income tax return relates. The gasoline tax refund due shall be offset against any other taxes, penalties or interest due before any balance is refunded by the commission to the claimant. Subject to a limitation as to the amount of refund to be claimed as the commission may provide by rule, refund claims may be submitted and paid on a monthly basis and reconciled on the income tax return when it is filed.

(b) If a claimant is not required to file an income tax return, the refund claim shall be made on forms and in the manner as the commission may provide. The claim shall relate to taxes paid on gasoline actually purchased in the calendar year preceding the filing and the claim shall be ~~filed~~ due on or before April 15 following the close of the calendar year.

(c) Claims for refunds under subsection (1) or (2) of this section shall be filed ~~within the time and~~ in the manner prescribed in section 63-3072, Idaho Code. Such credit or refund shall include interest at the rate established in section 63-3045, Idaho Code, computed from sixty (60) days following the later of the due date of the claimed refund under subsection (5)(a) or (5)(b) of this section or the filing of the claim. No refund shall be paid under this section unless a written claim for such refund has been filed with the commission within three (3) years after the due date, including extensions, of the income tax return in regard to which the claim relates or the due date of the claim established in paragraph (b) of this subsection (5).

(d) The commission may require that all claims be accompanied by the original signed invoice or invoices issued to the claimant, showing the total amount of gasoline on which a refund is claimed and the reason, the amount of the tax and any additional information required by the commission. Each separate delivery shall constitute a purchase and a separate invoice shall be prepared, at least in duplicate, to cover the delivery. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or double-spaced carbon shall be used between the original and first duplicate.

(6) (a) Should the commission find that the claim contains errors, it may correct the claim and approve it as corrected, or the commission may require the claimant to file an amended claim. The commission may require any person who makes a claim for refund to furnish a statement under oath, giving his occupation, description of the machine or equipment in which the gasoline was used, the place where used and any other information as the commission may require. If the commission determines that any claim has been fraudulently presented, or is supported by an invoice or invoices fraudulently made or altered, or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the commission may reject the claim in full. If the claim is rejected, the commission may suspend the claimant's right to any refund for purchases made during a period not to exceed one (1) year beginning with the date the rejected claim was filed, and it shall take all other action deemed appropriate.

(b) The commission has authority, in order to establish the validity of any claim, to examine the books and records of the claimant

for that purpose, and failure of the claimant to accede to the demand for the examination may constitute a waiver of all rights to the refund claimed.

(7) In the event of the loss or destruction of the original invoice or invoices, the person claiming a refund may submit a duplicate copy of the invoice certified by the vendor, but payment based on the duplicate invoice shall not be made until one (1) year after the date on which the gasoline was purchased.

SECTION 5. That Section 63-2421, Idaho Code, be, and the same is hereby amended to read as follows:

63-2421. RETURNS AND PAYMENT OF USE TAX BY CONSUMERS. (1) Any person who consumes special fuels in a motor vehicle licensed or required to be licensed by the laws of this state, except for motor vehicles licensed under IFTA or operating with a temporary ~~trip~~ permit under section 49-432, Idaho Code, which is subject to the tax imposed by section 63-2416, Idaho Code, shall report the amount of tax liability and pay the taxes due in conjunction with his income or franchise tax return due under the provisions of chapter 30, title 63, Idaho Code, in the manner and form prescribed by the commission. Payment of special fuels taxes shall be made in conjunction with any other taxes due on that return and special fuels taxes due may be offset against refunds of any other taxes shown on the return to be due the taxpayer.

(2) In the case of a person other than one who consumes special fuels in a motor vehicle described in the exception in subsection (1) of this section and not required to file a return under chapter 30, title 63, Idaho Code, who is subject to the tax imposed by section 63-2416, Idaho Code, the tax shall be paid annually, on a calendar year basis, in the manner and form required by the commission. The return and payment for each calendar year shall be due on or before April 15 of the immediately succeeding calendar year.

SECTION 6. That Section 63-2438, Idaho Code, be, and the same is hereby amended to read as follows:

63-2438. INTERNATIONAL FUEL TAX AGREEMENT (IFTA) LICENSE. (1) It shall be unlawful for any person to consume special fuels in the operation or propulsion of a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight on the highways of this state unless such motor vehicle is:

(a) Licensed under the provisions of the international fuels tax agreement; or

(b) Operating under a temporary ~~trip~~ permit under section 49-432, Idaho Code; or

(c) Registered solely for operation in this state under section 49-434, Idaho Code, and is not a vehicle proportionally registered under section 49-435, Idaho Code.

(2) The application for an Idaho IFTA license shall be made to the commission upon a form prepared and furnished by the commission and containing such information as the commission deems necessary. Carriers based in other IFTA jurisdictions must apply to their base jurisdiction to obtain an IFTA license.

(3) No IFTA license shall be transferable.

(4) The commission may collect a fee for issuance of the IFTA license and decal, which fee shall not exceed the cost of issuance.

SECTION 7. That Section 63-2440, Idaho Code, be, and the same is hereby amended to read as follows:

63-2440. EXEMPTIONS FROM INTERNATIONAL FUEL TAX AGREEMENT LICENSE AND REPORTS AND TEMPORARY ~~TRIP~~ PERMITS. (1) In lieu of obtaining an IFTA license, any person operating a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight, propelled by special fuels in this state, shall secure a temporary ~~trip~~ permit under section 49-432, Idaho Code, authorizing the operation of such vehicle in the state. ~~for--a period--not--to--exceed-ninety-six-(96)-hours.~~ The temporary ~~trip~~ permit shall be obtained through the Idaho transportation department. The fees shall be those provided by section 49-432, Idaho Code, and the revenues shall be distributed as provided by section 40-701, Idaho Code.

(2) A motor vehicle owned or operated by another state of the United States or an agency or political subdivision thereof shall be exempt from the requirements of sections 63-2438 and 63-2439, Idaho Code, if the state where the vehicle is owned grants a substantially similar exemption to vehicles owned by the state of Idaho, its agencies or political subdivisions.

(3) Recreational vehicles, as defined in section 63-2401, Idaho Code, and buses used exclusively for personal pleasure by an individual shall be exempt from the requirements of sections 63-2438 and 63-2439, Idaho Code. A recreational vehicle used in connection with any business or institutional endeavor shall not qualify for the exemption under this subsection.

SECTION 8. That Section 63-2441, Idaho Code, be, and the same is hereby amended to read as follows:

63-2441. PENALTIES. It shall be unlawful for any person to consume any special fuels in the propulsion of a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight on the highways of this state except as provided in section 63-2438, Idaho Code, unless such person is exempt from such requirement under section 63-2440, Idaho Code, or other provision of state or federal law or, in the case of vehicles using gaseous fuel, has complied with section 63-2424, Idaho Code. Such unlawful operation or the display of any fictitious or counterfeit IFTA cab card or decal or any fictitious or counterfeit temporary ~~trip~~ permit or display of an IFTA cab card or decal issued to a person other than the owner or operator or lessee of the vehicle on which it is displayed shall be a misdemeanor and any person convicted thereof may be punished in the manner provided by law.

Approved February 19, 2002.

CHAPTER 31
(H.B. No. 427)

AN ACT

RELATING TO THE IDAHO REAL ESTATE APPRAISERS ACT; AMENDING SECTION 54-4105, IDAHO CODE, TO PROVIDE AN EXCEPTION TO MANDATORY LICENSURE OR CERTIFICATION FOR EMPLOYEES OR AGENTS OF THE IDAHO TRANSPORTATION DEPARTMENT WHEN MAKING VALUE ESTIMATES OF PROPERTY OR FOR JUST COMPENSATION VALUED AT TEN THOUSAND DOLLARS OR LESS, TO PROVIDE FOR REVIEW OF THE ESTIMATE BY A STATE CERTIFIED GENERAL REAL ESTATE APPRAISER, TO PROVIDE THAT THE PROPERTY OWNER SHALL RECEIVE A COPY OF THE ESTIMATE AND TO PROVIDE THAT THE PROPERTY OWNER SHALL BE INFORMED OF THE RIGHT TO REQUEST A CERTIFIED APPRAISAL.

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

SECTION 1. That Section 54-4105, Idaho Code, be, and the same is hereby amended to read as follows:

54-4105. EXCEPTIONS. (1) The provisions of this chapter do not 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.

(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 opinion;

(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~~ estimating the market value of or just compensation for, a property where a noncomplex appraisal would normally be ordered. and the market value or compensation is ten thousand dollars ($10,000) or less. Such estimates of market value or just compensation shall be reviewed and approved by an Idaho state certified general real estate appraiser. A value estimate shall be provided to the property owner who shall also be informed of his right to request and receive an appraisal of his property.

(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.

Approved February 19, 2002.

CHAPTER 32
(H.B. No. 430)

AN ACT

RELATING TO LEGAL FORMS; AMENDING SECTION 1-2312, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY; AMENDING SECTIONS 19-507, 19-1410, 19-1506 AND 19-2909, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 19-3006, 19-3602, 19-3903,

19-4309, 19-4407, 32-401, 32-402 AND 33-429, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 40-1305FF, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY; AMENDING SECTIONS 42-2973, 43-2532, 45-407 AND 45-519, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-606, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY; AMENDING SECTIONS 47-611, 49-1702 AND 50-431, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1742, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTIONS 51-109 AND 67-3801, IDAHO CODE, TO REMOVE OBSOLETE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 1-2312, Idaho Code, be, and the same is hereby amended to read as follows:

1-2312. FORM FOR APPEAL -- FILING AND DISPOSITION. An appeal from the small claims department may be in the following terms:

In the Magistrate's Division of the District Court for .... County, Idaho, ... Plaintiff, vs. ...., Defendant. Comes now ...., resident of .... County, Idaho and appeals from the decision of the small claims department of the magistrate's division for .... County, Idaho, wherein a judgment for .... dollars was awarded against him on the .... day of ...., ~~19~~ ....

..... (Signed)

Such appeal shall be filed with the magistrate's division. Such appeal shall be tried in the magistrate's division without any other pleadings than those required in the small claims department originally trying the cause, all papers in the case shall be certified to said lawyer magistrate as is now provided by law in other cases of appeals in civil actions in the magistrate's division, provided, however, that said lawyer magistrate may require such other or further statements and information as he may deem necessary for the proper consideration of said controversy.

SECTION 2. That Section 19-507, Idaho Code, be, and the same is hereby amended to read as follows:

19-507. FORM OF WARRANT. A warrant of arrest is an order in writing, in the name of the state of Idaho, signed by a magistrate, commanding the arrest of the defendant, and may be substantially in the following form:

County of ---- ...., state of Idaho.

To any sheriff, constable, marshal, or policeman of said state, or of the county of ---- ....:

A complaint on oath, having this day been laid before me, by A.B., that the crime of (designating it) has been committed, and accusing C.D. thereof, you are therefore commanded forthwith to arrest the above named C.D. and bring him before me at (naming the place), or in the case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at ----- ...., this ---- .... day of ----...., ~~19~~-- .....

SECTION 3. That Section 19-1410, Idaho Code, be, and the same is hereby amended to read as follows:

19-1410. FORM OF INDICTMENT. It may be substantially in the following form:

The state of Idaho against A.B., in the district court of the ----.... judicial district, in the county of ----- ..... ---- .... term, ~~19~~--.....

A.B. is accused by the grand jury of the county of ---- .... by this indictment, of the crime of (giving its legal appellation, such as murder, arson, or the like), committed as follows:

The said A.B., on the ---- .... day of ----...., ~~19~~---...., at the county of ----- ...., (here set forth the act or omission charged as an offense).

SECTION 4. That Section 19-1506, Idaho Code, be, and the same is hereby amended to read as follows:

19-1506. FORM OF BENCH WARRANT. The bench warrant upon the indictment must, if the offense be a felony, be substantially in the following form:

County of ----- .....

The state of Idaho, to any sheriff, constable, marshal or policeman of this state:

An indictment having been found on the ----- .... day of ---- ...., ~~19~~--- ...., in the district court of the ---- .... judicial district, in and for the county of ---- ...., charging C.D. with the crime of ---- .... (designating it generally); you are therefore commanded forthwith to arrest the above named C.D., and bring him before that court ~~to answer said in~~dictment; or if the court ~~have~~ has adjourned for the term, that you deliver him into the custody of the sheriff of the county of ---- .....

Given under my hand with the seal of said court affixed, this ---- .... day of ---- ...., ~~19~~-- ....

By order of said court.

(Seal.) E.F., Clerk.

SECTION 5. That Section 19-2909, Idaho Code, be, and the same is hereby amended to read as follows:

19-2909. FORM OF UNDERTAKING. Bail is put in by a written undertaking executed by two (2) sufficient sureties (with or without the defendant, in the discretion of the magistrate), and acknowledged before the court or magistrate, in substantially the following form:

An order having been made on the .... day of ...., ~~19~~...., by A.B., a judge of .... county (or as the case may be), that C.D. be held to answer upon a charge of (stating briefly the nature of the offense), upon which he has been admitted to bail in the sum of .... dollars; we, E.F. and G.H. (stating their place of residence), hereby undertake that the above named C.D. will appear and answer the charge ~~above-mentioned~~ abovementioned in whatever court it may be prosecuted, and will at all

times hold himself amenable to the orders and process of the court, and if convicted, will appear for pronouncement of judgment, or if he fails to perform any of these conditions, that we will pay to the people of the state of Idaho the sum set forth above.

SECTION 6. That Section 19-3006, Idaho Code, be, and the same is hereby amended to read as follows:

19-3006. FORM OF SUBPOENA. A subpoena authorized by section 19-3004, Idaho Code, must be substantially in the following form:

The state of Idaho to A.B.:

You are commanded to appear before C.D., a justice of the peace of ----- .... precinct, in ---- .... county (or as the case may be), at (naming the place), on (stating the day and hour), as a witness in a criminal action prosecuted by the state of Idaho against E.F.

Given under my hand this ---- .... day of ---- ...., ~~19~~-....

G.H., Justice of the Peace, (or "J.K., Prosecuting Attorney," or "By order of the court, L.M., Clerk," or as the case may be).

If books, papers or documents are required, a direction to the following effect must be contained in the subpoena: "And you are required, also, to bring with you the following" (describing intelligibly the books, papers or documents required).

SECTION 7. That Section 19-3602, Idaho Code, be, and the same is hereby amended to read as follows:

19-3602. FORM OF SUMMONS. The summons must be substantially in the following form:

County of (as the case may be):

The state of Idaho to the (naming the corporation):

You are hereby summoned to appear before me at (naming the place), on (specifying the day and hour), to answer a charge made against you upon the information of A.B. (or the presentment of the grand jury of the county, as the case may be), for (designating the offense generally).

Dated at the city or precinct of ---- ...., this ---- .... day of ---- ...., ~~19~~-- ....

G.H., Justice of the Peace.
(Or as the case may be.)

SECTION 8. That Section 19-3903, Idaho Code, be, and the same is hereby amended to read as follows:

19-3903. ISSUANCE AND FORM OF WARRANT. If the probate judge or justice of the peace is satisfied therefrom that the offense complained of has been committed, he must issue a warrant of arrest, which must be substantially in the following form:

County of ---- ....

The state of Idaho to any sheriff, constable, marshal or policeman, in this state:

Complaint, upon oath, having been this day made before me ---- .... (justice of the peace or probate judge, as the case may be), by C.D., that the offense of ---- .... (designating it generally), has been committed, and accusing E.F. thereof; you are therefore commanded forthwith

to arrest the above named E.F. and bring him before me forthwith at ---- .... (naming place).

Witness my hand at ---- ...., this ---- .... day of ----...., ~~19~~--..... (And if in probate court, seal of court.) A.B.

SECTION 9. That Section 19-4309, Idaho Code, be, and the same is hereby amended to read as follows:

19-4309. FORM OF WARRANT. The coroner's warrant must be in substantially the following form:

County of ---- ....

The state of Idaho, to any sheriff, constable, marshal, or policeman in this state:

An inquisition having been this day found by a coroner's jury before me, stating that A.B. has come to his death by the act of C.D., by criminal means (or as the case may be, as found by the inquisition), you are therefore commanded forthwith to arrest the above named C.D., and take him before the nearest or most accessible magistrate in this county.

Given under my hand this ----- .... day of --- ...., ~~19~~-- ....

E.F.,
Coroner of the County of ---- ....

SECTION 10. That Section 19-4407, Idaho Code, be, and the same is hereby amended to read as follows:

19-4407. FORM OF WARRANT. The warrant must be in substantially the following form:

County of ---- ....

The state of Idaho to any sheriff, constable, marshal, or policeman in the county of ---- ....: Proof, by affidavit, having been this day made before me by (naming every person whose affidavit has been taken), that (stating the grounds of the application, or, if the affidavit be not positive, that there is probable cause for believing that -- stating the ground of the application in the same manner), you are therefore commanded, in the ~~day-time~~ daytime (or at any time of the day or night, as the case may be) to make immediate search of the person of C.D. (or in the house situated ---- ...., describing it or any other place to be searched, with reasonable particularity, as the case may be) for the ---- .... following property: (describing it with reasonable particularity); and if you find the same or any part thereof, to bring it forthwith before me at ---- .... (stating the place).

Given under my hand, and dated this ---- .... day of --- .... ~~19~~-- ....

E.T., Justice of the Peace.
(Or as the case may be.)

SECTION 11. That Section 32-401, Idaho Code, be, and the same is hereby amended to read as follows:

32-401. MARRIAGE LICENSE -- CONTENTS. The county recorder of any county in this state shall have authority to issue marriage licenses to any parties applying for the same who may be entitled under the laws of this state to contract matrimony, authorizing the marriage of such par-

ties, which licenses shall be substantially in the following form:

Know all men by this certificate that any regularly ordained minister of the gospel, authorized by the rites and usages of the church or denomination of Christians, Hebrews, or religious body of which he may be a member, or any judge or justice of the peace or competent officer to whom this may come, he not knowing of any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony between ----- ...., of ----- .... of the county of ---- ...., and the state of ---- ...., and ----...., of ---- .... of the county of ----- ...., state of ----...., and to certify the same to said parties, or either of them, under his hand and seal, in his ministerial or official capacity, and thereupon he is required to return his certificate in form following as hereto annexed.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, at ---- ...., this ---- .... day of ----...., ~~19~~-- ....

---- .... Recorder.

SECTION 12. That Section 32-402, Idaho Code, be, and the same is hereby amended to read as follows:

32-402. CERTIFICATE AND RETURN. The form of certificate annexed to said license, and therein referred to, shall be as follows:

I, ---- ...., a ---- ...., residing at ----...., in the county of ----- ...., in the state of Idaho, do certify that, in accordance with the author~~ity on me~~ conferred by the above license, I did on this ---- .... day of ---- ...., in the year ~~19~~----...., at ---- ...., in the county of ---- ...., in the state of Idaho, solemnize the rights of matrimony between ----- ...., of ---- ...., in the county of ----- ...., of the state of ---- ...., and ---- ...., of ---- ...., of the county of ----...., of the state of ----- ...., in the presence of ---- .... and --- ....

Witness my hand and seal at the county aforesaid, this ---- .... day of ---- ...., ~~19~~-- ....

In the presence of ---- ....

---- .... [Seal]

---- ....

The license and certificate, duly executed by the minister or offi~~cer who shall h~~ave solemnized the marriage authorized, shall be returned by him to the office of the recorder who issued the same, within thirty (30) days from the date of solemnizing the marriage therein authorized; and a neglect to make such return shall be deemed a misdemeanor, and the person whose duty it shall be to make such return, who shall neglect to make such return within the time above specified, shall, upon conviction thereof, be punished by a fine of not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00) to be assessed by any justice of the peace or other court having jurisdiction.

SECTION 13. That Section 33-429, Idaho Code, be, and the same is hereby amended to read as follows:

33-429. PETITION -- FORM. Recall petitions shall be printed on single sheets of paper of good writing quality including, but not limited

to, newsprint not less than eight and one-half (8 1/2) inches in width and not less than fourteen (14) inches in length. Such petitions shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly (1) signs more than one (1) of these petitions, (2) signs this petition when he is not a legal voter, or (3) makes herein any false statement, may be fined, or imprisoned, or both.

Petition for the recall of (here insert the name of the person whose recall is petitioned for) to the (here insert the name and title of the clerk of the school board with whom the charge is filed).

We, the undersigned citizens and legal voters of (the school district's official name and school trustee zone number), respectfully direct that a special election be called for the following reasons: (setting out the reasons in a recall statement of not more than two hundred (200) words); each of us for himself says: I have personally signed this petition; I am a legal voter of the state of Idaho in (the school district's official name and school trustee zone number) and county written after my name, and my residence address is correctly stated, and to my knowledge, have signed this petition only once.

Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho)
) ss.
County of)

I, ---------- ....., swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature) ---------- .....
Post Office address --------- .....
---------- .....

Subscribed and sworn to before me this ----- .... day of ---- ...., ~~19~~--.....
(Notary Seal)

---------- .....
Notary Public
Residing at ---------- .....

SECTION 14. That Section 40-1305FF, Idaho Code, be, and the same is hereby amended to read as follows:

40-1305FF. PETITION -- FORM. Recall petitions shall be printed on single sheets of paper of good writing quality including, but not limited to, newsprint not less than eight and one-half (8 1/2) inches in width and not less than fourteen (14) inches in length. No petition may be circulated or signed prior to the approval of a ballot synopsis by the magistrate court. Such petitions shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly: (1) signs more than one (1) of these petitions; (2) signs this petition when he is not a legal voter; or (3) makes herein any false statement; may be fined, or imprisoned, or both.

Petition for the recall of (here insert the name of the person whose recall is petitioned for) to the (here insert the name and title of the secretary of the highway district with whom the charge is filed).

We, the undersigned citizens and legal voters of (the highway district's official name), respectfully direct that a recall election be called to determine whether or not (here insert the name of the person) be recalled and discharged from his office; and each of us for himself says: I have personally signed this petition; I am a legal voter of the state of Idaho in (the highway district's official name) and county written after my name, and my residence address is correctly stated, and to my knowledge, have signed this petition only once.

Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho)
) ss.
County of)

I, ..., swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature) .....
Post Office address .....
.....

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

(Notary Seal) .....
Notary Public
Residing at .....

SECTION 15. That Section 42-2973, Idaho Code, be, and the same is hereby amended to read as follows:

42-2973. FORM OF RELEASE AND DISCHARGE. The release and discharge provided for in section 42-2972, Idaho Code, shall be in substantially the following form:

Release and discharge from liability from payment of the bonded and warrant indebtedness of drainage district number ---- .... in ---- .... County, Idaho, from the lien of the assessment roll of said district as confirmed by the court.

WHEREAS, on the ---- .... day of ----...., ~~19~~--...., ---------..... (The owner, part owner, mortgagee or other ~~lien holder~~ lienholder, as the case may be) paid to the County Treasurer of ----- .... County, Idaho, ---- .... (in cash, bonds, warrants or matured interest coupons of said district, as the case may be) the sum of $------ ...., being the total unpaid amount of the lien against the

real property hereinafter described, created by the assessment roll of said district; said property being situate within Drainage District Number ---- ...., in ---- .... County, Idaho, and particularly described as follows, to wit:

(Insert description of property.)

and being shown on the assessment roll of said district as assessment number ---- .....

NOW THEREFORE, in consideration of such payment, and pursuant to law, the undersigned does by those presents release and discharge the above described tract, lot or parcel of land from the lien against said land created by the assessment roll of Drainage District Number ---- .... in ---- .... County, Idaho, and from the payment of all of the bonded indebtedness now existing against the same, and from the payment ~~of any bonds now issued~~ or that may hereafter be issued to refund the same, or any part thereof, and from the payment of any warrants of the district heretofore issued or that may hereafter be issued in payment of interest on such indebtedness or refunded indebtedness, and releases and discharges said tract, lot or parcel of land from further payment of benefits assessed against said land as shown by the assessment roll of said district and from all liens created thereby, save and except assessments made or to be made by said district for the operation and maintenance thereof.

IN WITNESS WHEREOF, I, the County Treasurer of the county of ---- ...., state of Idaho, and duly authorized by law to collect all sums of money assessed by the drainage commissioners of Drainage District Number ---- .... in said county, have hereunto set my hand as such county treasurer this ---- .... day of ---- ...., ~~19~~—.....

-------- .....
(Treasurer)
---- .... County, Idaho.

Said release and discharge shall be acknowledged before an officer authorized to take acknowledgments to conveyances. The acknowledgment shall be substantially in the following form:

STATE OF IDAHO
ss.
COUNTY OF ---- ....

On this ----- .... day of ---- ...., ~~19~~—...., before me, ----...., (Official Character), in and for said state, personally appeared ---- ...., known to me to be the person whose name is subscribed to the within instrument as the County Treasurer of the ~~c~~county of ----- ...., state of Idaho, and acknowledged to me that ---- .... he ~~executed the same,~~ as such treasurer.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

-------- .....
(Official Character).

SECTION 16. That Section 43-2532, Idaho Code, be, and the same is hereby amended to read as follows:

43-2532. FORM OF ASSIGNMENT -- ASSIGNMENT BY PURCHASER. The assignment prescribed by the preceding section must be substantially in the following form, and endorsed on the certificate:

ASSIGNMENT BY TREASURER

State of Idaho

ss.

.....

Irrigation District

For and in consideration of the sum of $.... paid to said district, the receipt whereof is hereby acknowledged, I do hereby assign to .... whose post-office address is .... all the right, title and interest of the said district in and to the within and foregoing delinquency certificate.

In witness whereof, I have hereunto set my hand at ...., Idaho, this .... day of ...., ~~19~~....

.....

Treasurer of the Irrigation District

.....

Such delinquency certificate may be assigned by the purchaser; provided, that such assignment must be attached to the original delinquency certificate and a duplicate of such assignment must be delivered to the treasurer who must attach the same to the duplicate delinquency certificate in his office.

The assignment of any delinquency certificate by the purchaser thereof or any assignee of such purchaser must be executed in duplicate and acknowledged as provided by law in the conveyance of real property and such assignment must be substantially in the following form, to wit:

"For value received, I hereby assign to .... whose post-office address is ...., all my right, title and interest in and to delinquency certificate No. ..., issued by the treasurer of ..... Irrigation District, Idaho, on account of delinquent local improvement district assessments for the year ~~19~~...., on the property described in said certificate.

In witness whereof, I have hereunto set my hand this .... day of ...., ~~19~~....

....."

(acknowledgment)

SECTION 17. That Section 45-407, Idaho Code, be, and the same is hereby amended to read as follows:

45-407. CLAIM OF LIEN FOR WORK OR LABOR. Every person, within sixty (60) days after the close of the rendition of the services, or after the close of the work or labor mentioned in sections 45-401 and 45-402, Idaho Code, claiming the benefit hereof, must file for record with the county recorder of the county in which such saw logs, spars, piles, ~~cord wood~~ cordwood or other timber was cut, or in which such lumber was manufactured, or, if removed to another county, then in such county, a notice of claim containing a statement of his demand, and the amount thereof, after deducting, as near as possible, all just credits and offsets, with the name of the person by whom he was employed. The notice of claim shall state what such service, work or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien, sufficient for identification, with reasonable certainty, which notice of claim must be verified by the oath of himself, his agent or attorney, to the effect that the affiant believes the same to be true. Such notice of claim shall be substantially in the following form:

---- .... claimant, vs. ---- ....

Notice is hereby given that ---- .... of --- .... county, state of Idaho, claims a lien upon a ---- .... of ---- .... being about ----.... in quantity, which were cut in ---- .... county, state of Idaho, are marked thus ---- ...., and are now lying in ---- .... for labor performed upon and assistance rendered in ---- .... said ---- ....; that the name of the owner or reputed owner is ---- ....; that ----- .... employed said ----.... to perform such labor and render such assistance upon the following terms, to wit: The said ---- .... agreed to pay the said ---- .... for such labor and assistance ---- ....; that said contract has been faithfully performed and fully complied with on the part of ~~said~~ ----- ...., who performed labor upon and assisted in ---- .... said ---- .... for the period of ---- .... that said labor and assistance were so performed and rendered upon said ----.... between the ---- .... day of ---- .... and the ----.... day of ---- ...., and the rendition of said services was closed on the ---- .... day of ---- .... and ----.... days have not elapsed since that time; that the amount of claimant's demand for said services is ---- ....; that no part thereof has ~~been paid~~ except ---- ...., and there is now due and unpaid thereon, after deducting all just credits and offsets, the sum of ---- ...., in which amount he claims a lien upon said ---- ....

State of Idaho, ---- .... county, ss.

---- ...., being first duly sworn, on oath says that he is ----- .... named in the foregoing claim, has heard the same read and knows the con~~tents thereof~~, and believes the same to be true ---- .....

Subscribed and sworn to before me this ---- .... day of -----...., ~~19~~--.....

SECTION 18. That Section 45-519, Idaho Code, be, and the same is hereby amended to read as follows:

45-519. RELEASE OF LIEN ON REAL PROPERTY BY POSTING SURETY BOND -- FORM OF BOND .The debtor of the lien claimant or a party in interest in the premises subject to the lien must obtain a surety bond executed by the debtor of the lien claimant or a party in interest in the premises subject to the lien, as principal, and executed by a corporation authorized to transact surety business in this state, as surety, in substantially the following form:

(Title of court and cause, if action has been commenced)

WHEREAS, ---------- ..... (name of owner, contractor, or other person disputing the lien) desires to give a bond for releasing the following described real property from that certain claim of mechanic's lien in the sum of $--------- ....., recorded ---------- ....., ~~19~~--...., in the office of the recorder in ---------- ..... (name of county where the real property is situated):

(legal description)

NOW, THEREFORE, the undersigned principal and surety do hereby obligate themselves to ---------- ....., (name of claimant) the claimant named in the mechanic's lien, under the conditions prescribed by sections 45-518 thro~~ugh 45-52~~4, Idaho Code, inclusive, in the sum of $------ ..... (1-1/2 x claim), from which

sum they will pay the claimant such amount as a court of competent jurisdiction may adjudge to have been secured by his lien, with interest, costs and attorney's fees.

IN WITNESS WHEREOF, the principal and surety have executed this bond at ---------- ....., Idaho, on the ------- ..... day of ---------- ....., ~~19~~--.....

---------- .....

(Signature of Principal)

~~(SURETY CORPORATION)~~

BY ---------- .....

(Its Attorney in Fact)

State of Idaho)
) ss.
County of ------- .....)

On ---------- ....., ~~19~~-- ...., before me, the undersigned, a notary public of this county and state, personally appeared ----------..... who acknowledged that he executed the foregoing instrument as principal for the purposes therein mentioned and also personally appeared ---------- ..... known (or satisfactorily proved) to me to be the attorney in fact of the corporation that executed the foregoing instrument and known to me to be the person who executed that instrument on behalf of the corporation therein named, and he acknowledged to me that that corporation executed the foregoing instrument.

.....
(Notary Public in and for the
County and State)

SECTION 19. That Section 47-606, Idaho Code, be, and the same is hereby amended to read as follows:

47-606. AFFIDAVIT OF PERFORMANCE OF LABOR -- NOTICE OF ACCEPTANCE OF WAIVER, SUSPENSION OR EXTENSION -- FEES -- EFFECT AS EVIDENCE. Within sixty (60) days after any time set or period allowed for the performance of labor, or making improvements upon any lode or placer claim, the person in whose behalf such work or improvement is performed or some person for him, must make and record an affidavit in substance as follows:

State of Idaho, county of ...., ss.

Before me, the subscriber, personally appeared ...., who being first duly sworn says, that at least .... dollars worth of work or improvements were performed or made upon .... claim, situate in .... mining district, County of ...., State of Idaho:

That such expenditure was made by, for, or at the expense of ...., owner of said claim, for the purpose of holding said claim; all stakes, monuments or trees marking boundaries of said claim are in proper place and position.

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

The fee for administering the oath and recording the foregoing affidavit, when taken before any county recorder, shall be as provided by section 31-3205, Idaho Code.

Such affidavit, or a certified copy thereof in case the original is lost, shall be prima facie evidence of the performance of such labor. The failure to file such affidavit shall be considered prima facie evidence that such labor has not been done.

When the performance of annual labor upon any lode or placer claim is suspended, extended or waived by act of congress of the United States, and provision is therein made for filing or recording a notice, affidavit or statement by the claimant or other person for him, accepting the provisions of said act, then the same shall be filed as herein provided for affidavit of performance of annual labor, and the same fees shall be charged therefor and the same effect shall be given thereto, and the same presumptions shall arise therefrom as provided herein for said affidavit of performance of annual labor.

SECTION 20. That Section 47-611, Idaho Code, be, and the same is hereby amended to read as follows:

47-611. AFFIDAVIT OF LOCATORS. At or before the time of presenting a location notice for record, whether it be for a quartz lode or placer claim, one (1) of the locators named in the same must make and subscribe an affidavit, in writing on or attached to the notice, substantially in the following form, to wit:

State of Idaho, county of ---- ...., ss.

I, ----- ...., do solemnly swear that I am a citizen of the United States of America (or have declared my intentions to become such), and that I am acquainted with the mining ground described in this notice of location, and herewith called the ---- .... lode or placer claim; that the ground and claim therein described or any part thereof has not, to the best of my knowledge and belief, been previously located according to the laws of the United States and this state, or if so located, that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws.

.....
Signature

Subscribed and sworn to before me this ----- .... day of ---- .... ~~19~~-- ....

.....
Signature

SECTION 21. That Section 49-1702, Idaho Code, be, and the same is hereby amended to read as follows:

49-1702. FORM FOR NOTICE OF LIEN. To claim the benefits of the provisions of this chapter a lien claimant shall, prior to making any repairs, provide notice to the registered and legal owner of a motor vehicle of intended repairs, service, or storage at the request of a person in possession of the vehicle. The notice shall be substantially in the following form:

To: -------- ..... ~~{~~(Name of registered and legal owner and addresses~~}~~)

Notice is hereby given, in accordance with the provisions of ---------....., Idaho Code, that the undersigned, -------- ..... of --------- ...., ~~{~~(address~~}~~)

has been requested by --- ...., of ----- ...., ---------..... {(address}) ----- ...., ---- .... {(the registered owner, or agent thereof}) ---- ...., to -------- ..... {(repair or as the case may be}) the following described motor vehicle of which you are designated the registered or legal owner on the title: ---------..... {(specify year, make and model}) ----- ...., -------- .....{(vehicle identification no.}) ---------...., ------- ..... {(license no.}) ---- ..... If appropriate, add: The repairs requested are as follows: -------- .....

The undersigned intends to begin such -------- ..... {(repairs or as the case may be}) on approximately -------- ....., ~~19~~--.....

The approximate charges for the services requested will be $--------- ....., and the undersigned will claim a lien on the vehicle for the actual amount of such charges.

In accordance with the provisions of sections -------- ..... and ---------....., Idaho Code, the undersigned requests that you consent to the performance of -------- ..... (such repairs or as the case may be) by signing and returning the enclosed copy of this notice.

Dated -------- ....., ~~19~~--.....

.....
(Signature)

Consent

I hereby consent to the performance of the above described -------- ..... (repairs or as the case may be.)

Dated -------- ....., ~~19~~--.....

.....
(Signature of registered or legal owner)

SECTION 22. That Section 50-431, Idaho Code, be, and the same is hereby amended to read as follows:

50-431. FORM OF PETITION -- DECLARATION OF CANDIDACY. Petitions of nomination shall read substantially as herein set forth. Any number of separate petitions of nomination may be circulated at the same time for any candidate and all petitions for each candidate shall be considered one (1) petition when filed with the city clerk. Each signer of a petition shall be a registered qualified elector.

PETITION OF NOMINATION

This petition of nomination, if found insufficient, shall be returned to (Name)---------- ....., at --------- ..... Street, City of -------- ....., Idaho.

DECLARATION OF CANDIDACY

I, the undersigned, being a qualified elector of the City of -------- ....., State of Idaho, hereby declare myself to be a candidate for the office of -------- ....., for a term of ---- .... years, to be voted for at the election to be held on the ---- .... day of -------- ....., ~~19~~-- ...., and certify that I possess the legal qualifications to fill said office, and that my post-office address is ---------- .....

(Signed)---------- .....

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

---------- .....
Notary Public

State of Idaho,
County of -------- ..... ss.
City of -------- .....

We, the undersigned, do hereby join in a petition for the nomination of ---------- ....., whose residence is at (Number) ---- .... (Street) -------- ....., (City) --------..... for the office of -------- ..... for the term of ---- .... years, to be voted at the general city election to be held in the City of -------- ..... on the ---- .... day of -------- ....., 19...., and do further certify that we are registered qualified electors and are not at this time the signers of any other petitions nominating any other candidate for the above-named office, or in case there are several positions to be filled in the above-named office, that we have not signed more petitions than there are positions to be filled in the above-named office.

(Signed)	(Name - printed)	(Address)
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

SECTION 23. That Section 50-1742, Idaho Code, be, and the same is hereby amended to read as follows:

50-1742. FORM OF ASSIGNMENT — ASSIGNMENT BY PURCHASER. The assignment prescribed by the preceding section must be substantially in the following form, and indorsed on the certificate:

ASSIGNMENT BY TREASURER

State of Idaho ss.
Municipality ....

For and in consideration of the sum of $.... paid to said municipality, the receipt whereof is hereby acknowledged, I do hereby assign to .... whose post-office address is .... all the right, title and interest of the said municipality in and to the within and foregoing delinquency certificate.

In witness whereof, I have hereunto set my hand at ...., Idaho, this .... day of ...., 19.....

.....
Treasurer of the municipality of
.....

Such delinquency certificate may be assigned by the purchaser; provided, that such assignment must be attached to the original delinquency certificate and a duplicate of such assignment must be delivered to the treasurer who must attach the same to the duplicate delinquency certificate in his office.

The assignment of any delinquency certificate by the purchaser thereof or any assignee of such purchaser must be executed in duplicate and acknowledged as provided by law in the conveyance of real property and such assignment must be substantially in the following form, to wit:

"For value received, I hereby assign to .... whose post-office address is ...., all my right, title and interest in and to delinquency certificate No. ...., issued by the treasurer of ...., Idaho, on account of delinquent local improvement district assessments for the year ~~19~~.... on the property described in said certificate.

In witness whereof, I have hereunto set my hand this .... day of ...., ~~19~~.....

....."

(acknowledgment)

SECTION 24. That Section 51-109, Idaho Code, be, and the same is hereby amended to read as follows:

51-109. FORMS FOR NOTARIAL ACTS. (1) Certificates of acknowledgment shall substantially conform to the forms set forth in sections 55-710 through 55-715, Idaho Code.

(2) An oath or affirmation, which is in writing, shall be signed by the person who takes it, and the notary public shall enter thereunder substantially the following:

"State of Idaho)
)ss.
County of .....)
Subscribed and sworn (or affirmed) before me this ..... day of ....., ~~19~~....."

.....(official signature and seal)

(3) An oath or affirmation administered verbally by a notary public shall be in substantially the following form:

"You do solemnly swear (or affirm) that the testimony you shall give in the matter in issue shall be the truth, the whole truth, and nothing but the truth." The person who takes the oath or affirmation must respond affirmatively.

(4) A certificate of verification of an instrument shall follow the maker's signature and shall identify the notary public and certify that the maker personally appeared, was sworn, stated his authority for making the instrument, and averred the truth of the statements therein. For example, the verification of a corporate document by an officer of the corporation should be in substantially the following form:

"State of Idaho)
)ss.
County of .....)

I, ..., a notary public, do hereby certify that on this ..... day of ....., ~~19~~....., personally appeared before me ....., who, being by me first duly sworn, declared that he is the ..... of ....., that he signed the foregoing document as ..... of the corporation, and that the statements therein contained are true."

.....(official signature and seal)

(5) If a certified copy of a document cannot be obtained from any recorder or custodian of public documents, and if certification of a copy of the document by a notary public is otherwise permissible, a

notary public may certify a copy of the document in substantially the following form:

"State of Idaho)
)ss.
County of .....)

I, ..., a notary public, do certify that on ....., ~~19~~....., I carefully compared the attached copy of ..... ~~[(described~~ describe document~~])~~ with the original. It is a complete and true copy of the original document."

.....(official signature and seal)

(6) On each notary certificate, the notary public shall immediately following his signature state the date of the expiration of his commission in substantially the following form:

"My commission expires on ....., ~~19~~....."

SECTION 25. That Section 67-3801, Idaho Code, be, and the same is hereby amended to read as follows:

67-3801. ISSUANCE UPON ~~CANCELATION~~ CANCELLATION OF OUTSTANDING BONDS. The state of Idaho, through its governor and state treasurer, is authorized to have printed extra blank state bonds of any issue now outstanding or hereafter issued; said bonds to be kept in such secure place as may be designated by such officials. The state treasurer is hereby authorized to receive for ~~cancelation~~ cancellation and cancel any bonds which may have been or are hereafter issued, and upon ~~cancelation~~ cancellation thereof to issue to the owner or holder of such bonds submitted for ~~cancelation~~ cancellation, new bonds of the same issue of such higher or lower denominations as may be requested, but the equivalent in money and in the exact form and contents, except as to the amount of each individual bond, as the bonds canceled.

Upon the ~~cancelation~~ cancellation of said bonds they shall each be mutilated by perforating the face thereof with the word "canceled," and each coupon attached thereto shall be mutilated by punching a hole therein, and the numbers and denominations of the new bonds issued in place thereof shall be stamped or written on each of said canceled bonds. The state controller and the state treasurer shall each enter a full description of the new bonds or bond in registers kept in their respective offices for such purpose and shall show the ~~cancelation~~ cancellation of the old bonds in the proper bond register. The new bonds shall be signed by the state controller following the word "registered." The state officers in office at the time of the issuing of the new bonds, holding the same offices as those signing the old bonds are hereby authorized to sign their names, attest and execute the new bond or bonds so issued, but such bonds shall bear the date of the original bonds. Upon the face of each new bond as issued must appear the words: "This bond is issued this .... day of ...., ~~19~~...., in lieu of bond No. .... of this issue, in compliance with the provisions of chapter No. 86, 1923 Session Laws of the State of Idaho," inserting the date of the issue of the new bond. All expenses connected with such exchange of any bonds shall be paid in advance by the applicant.

Approved February 19, 2002.

CHAPTER 33
(H.B. No. 440)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO CLARIFY THAT NET OPERATING LOSSES AND CAPITAL LOSSES INCURRED IN ACTIVITIES NOT TAXABLE IN THIS STATE ARE NOT DEDUCTIBLE EVEN IF THE ACTIVITY IS NOT A BUSINESS ACTIVITY; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

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

63-3022. 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 and local taxes, as defined in section 164 of the Internal Revenue Code and, measured by net income, paid or accrued during the taxable year adjusted for state or local 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, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the two (2) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the two (2) preceding years may be subtracted in the next twenty (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 two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (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 ~~busi-~~

ness 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) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate:

(1) Distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section.

(2) Net operating losses attributable to a beneficiary of a trust or estate under section 642 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that income from the trust or estate would be attributable to this state under the provisions of this chapter.

(h) 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.

(i) 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. However, do not add any capital loss deducted if a corporation, 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.

(j) 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 or local taxes measured by net income and as defined in section 164 of the Internal Revenue Code.

(k) Add the taxable amount of any lump sum distribution excluded from gross income for federal income tax purposes under the ten (10) year averaging method. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(l) 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.

(m) 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.

(n) In the case of an individual, deduct the amount contributed to a college savings program pursuant to chapter 54, title 33, Idaho Code, but not more than four thousand dollars ($4,000) per tax year. If the contribution is made on or before April 15, 2001, it may be deducted for tax year 2000 and an individual can make another contribution and claim the deduction according to the limits provided in this subsection during 2001 for tax year 2001, as long as the contribution is made on or before December 31, 2001.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2002.

Approved February 19, 2002.

CHAPTER 34
(H.B. No. 441)

AN ACT

RELATING TO UNCLAIMED PROPERTY LAW; AMENDING SECTION 14-518, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF UNCLAIMED PROPERTY SHALL NOT BE REQUIRED TO PUBLISH NOTICE OF ITEMS WITH A VALUE OF LESS THAN ONE HUNDRED DOLLARS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 14-518, Idaho Code, be, and the same is hereby amended to read as follows:

14-518. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (1) The administrator shall cause a notice to be published annually each year, at least once a week for two (2) consecutive weeks in newspapers of general circulation, or in a published notice distributed, one (1) time only, concurrently with a newspaper of general circulation in the county of this state in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in a newspaper which

has general circulation, or in a published notice distributed concurrently with a newspaper which has general circulation in the county in which the holder of the property has its principal place of business within this state. Provided however, the names and addresses located in a state which will receive the accounts because of reciprocal agreements as permitted by section 14-535, Idaho Code, need not be published. In the case of a notice which is distributed concurrently with a newspaper, the provisions of section 60-105, Idaho Code, relating to rates for official notices shall not apply.

(2) The published notice must be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property" and contain:

(a) The names in alphabetical order and last known address, if any, of persons listed in the report and entitled to notice;

(b) A statement that information concerning the property may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator;

(c) A statement that the property is in the custody of the administrator and all claims must be directed to the administrator; and

(d) A statement that the property shall escheat to the state of Idaho and become the property of the state of Idaho if not claimed within ten (10) years after notice is published pursuant to this section.

(3) The administrator is not required to publish in the notice any items of less than ~~fifty~~ one hundred dollars (~~$50.~~$100) unless the administrator considers their publication to be in the public interest.

(4) This section is not applicable to sums payable on traveler's checks, money orders, and other written instruments presumed abandoned under section 14-504, Idaho Code.

Approved February 19, 2002.

CHAPTER 35
(H.B. No. 442)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3029G, IDAHO CODE, TO CHANGE THE TERM "QUALIFIED RESEARCH PAYMENT" TO "QUALIFIED RESEARCH EXPENSES"; AMENDING SECTION 63-3022H, IDAHO CODE, TO PROVIDE A DEDUCTION IF A TAXPAYER REPORTS CAPITAL GAIN NET INCOME IN DETERMINING TAXABLE INCOME AND TO PROVIDE THAT THE CAPITAL GAINS DEDUCTION IS LIMITED TO THE AMOUNT OF THE CAPITAL GAIN NET INCOME FROM ALL PROPERTY INCLUDED IN TAXABLE INCOME; AMENDING SECTION 63-3022J, IDAHO CODE, TO PROVIDE THAT THE DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT SHALL NOT REDUCE IDAHO TAXABLE INCOME TO LESS THAN ZERO; REPEALING SECTION 63-3022O, IDAHO CODE; AMENDING SECTION 63-3022P, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 384, LAWS OF 2001, TO REDESIGNATE THE SECTION AND TO CLARIFY THE DEDUCTION FOR LONG-TERM CARE INSURANCE; AMENDING SECTION 63-3024, IDAHO CODE, TO CORRECT TERMINOLOGY TO CONFORM WITH STATUTORY DEFINITIONS; AMENDING SECTION 63-3025D, IDAHO CODE, TO CLARIFY THE PAYMENT FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-3029E, IDAHO CODE, AS AMENDED BY SECTION 11,

CHAPTER 386, LAWS OF 2001, TO REMOVE REFERENCE TO AN OBSOLETE TERM; AMENDING SECTION 63-3029I, IDAHO CODE, TO CLARIFY THE TRANSFERABILITY OF THE CREDIT FOR INVESTMENT IN BROADBAND EQUIPMENT; AMENDING SECTION 63-3046, IDAHO CODE, TO CLARIFY THE PENALTY FOR FAILURE TO FILE TAX RETURNS; AMENDING SECTION 63-3068, IDAHO CODE, TO CLARIFY THE STATUTE OF LIMITATIONS ON ASSESSMENTS OR REFUNDS OF TAX IN THE CASE OF CERTAIN DUPLICATE RETURNS AND TO PROVIDE CORRECT REFERENCES; AMENDING SECTION 63-3072, IDAHO CODE, TO CLARIFY THE STATUTE OF LIMITATIONS ON ASSESSMENTS OR REFUNDS OF TAX IN THE CASE OF CERTAIN DUPLICATE RETURNS AND TO PROVIDE CORRECT REFERENCES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE EFFECTIVE DATES.

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

SECTION 1. That Section 63-3029G, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029G. CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE -- CARRY FORWARD.

(1) (a) Subject to the limitations of this section, for taxable years beginning between January 1, 2001, and December 31, 2005, inclusive, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for increasing research activities in Idaho during any consecutive five (5) year period beginning, at the election of the taxpayer, either:

(i) January 1, 2001, or

(ii) The first day of the taxpayer's taxable year beginning in 2001.

(b) The credit allowed by subsection (1)(a) of this section shall be the sum of:

(i) Five percent (5%) of the excess of qualified research ~~payments~~ expenses for research conducted in Idaho over the base amount; and

(ii) Five percent (5%) basic research payments allowable under subsection (e) of section 41 of the Internal Revenue Code for basic research conducted in Idaho.

(c) Subject to the limitation in subsection (3) of this section, a taxpayer making the election permitted by subsection (1)(a)(i) of this section, credit for research activities occurring prior to the beginning of the taxpayer's taxable year beginning in 2001 shall be claimed on the taxpayer's return for its taxable year 2001 in addition to credit relating to activity in that year.

(2) As used in this section:

(a) The terms "qualified research ~~payments~~ expenses," "qualified research," "basic research payments" and "basic research" shall be as defined in section 41 of the Internal Revenue Code except that the research must be conducted in Idaho.

(b) The term "base amount" shall mean an amount calculated as provided in sections 41(c) and 41(h) of the Internal Revenue Code, except that:

(i) The base amount does not include the calculation of the alternative incremental credit provided for in section 41(c)(4) of the Internal Revenue Code;

(ii) A taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in subsections (q) and (r) of section 63-3027, Idaho Code; and

(iii) Notwithstanding section 41(c) of the Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) May elect to be treated as a start-up company as provided in section 41(c)(3)(B) of the Internal Revenue Code, regardless of whether the taxpayer meets the requirements of section 41(c)(3)(B)(i)(I) or (II) of the Internal Revenue Code; and

(B) May not revoke an election to be treated as a start-up company.

(3) The credit allowed by subsection (1)(a) of this section together with any credits carried forward under subsection (5) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter. When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(4) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group. For a combined group of corporations, any member of the group may claim credit carried forward unless the member who earned the credit is no longer included in the combined group.

(5) The credit allowed by subsection (1)(a) of this section shall be claimed for the taxable year during which the taxpayer qualifies for the credit. If the credit exceeds the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(6) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

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

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports ~~a net~~ capital gain net income in determining taxable income, eighty percent (80%) in taxable year 2001 and sixty percent (60%) in taxable years thereafter of the ~~net~~ capital gain net income from the sale or exchange of qualified property shall be a deduction in determining Idaho taxable income.

(2) The deduction provided in this section is limited to the amount of the capital gain net income from all property included in ~~federal~~ taxable income. Gains treated as ordinary income by the Internal Revenue Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) As used in this section "qualified property" means the following property having an Idaho situs at the time of sale:

(a) Real property held at least eighteen (18) months;
(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;
(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;
(d) Breeding livestock other than cattle or horses held at least twelve (12) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;
(e) Timber grown in Idaho and held at least twenty-four (24) months;
(f) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the Internal Revenue Code shall apply, except that the holding period shall not include the holding period of property given up in an exchange, when such property would not have constituted qualified property under this section without regard to meeting the holding period.

(4) If an individual reports a capital gain from qualified property from an S corporation or a partnership, a deduction shall be allowed under this section only to the extent the individual held his interest in the income of the S corporation or the partnership for the time required by subsection (3) of this section for the property sold.

(5) If an individual reports a capital gain from an estate or a capital gain from property acquired as a beneficiary of an estate, no deduction shall be allowed under this section unless the holding period required in subsection (3) of this section was satisfied by the decedent, the estate, or the beneficiary, or a combination thereof.

(6) If an individual reports a capital gain from a trust or a capital gain from property acquired as a beneficiary of a trust, no deduction shall be allowed under this section unless the holding period required in subsection (3) of this section was satisfied by the grantor, the trust, or the beneficiary, or a combination thereof.

(7) As used in this section "revenue-producing enterprise" means:
(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;
(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;
(c) The feeding of livestock at a feedlot;
(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

SECTION 3. That Section 63-3022J, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022J. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT. (1) For taxable years commencing on and after January 1, 1985, any individual or corporation may deduct from taxable income an amount equal to the fair market value of technological equipment donated to public elementary or

public secondary schools, public universities, private universities, public colleges, private colleges, public community colleges, private community colleges, public technical colleges or private technical colleges, or public libraries and library districts located within the state of Idaho, except that the amount of the deduction shall not reduce Idaho taxable income to less than zero. The deduction allowed pursuant to this section shall be in addition to any other deduction allowed pursuant to this chapter. In order to take the deduction pursuant to this section, the taxpayer shall receive a written statement from the donee in which the donee agrees to accept the technological equipment donated.

(2) For the purposes of this section, "technological equipment" means a computer, computer software, scientific equipment or apparatus to be used by the university, college, community college, technical college, school or library directly or indirectly in the education program of the university, college, community college, technical college, school or library and which is donated to the university, college, community college, technical college, school or library no later than five (5) years after its manufacture has been substantially completed.

(3) For the purposes of this section, a public elementary or public secondary school means one that is located within this state and receives funding pursuant to chapter 10, title 33, Idaho Code.

(4) For the purposes of this section, a public library or library district means one that is located within this state and receives funding pursuant to chapters 26 and 27, title 33, Idaho Code.

(5) For purposes of this section, a public university, public college, public community college or public technical college means one that is located within this state and receives an appropriation from the legislature.

(6) For purposes of this section, a private university, private college, private community college or private technical college means one that is located within this state and is operated on a nonprofit basis.

(7) The state tax commission shall promulgate rules to administer the provisions of this section. The rules shall be promulgated in compliance with chapter 52, title 67, Idaho Code.

SECTION 4. That Section 63-3022O, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 63-3022P, Idaho Code, as added by Section 1, Chapter 384, Laws of 2001, be, and the same is hereby amended to read as follows:

63-3022~~P~~Q. LONG-TERM CARE INSURANCE. For taxable years commencing on or after January 1, 2001, fifty percent (50%) of the premiums paid during the taxable year, by a taxpayer for long-term care insurance as that term is defined in section 41-4603, Idaho Code, which long-term care insurance is to be for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer, may be deducted from taxable income to the extent that the premium is not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes.

SECTION 6. That Section 63-3024, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024. INDIVIDUALS' TAX AND TAX ON ESTATES AND TRUSTS. For taxable year 2001, and each taxable year thereafter, a tax measured by Idaho taxable income as defined in this chapter is hereby imposed upon every individual, trust, or estate required by this chapter to file a return.

(a) The tax imposed upon individuals, trusts and estates shall be computed at the following rates:

When Idaho taxable income is:	The rate is:
Less than $1,000	One and six-tenths percent (1.6%)
$1,000 but less than $2,000	$16, plus three and six-tenths percent (3.6%) of the amount over $1,000
$2,000 but less than $3,000	$52, plus four and one-tenth percent (4.1%) of the amount over $2,000
$3,000 but less than $4,000	$93, plus five and one-tenth percent (5.1%) of the amount over $3,000
$4,000 but less than $5,000	$144, plus six and one-tenth percent (6.1%) of the amount over $4,000
$5,000 but less than $7,500	$205, plus seven and one-tenth percent (7.1%) of the amount over $5,000
$7,500 but less than $20,000	$383, plus seven and four-tenths percent (7.4%) of the amount over $7,500
Over $20,000	$1,308, plus seven and eight-tenths percent (7.8%) of the amount over $20,000

For taxable year 2000 and each year thereafter, the state tax commission shall prescribe a factor which shall be used to compute the Idaho income tax brackets provided in subsection (a) of this section. The factor shall provide an adjustment to the Idaho tax brackets so that inflation will not result in a tax increase. The Idaho tax brackets shall be adjusted as follows: multiply the bracket amounts by the percentage (the consumer price index for the calendar year immediately preceding the calendar year to which the adjusted brackets will apply divided by the consumer price index for calendar year 1998). For the purpose of this computation, the consumer price index for any calendar year is the average of the consumer price index as of the close of the twelve (12) month period for the immediately preceding calendar year as adopted by the state tax commission. This adoption shall be exempt from the provisions of chapter 52, title 67, Idaho Code. The consumer price index shall mean the consumer price index for all U.S. urban consumers published by the United States department of labor. The state tax commission shall annually include the factor as provided in this subsection to multiply against Idaho taxable income in the brackets above to arrive at that year's Idaho taxable income for tax bracket purposes.

(b) In case a joint return is filed by husband and wife pursuant to the provisions of section 63-3031, Idaho Code, the tax imposed by this section shall be twice the tax which would be imposed on one-half (1/2) of the aggregate Idaho taxable income. For the purposes of this section, a return of a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, and a head of household, as defined in section 2(b) of the Internal Revenue Code, shall be treated as a joint return and the tax imposed shall be twice the tax which would be imposed on one-half (1/2) of the Idaho taxable income.

(c) The state tax commission shall compute and publish Idaho income tax liability for taxpayers at the midpoint of each bracket of Idaho

taxable income in fifty dollar ($50.00) steps to fifty thousand dollars ($50,000), rounding such calculations to the nearest dollar. Taxpayers having income within such brackets shall file returns based upon and pay taxes according to the schedule thus established. The state tax commission shall promulgate rules defining the conditions upon which such returns shall be filed.

SECTION 7. That Section 63-3025D, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025D. PAYMENT FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR PERSONS WITH DEVELOPMENTAL DISABILITIES. (1) In lieu of the deduction from taxable income allowed by section 63-3022E, Idaho Code, a resident individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older or individuals with developmental disabilities, as defined in subsection (5) of section 66-402, Idaho Code, regardless of the age of the person when such developmental disability appeared, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household, shall be entitled to a payment from the refund account of one hundred dollars ($100) for each such elderly member of the family or family member with a developmental disability. Any such payment shall be paid to such individual only upon his making application therefor at such time and in such manner as may be prescribed by the state tax commission.

(2) No more than three (3) such payments shall be made under the provisions of this section to any one (1) individual in any calendar year.

(3) No payment may be claimed under the provisions of this section by the individual himself except as set forth in subsection (4) of this section.

(4) A credit of one hundred dollars ($100) shall be allowed under this section for a person with a developmental disability as defined in subsection (5) of section 66-402, Idaho Code, who is filing his own tax return.

SECTION 8. That Section 63-3029E, Idaho Code, as amended by Section 11, Chapter 386, Laws of 2001, be, and the same is hereby amended to read as follows:

63-3029E. DEFINITIONS -- CONSTRUCTION OF TERMS. As used in this section and in section 63-3029F, Idaho Code:

(1) (a) "New employee" means a person from whom Idaho income tax has been withheld, employed by the taxpayer, and covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, during the taxable year for which the credit allowed by section 63-3029F, Idaho Code, is claimed. A person shall be deemed to be so engaged if such person performs duties on:

(i) A regular full-time basis; or

(ii) A part-time basis if such person is customarily performing such duties at least twenty (20) hours per week.

No credit shall be earned unless the new employee shall have performed such duties for the taxpayer for a minimum of nine (9) months

during the taxable year for which the credit is claimed.

(b) The provisions of paragraph (a) of this subsection notwithstanding, no credit shall be allowed for employment of persons by a taxpayer who acquires a ~~revenue-producing enterprise~~ business from another taxpayer or who operates in a place of business the same or a substantially identical business as operated by another taxpayer within the prior twelve (12) months, except as the prior taxpayer would have qualified under the provisions of paragraph (c) of this subsection. Employees transferred from a related taxpayer shall not be included in the computation of the credit.

(c) The number of employees during any taxable year for any taxpayer shall be the mathematical average of the number of employees reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (a) of this subsection. In the event the business is in operation for less than the entire taxable year, the number of employees of the business for the year shall be the average number actually employed during the months of operation, providing that the qualifications of paragraph (a) of this subsection are met.

(2) "Same or a substantially identical business" means a business in which the products produced or sold, or the activities conducted are the same in character and use and are produced, sold or conducted in the same manner as, or for the same types of customers as, the products or activities produced, sold or conducted in another business.

SECTION 9. That Section 63-3029I, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029I. INCOME TAX CREDIT FOR INVESTMENT IN BROADBAND EQUIPMENT. (1) Subject to the limitations of this section, for taxable years beginning between January 1, 2001, and December 31, 2005, inclusive, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for qualified expenditures in qualified broadband equipment in Idaho.

(2) The credit permitted in subsection (1) of this section shall be three percent (3%) of the qualified investment in qualified broadband equipment in Idaho and shall be in addition to the credit for capital investment permitted by section 63-3029B, Idaho Code.

(3) As used in this section the term:

(a) "Qualified investment" shall be as defined in section 63-3029B, Idaho Code.

(b) "Qualified broadband equipment" means equipment that qualifies for the credit for capital investment permitted by section 63-3029B, Idaho Code, and is capable of transmitting signals at a rate of at least two hundred thousand (200,000) bits per second to a subscriber and at least one hundred twenty-five thousand (125,000) bits per second from a subscriber, and

(i) In the case of a telecommunications carrier, such qualifying equipment shall be necessary to the provision of broadband service and an integral part of a broadband network. "Telecommunications carrier" has the meaning given such term by section 3(44) of the communications act of 1934, as amended, but does not include a commercial mobile service provider.

(ii) In the case of a commercial mobile service carrier, such qualifying equipment shall extend from the subscriber side of the mobile telecommunications switching office to a transmitting/receiving antenna, including such antenna, on the outside of the structure in which the subscriber is located. "Commercial mobile service carrier" means any person authorized to provide commercial mobile radio service to subscribers as defined in section 20.3 of title 47, Code of Federal Regulations (10-1-99 ed.), as amended.

(iii) In the case of a cable or open video system operator, such qualifying equipment shall extend from the subscriber's side of the headend to the outside of the structure in which the subscriber is located. The terms "cable operator" and "open video system operator" have the meanings given such terms by sections 602(5) and 653, respectively, of the communications act of 1934, as amended.

(iv) In the case of a satellite carrier or a wireless carrier other than listed above, such qualifying equipment is only that equipment that extends from a transmitting/receiving antenna, including such antenna, which transmits and receives signals to or from multiple subscribers to a transmitting/receiving antenna on the outside of the structure in which the subscriber is located. "Satellite carrier" means any person using the facilities of a satellite or satellite services licensed by the federal communications commission and operating a fixed-satellite service or direct broadcast satellite services to provide point-to-multipoint distribution of signals. "Other wireless carrier" means any person, other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video operator, or satellite carrier, providing broadband services to subscribers through the radio transmission of energy.

(v) In the case of packet switching equipment, such packet equipment installed in connection with other qualifying equipment listed in subsections (2)(b)(i) through (2)(b)(iv) of this section, provided it is the last in a series of equipment that transmits signals to a subscriber or the first in a series of equipment that transmits signals from a subscriber. "Packet switching" means controlling or routing the path of a digital transmission signal which is assembled into packets or cells.

(vi) In the case of multiplexing and demultiplexing equipment, such equipment only to the extent that it is deployed in connection with providing broadband services in locations between packet switching equipment and the structure in which the subscriber is located. "Multiplexing" means the transmission of two (2) or more signals over a communications circuit without regard to the communications technology.

(vii) Any property not primarily used to provide services in Idaho to public subscribers is not qualified broadband equipment.

(4) No equipment described in subsections (2)(b)(i) through (2)(b)(vi) of this section shall qualify for the credit provided in subsection (1) of this section until the taxpayer applies to and obtains from the Idaho public utilities commission an order confirming that the

installed equipment is qualified broadband equipment. Applications submitted to the commission shall be governed by the commission's rules of procedure. The commission may issue procedural orders necessary to implement this section.

(5) The credit allowed by subsection (1) of this section together with any credits carried forward under subsection (7) of this section shall not, in any one (1) taxable year, exceed the lesser of:

(a) The amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter; or

(b) Seven hundred fifty thousand dollars ($750,000).

When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(6) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (7) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) If the credit allowed by subsection (1) of this section exceeds the limitation under subsection (5) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(8) In the event that qualified broadband equipment upon which the credit allowed by this section has been used ceases to qualify for the credit allowed by section 63-3029B, Idaho Code, or is subject to recapture of that credit, the recapture of credit under this section shall be in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(9) (a) Subject to the requirements of this subsection, a taxpayer entitled to the credit or to an unused portion of the credit allowed by this section may transfer the unused credit to another taxpayer required to file a return under this chapter. In the event of such a transfer, the transferee may claim the credit on the transferee's income tax return originally filed during the calendar year in which the transfer takes place and, in the case of carryover of the credit, on the transferee's returns for the number of years of carryover available to the transferor at the time of the transfer unless earlier exhausted.

(b) Before completing a transfer under this subsection, the transferor shall notify the state tax commission of its intention to transfer the credit and the identity of the transferee. The state tax commission shall provide the transferor with a written statement of the amount of credit available under this section as then appearing in the commission's records and the number of years the credit may be carried over. The transferee shall attach a copy of the statement to any return in regard to which the transferred credit is claimed.

(c) In the event that after the transfer the state tax commission determines that the amount of credit properly available under this section is less than the amount claimed by the transferor of the credit or that the credit is subject to recapture, the commission

shall assess the amount of overstated or recaptured credit as taxes due from the transferor and not the transferee. The assessment shall be made in the manner provided for a deficiency in taxes under this chapter.

(10) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

SECTION 10. That Section 63-3046, Idaho Code, be, and the same is hereby amended to read as follows:

63-3046. PENALTIES AND ADDITIONS TO THE TAX IN CASE OF DEFICIENCY. (a) If any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five percent (5%) of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

(b) If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected and paid.

(c) (1) In the event the return required by this chapter is not filed on or before the due date (including extensions) of the return, there may be collected a penalty of five percent (5%) of the tax due on such returns for each month elapsing after the due date ~~(includ~~ing extensions) of such returns until the return is filed.

(2) In the event the return required by this chapter is filed but the tax shown thereon to be due is not paid, there may be collected a penalty of one-half percent (0.5%) of the tax due on such return for each month elapsing after the later of the due date of such return or the date the return was filed until the tax is paid.

(d) (1) If there is a substantial understatement of tax for any taxable year, there shall be added to the tax an amount equal to ten percent (10%) of the amount of any underpayment attributable to such understatement.

(2) For purposes of this subsection, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of:

(i) Ten percent (10%) of the tax required to be shown on the return for the taxable year, or

(ii) Five thousand dollars ($5,000).

(3) In the case of a corporation, paragraph (d)(2)(ii) of this section shall be applied by substituting ten thousand dollars ($10,000) for five thousand dollars ($5,000).

(4) For purposes of paragraph (d)(2) of this section, the term "understatement" means the excess of:

(i) The amount of tax required to be shown on the return for the taxable year, over

(ii) The amount of the tax imposed which is shown on the return.

(5) The amount of the understatement under paragraph (4) shall be

reduced by that portion of the understatement which is attributable to:

(i) The tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

(ii) Any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

(6) In the case of any item attributable to a tax shelter as defined in section 6661 of the Internal Revenue Code:

(i) Paragraph (5)(ii) shall not apply, and

(ii) Paragraph (5)(i) shall not apply unless (in addition to meeting the requirements of such paragraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

(7) The state tax commission may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith.

(e) (1) Any person who fails to file a statement of payment to another person required by this chapter, including the duplicate statement of tax withheld on wages, on the date prescribed therefor (including any extension of time for filing) shall, be subject to a penalty of two dollars ($2.00) for each month or part of a month each statement is not so filed, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed two thousand dollars ($2,000).

(2) Any employer required to register under the provisions of section 63-3035, Idaho Code, who fails to register after receiving written notice from the state tax commission of the requirement to register shall be subject to a penalty of one hundred dollars ($100) for each month or part of a month after the date of the notice during which the failure occurs.

(3) The penalties provided in this subsection shall not apply if the person shows that the failure to register is due to reasonable cause and not to willful neglect.

(f) If the penalty to be added to the tax by subsection (a), (b), (c)(1), (d) or (e) of this section or by section 63-3033, Idaho Code, is less than ten dollars ($10.00), the penalty to be added to the tax shall be a minimum of ten dollars ($10.00).

(g) Total penalties imposed under subsections (a), (c) and (d) of this section and under section 63-3033, Idaho Code, shall not exceed twenty-five percent (25%) of the tax due on the return.

(h) A processing charge to be determined and established annually by the state tax commission shall be collected from any person who draws or delivers a check, draft or order for the payment of money in complete or partial satisfaction of the tax imposed by this chapter if that person does not have sufficient funds in or credit with the bank or depository upon which the check, draft or order is drawn. Money collected under this subsection shall be paid to the state tax commission to defer costs of handling such checks, drafts or orders.

SECTION 11. That Section 63-3068, Idaho Code, be, and the same is hereby amended to read as follows:

63-3068. PERIOD OF LIMITATIONS FOR ISSUING A NOTICE OF DEFICIENCY AND COLLECTION OF TAX. (a) Except as otherwise provided in this section, a notice of deficiency, as provided in section 63-3045, Idaho Code, for the tax imposed in this chapter shall be issued within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later.

(b) If an assessment has been made as provided in this chapter, then such tax shall be collected either by levy, or by a proceeding brought in court, within a period of six (6) years from the date of assessment of the tax and provided, further, that this shall not be in derogation of any of the remedies elsewhere provided in this chapter.

(c) In the case of a fraudulent return or a false return with the intent to evade the tax imposed in this chapter, or a willful attempt in any manner to defeat or evade the tax imposed in this chapter, a notice of deficiency may be issued, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(d) In the case of a failure to file a return, for any reason, a notice of deficiency may be issued, the tax imposed in this chapter may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(e) In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, a notice of deficiency shall be issued, a claim shall be made, the tax shall be assessed or any proceeding in court without assessment for the collection of such tax shall be begun, within twelve (12) months after written request for prompt action is filed with the state tax commission by the executor, administrator, or other fiduciary representing the estate of such decedent. This subsection shall not apply if the return for which the request for prompt action relates has not been filed with the state tax commission.

(f) When Idaho taxable income or tax credits for any taxable year have been adjusted as a result of a final federal determination, the period of limitation for issuing a notice of deficiency shall be reopened and shall not expire until the later of one (1) year from the date of delivery of the final federal determination to the state tax commission by the taxpayer, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection the term "final federal determination" shall mean the final resolution of all issues which were adjusted by the internal revenue service. When the final federal determination is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (a) and (~~l~~m) of this section, only those specific items of income, deductions, gains, losses, or credits which were adjusted in the final federal determination shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(g) If an adjustment, which was made within the period of limitations as provided in this section, affects the amount of tax credit, net operating loss, or capital loss, claimed in a taxable year other than the tax year in which the adjustment is made, then adjustments to the

credit, net operating loss, or capital loss claimed in such other tax year may be made and a resulting notice of deficiency may be issued even though such notice of deficiency would otherwise be barred under the provisions of this section.

(h) Notwithstanding any other provisions of this section, when an amended Idaho return is filed within the period of limitations as provided in subsections (a) and (~~l~~m) of this section, the period of limitations for issuing a notice of deficiency shall be three (3) years from the date the amended return was filed. However, upon the expiration of the period of limitations as provided in subsections (a) and (~~l~~m) of this section, only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended Idaho return shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(i) If a taxpayer has filed an amended federal return, and no corresponding Idaho amended return has been filed with the state tax commission, then the period of limitations for issuing a notice of deficiency shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the taxpayer of the amended federal return. However, upon the expiration of the period of limitations as provided in subsections (a) and (~~l~~m) of this section, then only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended federal return shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(j) Notwithstanding any other provisions of this section, a notice of deficiency, related to items on the return of any pass-through entity, as defined in this section, which other taxpayers are required by law to report, shall be issued to such other taxpayers within the later of three (3) years from the due date of the other taxpayers' return, without regard to extensions, three (3) years from the date the other taxpayers' returns were filed, or three (3) years from the date of filing of the pass-through entity's return. If the pass-through entity files an amended return, notices of deficiency may be issued to the other taxpayers within three (3) years from the date the amended return for the pass-through entity was filed with the state tax commission. If the pass-through entity files an amended return with the internal revenue service, or the internal revenue service issues a final determination to the pass-through entity, then the period of limitations for issuing a notice of deficiency to the other taxpayers shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the pass-through entity of the amended federal return or the later of one (1) year from the date of delivery to the state tax commission by the pass-through entity of the final federal determination, three (3) years from the due date of the pass-through entity's return, without regard to extensions, or three (3) years from the date the pass-through entity's return was filed.

(k) For purposes of this section, "pass-through entity" means a partnership, S-corporation, trust, limited liability company or any other entity whose items of income, deductions, gains, losses and credits must be reported by other taxpayer(s). For further purposes of this section, the term "other taxpayer" shall include, by way of unlimiting

example, such taxpayers as partners, shareholders, beneficiaries, joint venturers or investors.

(l) In the case of a duplicate return filed under section 63-217(1)(b), Idaho Code, the limitation under this section shall be the later of one (1) year from the filing of the duplicate return or the date otherwise applicable under this section.

(m) Prior to the expiration of the time prescribed in this section for the issuance of a notice of deficiency for the tax imposed in this chapter, both the state tax commission, its delegate or deputy, and the taxpayer may consent in writing to extend the period of time within which a notice of deficiency may be issued. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. When a pass-through entity extends the period of limitations in accordance with this subsection, the period of limitations for the other taxpayers is automatically extended for the same period for the purpose of issuing a notice of deficiency to the other taxpayers reflecting the adjustments to the pass-through entity's return.

(mn) The expiration of the period of limitations as provided in this section shall be suspended for the time period during which the state tax commission is prohibited from issuing a notice of deficiency, making the assessment, or from collecting by levy or a proceeding in court, and for thirty (30) days thereafter.

(no) For the purposes of this section, "return" includes a notice of deficiency determination issued by the state tax commission when no return was filed by the taxpayer. Such a return is deemed filed on the date the taxes determined by the state tax commission are assessed.

SECTION 12. That Section 63-3072, Idaho Code, be, and the same is hereby amended to read as follows:

63-3072. CREDITS AND REFUNDS. (a) Subject to the provisions of subsections (b), (c) and (gh) of this section, where there has been an overpayment of the tax imposed by the provisions of this chapter, the amount of such overpayment shall be credited against any tax administered by the state tax commission which tax is then due from the taxpayer, and any balance of such excess shall be refunded to the taxpayer.

(b) Except in regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.

(c) With regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund shall be made within three (3) years from the due date of the return, without regard to extensions, for the taxable year in respect to which the tax was withheld or paid.

(d) Notwithstanding any other provisions of this section, when

Idaho taxable income and/or tax credits for any taxable year have been adjusted as a result of a final federal determination, the period of limitations for claiming a refund or credit of tax, penalties, or interest shall be reopened and shall not expire until the later of one (1) year from the date of delivery of the final federal determination to the taxpayer by the internal revenue service, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection, the term "final federal determination" shall mean the final resolution of all issues which were adjusted by the internal revenue service. When the final federal determination is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (b) and (~~g~~h) of this section, only those specific items of income, deductions, gains, losses or credits which were adjusted in the final federal determination shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(e) If a claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the period of limitations prescribed in subsection (b) of this section, the period shall be that period which ends with the expiration of the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss which results in such carryback.

(f) If an adjustment, which was made within the period of limitations as provided in this section, affects the amount of tax credit, net operating loss, or capital loss, claimed in a taxable year other than the tax year in which the adjustment is made, then adjustments to the credit, net operating loss, or capital loss, claimed in such other tax year may be made and a claim for credit or refund of tax, penalties or interest may be made even though such claim would otherwise be barred under the provisions of this section.

(g) In the case of a duplicate return filed under section 63-217(1)(b), Idaho Code, the limitations under this section shall be the later of one (1) year from the filing of the duplicate return or the date otherwise applicable under this section.

(h) Prior to the expiration of the time prescribed in this section for credit or refund of any tax imposed by the provisions of this chapter, both the state tax commission or its delegate or deputy and the taxpayer may consent in writing to extend such period of time. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. When a pass-through entity extends the period of limitations in accordance with the provisions of this subsection the period of limitations for the other taxpayers is automatically extended for the same period for the purpose of claiming a credit or refund of tax, penalties or interest by the other taxpayers reflecting the pass-through entity adjustments.

(~~h~~i) The expiration of the period of limitations as provided in this section shall be suspended for the time period between the issuance by the state tax commission of a notice under either section 63-3045 or 63-3065, Idaho Code, and the final resolution of any proceeding resulting from the notice.

(~~i~~j) Appeal of a state tax commission decision denying in whole or in part a claim for credit or refund shall be made in accordance with and within the time limits prescribed in section 63-3049, Idaho Code.

(~~j~~k) For purposes of this section, "return" includes a notice of deficiency determination issued by the state tax commission when no return was filed by the taxpayer. Such a return is deemed filed on the date the taxes determined by the state tax commission are assessed.

SECTION 13. 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, 2002, except that Section 8 of this act shall be in full force and effect on and after its passage and approval and retroactively to January 1, 2001.

Approved February 19, 2002.

CHAPTER 36
(H.B. No. 455)

AN ACT

RELATING TO INCOME TAXATION OF QUALIFIED FUNERAL TRUSTS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3015, IDAHO CODE, TO PROVIDE FOR RESIDENCY DETERMINATIONS FOR THE TAXATION OF QUALIFIED FUNERAL TRUSTS AND TO PROVIDE PROCEDURES FOR REPORTING AND PAYMENT OF TAXES; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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 63-3015, Idaho Code, and to read as follows:

63-3015. QUALIFIED FUNERAL TRUSTS. (1) A resident of this state includes a trust whose trustee has elected treatment as a qualified funeral trust pursuant to section 685 of the Internal Revenue Code where, at the time of the initial funding of the trust, the trust is required to be established under the laws of this state, or in the absence of such a requirement, where a funeral home or cemetery located in this state is identified to provide the services or merchandise, or both, under the terms of a preneed contract requiring the establishment of the trust.

(2) Qualified funeral trusts having a single trustee may file a single, composite return pursuant to rules of the state tax commission. Each beneficiary's interest in a qualified funeral trust included in the composite return under this section shall be taxed as a separate trust for the purposes of application of the rate schedules in section 63-3024, Idaho Code, and determination of the filing requirement in section 63-3030, Idaho Code. The composite return shall not be a return of a person under section 63-3082, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2002.

Approved February 19, 2002.

CHAPTER 37
(H.B. No. 456)

AN ACT

RELATING TO THE INVESTMENT OF IDLE MONEYS IN THE STATE TREASURY; AMENDING SECTION 67-1210, IDAHO CODE, TO DELETE LANGUAGE REGARDING PURCHASE OF THE GUARANTEED PORTION OF A UNITED STATES SMALL BUSINESS LOAN AND TO PROVIDE THAT SECURITY HELD IN MONEY MARKET PORTFOLIOS MUST BE DOLLAR-DENOMINATED MEANING THAT ALL PRINCIPAL AND INTEREST PAYMENTS ON THE SECURITY ARE PAYABLE TO SECURITY HOLDERS IN UNITED STATES DOLLARS; AND DECLARING AN EMERGENCY.

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 farm credit system or institutions forming a part thereof under the farm credit act of 1971 [U.S.C., tit. 12, sections 2001-2259] and all acts of congress amendatory thereof or supplementary thereto; in bonds or debentures of the federal home loan bank board established under the federal home loan bank act [U.S.C., tit. 12, sections 1421-1449]; in bonds, debentures and other obligations of the federal national mortgage association established under the national housing 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. ~~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 federal savings and loan insurance 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 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 securities held in money market portfolios must be dollar-denominated, meaning that all principal and interest payments on such a security are payable to security holders in United States dollars.

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.

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, 2002.

CHAPTER 38
(H.B. No. 471)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3626, IDAHO CODE, TO REVISE THE TIME, MANNER AND PROCEDURES FOR OBTAINING REFUNDS OF OVERPAYMENTS OF SALES OR USE TAXES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-3626, Idaho Code, be, and the same is hereby amended to read as follows:

63-3626. REFUNDS, LIMITATIONS, INTEREST. (a) ~~If the tax commission determines that~~ Subject to the provisions of subsection (b) of this section, if any amount due under this chapter has been ~~paid more than once~~

~~or has been erroneously or illegally collected or computed, the tax commission shall set forth that fact in its records and~~ overpaid, the excess amount ~~paid or collected~~ may be credited on any amount then due ~~and payable~~ to the state tax commission from ~~that~~ the person by whom the excess was paid and any balance refunded to ~~the~~ that person. ~~by whom it was paid or to his successors, administrators or executors; the tax commission is authorized and the state board of tax appeals [is] authorized to order the tax commission in proper cases to credit or refund such amounts whether or not such payments have been paid under protest and certify such refund to the state board of examiners.~~

(b) (1) No such credit or refund shall be allowed ~~or made~~ after three (3) years from the time the payment was made to the state tax commission, unless before the expiration of such period a written claim therefor is filed with the state tax commission by the ~~taxpayer~~ claimant or the claimant's representative, but only if the claimant has authorized in writing the representative to file a claim.

(2) ~~The three (3) year period allowed by subsection (b)(1) of this section for making refunds or credit claims shall not apply in cases where~~ For periods in regard to which the state tax commission asserts a deficiency under section 63-3629 or 63-3630, Idaho Code, ~~. In such cases, no credits or refunds shall be allowed or made after~~ a claim for refund, relating to the period to which the deficiency relates, must be made on or before the later of:

(i) ~~Three (3) years from the time the payment was made~~ The date provided in subsection (b)(1) of this section; or

(ii) The date upon which ~~amounts asserted by deficiency become assessed;~~ any administrative or judicial proceeding relating to such deficiency is finally resolved; or

~~unless before the expiration of such period a claim therefore is filed by the taxpayer.~~

(iii) The date specified in any agreement under section 63-3633(g), Idaho Code.

(3) A taxpayer ~~desiring~~ claiming a refund of amounts paid in obedience to such deficiencies must do so by appealing within the time limits prescribed in sections 63-3631 and 63-3049, Idaho Code.

(c) Interest shall be allowed on the amount of such credits or refunds at the rate provided in section 63-3045, Idaho Code, from the date such tax was paid to the state tax commission.

(d) If the state tax commission denies a claim for refund in whole or in part, it shall provide notice of the denial in the manner provided in section 63-3629(c), Idaho Code. The claimant may petition the state tax commission for a redetermination of the denial as provided in section 63-3631, Idaho Code. The state tax commission shall issue a final decision pursuant to the requirements of section 63-3045B, Idaho Code. Appeal of a tax commission decision denying in whole or in part a claim for refund shall be made in accordance with and within the time limits prescribed in section 63-3~~632~~049, Idaho Code.

Approved February 19, 2002.

CHAPTER 39
(H.B. No. 489)

AN ACT

RELATING TO THE BASIN ENVIRONMENTAL IMPROVEMENT PROJECT COMMISSION; AMENDING SECTION 39-8106, IDAHO CODE, TO PROVIDE THAT THE BOARD OF COMMISSIONERS OF THE COMMISSION SHALL INCLUDE ONE REPRESENTATIVE OF THE STATE OF WASHINGTON APPOINTED BY THE GOVERNOR OF WASHINGTON; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-8106, Idaho Code, be, and the same is hereby amended to read as follows:

39-8106. BASIN PROJECT COMMISSION -- ESTABLISHMENT -- COMPOSITION -- POWERS -- DUTIES -- FUNDING. (1) The basin environmental improvement project commission is hereby created and shall become operational when the director of the department of environmental quality, by execution of an appropriate order, determines that:

(a) Significant funds from any source have been provided to the basin improvement fund and financing authority; or

(b) Any one (1) or more agreements or compacts have been entered into between the state of Idaho and the state of Washington, the Coeur d'Alene tribe or the United States of America providing for participation in the basin project commission and financing authority.

(2) Any agreement or compact providing for participation in the basin project commission and financing authority shall be consistent with the terms of this chapter.

(3) The board of commissioners of the basin project commission shall include one (1) representative of the state of Idaho and one (1) representative from each of the county commissions of Shoshone, Kootenai and Benewah counties of the state of Idaho as appointed by the governor of the state of Idaho. Upon participation of the state of Washington, the Coeur d'Alene tribe or the United States of America through agreement or compact, the board of commissioners shall also include, according to such participation: one (1) representative of the ~~county--commission--of-Spokane-county-of-the~~ state of Washington appointed by the governor of Washington; one (1) tribal council member of the Coeur d'Alene tribe appointed by the council of the Coeur d'Alene tribe; and one (1) representative of the United States of America appointed by the president of the United States of America.

(4) The commission shall act by majority vote except that the vote of any commissioner representative of the state of Idaho, the Coeur d'Alene tribe or the United States of America, or the unanimous vote of all three (3) commissioners representing Shoshone, Kootenai and Benewah counties, may veto any majority vote, in which event the action is not valid. The commission may establish an advisory group to provide local citizen input to the commission in the performance of its duties. The commission shall distribute and publish a public involvement policy, to include procedures to assure adherence to the open meeting law and the public records act.

(5) The commission shall adopt as the basin project workplan a record of decisions approved pursuant to the federal comprehensive environmental responsibility compensation and liability act of 1980 (CERCLA), as amended, by the environmental protection agency of the United States of America, the department of environmental quality of the state of Idaho and, upon its participation, the Coeur d'Alene tribe, for environmental remediation and related measures pertaining to contamination by heavy metals in the basin. Amendment of the basin project workplan shall be made by the commission upon approval of the United States environmental protection agency, the Idaho department of environmental quality and the Coeur d'Alene tribe.

(6) The commission shall, to the extent that funds are available from the financing authority and any other source, implement the basin project workplan.

(7) The commission may select institutional control measures in implementation of the basin project workplan. The measures shall be adopted and implemented by appropriate local and tribal governments as a condition of remediation or restoration activities within those jurisdictions.

(8) The commission shall appoint an executive director to administer the basin project.

(9) The commissioner representing the state of Idaho and, in the event of participation through agreement or compact, the commissioners representing the United States of America and the Coeur d'Alene tribe, shall annually fix and determine, consistent with the basin project workplan and its schedule, the priorities of the basin project, the amount of money required from the financing authority, federal grants and taxation for implementing the basin project priorities including costs of construction and other activities, costs of operation and maintenance of the work, equipment of the basin project, and costs of administration.

(10) The commission shall have, within the basin, the authority of a board of commissioners of a flood control district as provided in chapter 31, title 42, Idaho Code, and the authority of a board of commissioners of a drainage district as provided in chapters 29 and 30, title 42, Idaho Code.

(11) The commission shall have the following powers and duties which may be exercised through the executive director of the basin project commission:

(a) To employ personnel as may be necessary to carry out the purposes and objectives of the basin project commission;

(b) To sue and be sued in the name of the basin project commission and to make and execute contracts and other instruments necessary or convenient to the exercise of its power;

(c) To manage and conduct the business and affairs of the basin project commission, both within and without the basin;

(d) To design, construct, operate and maintain structural works and actions as provided by the basin project workplan or procure or contract for the performance of those works and actions or portions thereof by any local, state, tribal or federal governmental entity or any private entity or individual;

(e) To prescribe the duties of officers, agents and employees as may be required;

(f) To establish the fiscal year of the basin project commission,

to keep records of all business transactions of the basin project commission and to provide an annual public accounting of all expenditures;

(g) To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any real or personal property, and improve any properties acquired; to receive income from properties and to expend the income in carrying out the purposes and provisions of the basin project commission; and to lease any of its property or interest therein in furtherance of the purposes and provisions of the basin project commission;

(h) To convey rights-of-way and easements for highways, public roads, public utilities, and for other purposes, over basin project property, as shall be determined by the commission to be in the best interests of the basin project;

(i) To convey by deed, bill of sale, or other appropriate instrument all of the estate and interest of the basin project commission, in any real or personal property;

(j) To enter into contracts or agreements with the United States of America or any of its agencies, the states of Idaho or Washington or any of their agencies or political subdivisions or the Coeur d'Alene tribe or any of its agencies or subdivisions or private entities or individuals and to cooperate with those governments, agencies, subdivisions, private entities or individuals in effectuating, promoting and accomplishing the purposes of the basin project;

(k) To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided in this chapter;

(l) To assume, administer and maintain pursuant to any agreement or contract entered into in accordance with this chapter any environmental remediation or restoration measure within the basin undertaken by or in cooperation with the United States of America or any of its agencies, the states of Idaho or Washington or any of their agencies or subdivisions, or the Coeur d'Alene tribe or any of its agencies or subdivisions, or any combinations thereof;

(m) To accept donations, gifts and contributions in money, services, materials, or otherwise, from the United States of America or any of its agencies, or the states of Idaho or Washington or any of their agencies or political subdivisions, or the Coeur d'Alene tribe or any of its agencies or subdivisions, or private entities or individuals, or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations;

(n) To exercise all other powers necessary or helpful in carrying out the purposes and provisions of the basin project commission as provided in this chapter and by agreements or compacts between the states of Idaho and Washington, the Coeur d'Alene tribe and the United States of America.

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, 2002.

CHAPTER 40
(H.B. No. 508)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO STATE POLICE; AMENDING SECTION 1, CHAPTER 378, LAWS OF 2001; PROVIDING TRANSFERS TO THE PEACE OFFICER BENEFIT FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1, Chapter 378, Laws of 2001, is hereby amended to read as follows:

SECTION 1. There is hereby appropriated to the Idaho State Police 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, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 2,006,900	$ 274,900	$ 85,500		$ 2,367,300
II. DIVISION OF THE IDAHO STATE POLICE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General Fund	$ 1,876,000	$ 505,600	$ 38,000		$ 2,419,600
Indirect Cost Recovery Fund	65,400				65,400
Idaho Law Enforcement Fund	11,600	1,000			12,600
Peace Officers Fund	700				700
Peace Officer Benefit Fund				$ 140,000	140,000
Miscellaneous Revenue Fund		55,300			55,300
Federal Grant Fund	454,500	126,800	6,000	$3,334,300	3,921,600
TOTAL	$ 2,408,200	$ 688,700	$ 44,000	~~$3,334,300~~ 3,474,300	~~$ 6,475,200~~ 6,615,200
B. INVESTIGATIONS:					
FROM:					
General Fund	$ 4,734,100	$ 1,123,200	$ 407,300		$ 6,264,600
Drug Donation Fund		270,800			270,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	104,400	184,200			288,600
TOTAL	$ 4,838,500	$ 1,578,200	$ 407,300		$ 6,824,000
C. PATROL:					
FROM:					
General Fund	$ 2,422,800	$ 119,300	$2,259,400		$ 4,801,500
Idaho Law Enforcement Fund	11,770,000	3,012,200	49,800		14,832,000
Hazardous Materials/ Waste Enforcement Fund	121,200	42,800		$ 67,800	231,800
Miscellaneous Revenue Fund	48,900				48,900
Federal Grant Fund	947,700	1,041,500	300,000		2,289,200
TOTAL	$15,310,600	$ 4,215,800	$2,609,200	$ 67,800	$22,203,400
D. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General Fund	$ ~~1,123,700~~ 1,155,700	$ ~~498,100~~ 466,100	$ 55,700		$ 1,677,500
Miscellaneous Revenue Fund	66,600	18,400			85,000
TOTAL	$ ~~1,190,300~~ 1,222,300	$ ~~516,500~~ 484,500	$ 55,700		$ 1,762,500
E. SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,567,300	$ 1,187,500	$ 296,500		$ 3,051,300
Idaho Law Enforcement Fund	1,038,800	139,000	32,100		1,209,900
Idaho Law Enforcement Telecommunications Fund	259,100	273,700			532,800
Miscellaneous Revenue Fund	469,400	992,500	34,800		1,496,700
Federal Grant Fund	115,800	626,100			741,900
TOTAL	$ 3,450,400	$ 3,218,800	$ 363,400		$ 7,032,600
F. FORENSIC SERVICES:					
FROM:					
General Fund	$ 1,807,900	$ 538,900	$ 98,200		$ 2,445,000
Miscellaneous Revenue Fund	49,900	199,000			248,900
Federal Grant Fund		99,800	20,100		119,900
TOTAL	$ 1,857,800	$ 837,700	$ 118,300		$ 2,813,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
DIVISION TOTAL	~~$29,055,800~~	~~$11,055,700~~	$3,597,900	~~$3,402,100~~	~~$47,111,500~~
	29,087,800	11,023,700		3,542,100	47,251,500
III. PEACE OFFICERS STANDARDS AND TRAINING ACADEMY:					
FROM:					
Peace Officers Fund	$ 799,200	$ 939,400	$ 85,000	$ 89,300	$ 1,912,900
Miscellaneous Revenue Fund		5,100			5,100
Federal Grant Fund	90,000	181,100		237,900	509,000
TOTAL	$ 889,200	$ 1,125,600	$ 85,000	$ 327,200	$ 2,427,000
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 347,200	$ 310,400			$ 657,600
Pari-mutuel Distributions Fund				$ 100,000	100,000
TOTAL	$ 347,200	$ 310,400		$ 100,000	$ 757,600
GRAND TOTAL	~~$32,299,100~~	~~$12,766,600~~	$3,768,400	~~$3,829,300~~	~~$52,663,400~~
	32,331,100	12,734,600		3,969,300	52,803,400

SECTION 2. The State Controller shall make cash transfers from the General Fund to the Peace Officer Benefit Fund, at the request of the Director of the Idaho State Police, not to exceed $140,000, for the period July 1, 2001, through June 30, 2002.

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, 2002.

CHAPTER 41
(H.B. No. 509)

AN ACT
APPROPRIATING ADDITIONAL MONEYS TO THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2002; 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 227, Laws of 2001, there is hereby appropriated to the State

Appellate Public Defender the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

FOR:	
Operating Expenditures	$65,000
FROM:	
General Fund	$65,000

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, 2002.

CHAPTER 42
(H.B. No. 510)

AN ACT

RELATING TO THE APPROPRIATION FOR THE DEPARTMENT OF CORRECTION; REPEALING SECTIONS 4, 5 AND 6, CHAPTER 362, LAWS OF 2001; AMENDING SECTION 1, CHAPTER 210, LAWS OF 2001, TO APPROPRIATE ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Sections 4, 5 and 6, Chapter 362, Laws of 2001, are hereby repealed.

SECTION 2. That Section 1, Chapter 210, Laws of 2001, 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 expense classes from the listed funds for the period July 1, 2001, through June 30, 2002:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION DIVISION:					
FROM:					
General Fund	$ 3,397,000	$ 2,398,500	$ 80,000		$ 5,875,500
Parolee Supervision Fund	59,200	24,000			83,200
Federal Grant Fund	17,400	296,600		$1,750,000	2,064,000
Miscellaneous Revenue Fund	53,100	7,300			60,400
TOTAL	$ 3,526,700	$ 2,726,400	$ 80,000	$1,750,000	$ 8,083,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. PRISONS DIVISION:					
A. PRISONS ADMINISTRATION:					
FROM:					
General Fund	$ 806,000	$ ~~4,647,900~~			$ ~~5,453,900~~
		4,369,200			5,175,200
Miscellaneous Revenue Fund	51,400	43,200			94,600
Federal Grant Fund		628,500			628,500
TOTAL	$ 857,400	$ ~~5,319,600~~			$ ~~6,177,000~~
		5,040,900			5,898,300
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	~~$15,609,100~~	$ ~~2,391,600~~	$ ~~111,200~~		$ ~~18,111,900~~
	15,732,300	2,506,300	151,400		18,390,000
Penitentiary Endowment Fund		1,205,300			1,205,300
Miscellaneous Revenue Fund	327,600	108,300			435,900
TOTAL	~~$15,936,700~~	$ ~~3,705,200~~	$ ~~111,200~~		$ ~~19,753,100~~
	16,059,900	3,819,900	151,400		20,031,200
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ ~~4,999,300~~	$ ~~1,335,700~~	$ ~~80,100~~		$ ~~6,415,100~~
	5,114,800	1,363,100	103,900		6,581,800
Inmate Labor Fund	708,700	631,400	266,900		1,607,000
Miscellaneous Revenue Fund	89,800	63,400	3,100		156,300
TOTAL	$ ~~5,797,800~~	$ ~~2,030,500~~	$ ~~350,100~~		$ ~~8,178,400~~
	5,913,300	2,057,900	373,900		8,345,100
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ ~~2,472,900~~	$ ~~1,035,700~~	$ ~~49,800~~		$ ~~3,558,400~~
	2,732,300	875,700	81,200		3,689,200
Miscellaneous Revenue Fund	40,000	144,100			184,100
TOTAL	$ ~~2,512,900~~	$ ~~1,179,800~~	$ ~~49,800~~		$ ~~3,742,500~~
	2,772,300	1,019,800	81,200		3,873,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	$ ~~4,586,700~~	$ ~~1,760,000~~	$ ~~235,800~~		$ ~~6,582,500~~
	4,846,800	1,741,600	252,900		6,841,300
Inmate Labor					
Fund	768,000	406,200			1,174,200
Miscellaneous					
Revenue					
Fund	52,000	41,500			93,500
TOTAL	$ ~~5,406,700~~	$ ~~2,207,700~~	$ ~~235,800~~		$ ~~7,850,200~~
	5,666,800	2,189,300	252,900		8,109,000
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General					
Fund	$ ~~7,002,700~~	$ ~~1,807,600~~	$ ~~74,000~~		$ ~~8,884,300~~
	7,037,700	1,814,100	88,700		8,940,500
Miscellaneous					
Revenue					
Fund	41,500	54,300			95,800
TOTAL	$ ~~7,044,200~~	$ ~~1,861,900~~	$ ~~74,000~~		$ ~~8,980,100~~
	7,079,200	1,868,400	88,700		9,036,300
G. ST. ANTHONY WORK CAMP:					
FROM:					
General					
Fund	$ ~~1,433,600~~	$ ~~276,600~~	$ ~~47,700~~		$ ~~1,757,900~~
	1,479,100	282,600	56,100		1,817,800
Inmate Labor					
Fund	~~328,900~~	472,700	8,700		~~810,300~~
	548,300				1,029,700
Miscellaneous					
Revenue					
Fund		6,200			6,200
TOTAL	$ ~~1,762,500~~	$ ~~755,500~~	$ ~~56,400~~		$ ~~2,574,400~~
	2,027,400	761,500	64,800		2,853,700
H. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	$ ~~3,405,900~~	$ ~~975,900~~	$ ~~70,200~~		$ ~~4,452,000~~
	3,665,700	903,700	108,900		4,678,300
Federal Grant					
Fund		52,300			52,300
Inmate Labor					
Fund	214,500	27,700			242,200
Miscellaneous					
Revenue					
Fund	208,100	20,600			228,700
TOTAL	$ ~~3,828,500~~	$ ~~1,076,500~~	$ ~~70,200~~		$ ~~4,975,200~~
	4,088,300	1,004,300	108,900		5,201,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
DIVISION TOTAL	~~$43,146,700~~	~~$18,136,700~~	~~$ 947,500~~		~~$ 62,230,900~~
	44,464,600	17,762,000	1,121,800		63,348,400
III. INSTITUTIONAL SUPPORT:					
FROM:					
General Fund	~~$ 2,137,200~~	~~$10,722,400~~	~~$ 3,900~~		~~$ 12,863,500~~
	2,310,500	11,023,200	22,900		13,356,600
Federal Grant Fund	~~532,600~~	~~828,800~~			~~1,361,400~~
	604,900	996,300			1,601,200
Miscellaneous Revenue Fund		124,500			124,500
TOTAL	~~$ 2,669,800~~	~~$11,675,700~~	~~$ 3,900~~		~~$ 14,349,400~~
	2,915,400	12,144,000	22,900		15,082,300
IV. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Fund	~~$11,770,600~~	~~$ 1,710,700~~	~~$ 284,800~~		~~$ 13,766,100~~
	12,515,100	1,975,600	561,900		15,052,600
Parolee Supervision Fund	1,646,000	197,900	42,900		1,886,800
Inmate Labor Fund	152,300	~~1,184,500~~			~~1,336,800~~
		1,241,400			1,393,700
Miscellaneous Revenue Fund		34,300			34,300
TOTAL	~~$13,568,900~~	~~$ 3,127,400~~	~~$ 327,700~~		~~$ 17,024,000~~
	14,313,400	3,449,200	604,800		18,367,400
V. PRIVATELY-OPERATED STATE PRISON:					
FROM:					
General Fund		$20,193,800	$1,265,000		$ 21,458,800
VI. COMMISSION FOR PARDONS AND PAROLE:					
FROM:					
General Fund	$ 1,031,600	$ 243,300	$ 19,400		$ 1,294,300
Miscellaneous Revenue Fund		20,300			20,300
TOTAL	$ 1,031,600	$ 263,600	$ 19,400		$ 1,314,600
GRAND TOTAL	~~$63,943,700~~	~~$56,123,600~~	~~$2,643,500~~	$1,750,000	~~$124,460,800~~
	66,251,700	56,539,000	3,113,900		127,654,600

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, 2002.

CHAPTER 43
(H.B. No. 511)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2002; EXPRESSING LEGISLATIVE INTENT TO DIRECT A PORTION OF WORKER'S COMPENSATION DIVIDENDS TO STATE AGENCIES TO THE GENERAL FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 228, Laws of 2001, there is hereby appropriated to the Attorney General the following amount to be expended for the Special Litigation program according to the designated expense class from the listed fund for the period July 1, 2001, through June 30, 2002:

FOR:	
Operating Expenditures	$336,200
FROM:	
General Fund	$336,200

SECTION 2. It shall be the intent of the Legislature that of the total remitted to state agencies as policyholders in the form of a dividend from the State Insurance Fund, $336,200 shall be requested by the state of Idaho to be paid immediately and deposited with the Office of the State Treasurer to the General Fund. A written request on behalf of the state of Idaho shall be communicated to the Manager of the State Insurance Fund by the Chairmen of the Joint Finance-Appropriations Committee upon passage of this act. The balance of the dividends shall be credited to each individual agency proportionally in accordance with Section 72-915, Idaho Code, as determined by the State Insurance Fund, and reported to the Office of the State Controller for a reduction in payroll costs during calendar year 2002.

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, 2002.

CHAPTER 44
(H.B. No. 402)

AN ACT

RELATING TO THE TESTING OF BLOOD OF PERSONS KILLED IN ACCIDENTS; AMENDING SECTION 49-1314, IDAHO CODE, TO PROVIDE THAT CORONERS SHALL OBTAIN BLOOD SAMPLES FROM CERTAIN PERSONS WHO HAVE DIED AS A RESULT OF MOTOR VEHICLE ACCIDENTS AND TO PROVIDE THAT THE RESULT OF THE BLOOD TESTING SHALL BE DELIVERED TO THE DIRECTOR OF THE IDAHO STATE POLICE OR HIS DESIGNEE; AND AMENDING SECTION 67-7036, IDAHO CODE, TO PROVIDE THAT CORONERS SHALL OBTAIN BLOOD SAMPLES FROM CERTAIN PERSONS WHO HAVE DIED AS A RESULT OF ACCIDENTS INVOLVING VESSELS AND TO PROVIDE THAT THE RESULTS OF BLOOD TESTING SHALL BE DELIVERED TO THE DIRECTOR OF THE IDAHO STATE POLICE OR HIS DESIGNEE.

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

SECTION 1. That Section 49-1314, Idaho Code, be, and the same is hereby amended to read as follows:

49-1314. TESTING BLOOD OF PERSONS KILLED IN ACCIDENTS. (1) The director of the Idaho state police, jointly with the various county coroners, shall provide a system and procedure whereby all ~~morticians~~ coroners in Idaho shall obtain blood samples from all pedestrians and motor vehicle operators who have died as a result of and contemporaneously ~~with an~~ accident involving a motor vehicle.

(2) All investigating peace officers shall report traffic fatalities to the county coroner or follow the procedure established by the joint action of the director of the Idaho state police and the various coroners.

(3) The blood sample, or result of blood testing, with any information as may be required, shall be delivered to the director of the Idaho state police or his designee. Upon receipt of the sample the director will cause all tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs that may be contained in the sample.

(4) The results of such tests shall be used for statistical purposes and shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 2. That Section 67-7036, Idaho Code, be, and the same is hereby amended to read as follows:

67-7036. TESTING BLOOD OF PERSONS KILLED IN VESSEL ACCIDENTS. The director of the Idaho state police, jointly with the various county coroners, shall provide a system and procedure whereby all ~~morticians~~ coroners in the state of Idaho shall obtain blood samples from all vessel operators who have died as a result of and contemporaneously with an accident involving a vessel.

All investigating sheriffs, deputy sheriffs, or police officers shall report such fatalities to the county coroner or follow the procedure established by the joint action of the director of the Idaho state police and the various coroners.

The blood sample, or result of blood testing, with such information

as may be required, will be delivered to the director of the Idaho state police or his designee. Upon receipt of such sample the director will cause such tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs contained in such sample.

The results of such tests shall be used exclusively for statistical purposes and the sample shall never be identified with the name of the deceased. Any person releasing or making public such information other than as herein prescribed, shall be guilty of a misdemeanor.

Approved February 20, 2002.

CHAPTER 45
(S.B. No. 1290)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1349C, IDAHO CODE, TO EXTEND UNEMPLOYMENT INSURANCE COVERAGE TO EMPLOYEES OF INDIAN TRIBES AND TRIBAL UNITS, TO PROVIDE THAT INDIAN TRIBES SHALL HAVE THE SAME OPTIONS FOR PAYING UNEMPLOYMENT INSURANCE CONTRIBUTIONS AS NONPROFIT ORGANIZATIONS AND GOVERNMENTAL ENTITIES, TO WITHDRAW OPTIONS FOR PAYMENT AND TO DISALLOW COVERAGE IF AN INDIAN TRIBE OR ANY TRIBAL UNIT FAILS TO PAY AMOUNTS DUE, TO PROVIDE FOR NOTICE OF PAYMENT AND REPORTING DELINQUENCY, TO PROVIDE THAT AN INDIAN TRIBE AND ITS TRIBAL UNITS SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL PAYMENTS DUE, TO PROVIDE FOR PAYMENT OF EXTENDED BENEFITS AND TO PROVIDE FOR NOTIFICATION TO THE INTERNAL REVENUE SERVICE AND THE FEDERAL DEPARTMENT OF LABOR IF AN INDIAN TRIBE FAILS TO MAKE PAYMENTS AS REQUIRED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1349C, Idaho Code, and to read as follows:

72-1349C. TREATMENT OF INDIAN TRIBES. (1) In addition to the definition provided in section 72-1315, Idaho Code, the term "covered employer" shall also include any Indian tribe for which service in covered employment is performed.

(2) In addition to the definition provided in section 72-1316, Idaho Code, the term "covered employment" shall also include service performed in the employ of an Indian tribe as defined in section 3306(u) of the federal unemployment tax act (FUTA), provided such service is excluded from "employment" as defined in FUTA solely by reason of section 3306(c)(7), FUTA, and is not otherwise excluded from covered employment under this chapter. For purposes of this section, the exemptions from covered employment in sections 72-1316A(5) and (9), Idaho Code, shall be applicable to services performed in the employ of an Indian tribe.

(3) Benefits based on service in covered employment as that term is defined in this section, 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 under this chapter.

(4) Indian tribes, or tribal units meaning subdivisions, subsidiaries or business enterprises wholly owned by such Indian tribe, subject to this chapter shall pay contributions under the same terms and conditions as all other covered employers unless the tribe elects to pay into the state unemployment fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(a) Indian tribes electing to make payments in lieu of contributions shall make such election in the same manner and under the same conditions as provided in section 72-1349A, Idaho Code, pertaining to nonprofit organizations and governmental entities subject to this chapter. Indian tribes shall determine if reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units.

(b) Indian tribes or tribal units shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same basis as other employing units that have elected to make payments in lieu of contributions.

(c) At the discretion of the director, any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions may be required to obtain and deposit with the director a surety bond approved by the director. The amount of the bond shall be determined by the director based on the employing entity's potential liability for benefit costs. Such bond shall be in force for a period of not less than two (2) years, and shall be renewed not less frequently than two (2) year intervals for as long as the Indian tribe or tribal unit continues to be liable for payments in lieu of contributions. The director may require adjustments to be made in the bond filed. When upward adjustments are required, the adjusted bond shall be filed within thirty (30) days of the date notice of the required adjustment was mailed. Failure by an Indian tribe or tribal unit covered by such bond to pay the full amount of payments due, together with interest and penalties as provided in section 72-1354, Idaho Code, shall render the surety liable on said bond to the extent of the bond, as though the surety was a liable organization.

(5) Failure of the Indian tribe or tribal unit to make required payments, including assessments of interest and penalty, within ninety (90) days of receipt of the bill shall cause the Indian tribe to lose the option to make payments in lieu of contributions as described in subsection (4) of this section, for the following tax year unless payment in full is received before contribution rates for the next tax year are computed.

(a) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment as described in this subsection (5) of this section, shall have such option reinstated if, after a period of one (1) year, all contributions have been made timely, provided no contributions, payments in lieu of contributions for benefits paid, penalties or interest remain outstanding.

(b) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalty, after all collection activities deemed necessary by the director

have been exhausted, shall cause services performed for such tribe to not be treated as "covered employment" for purposes of subsection (2) of this section.

(c) The director may determine that any Indian tribe that loses coverage under paragraph (b) of this subsection, may have services performed for such tribe again included as "covered employment" for purposes of subsection (2) of this section, if all contributions, payments in lieu of contributions, penalties and interest have been paid.

(6) Notices of payment and reporting delinquency to Indian tribes and their tribal units shall include information that failure to make full payment within the prescribed time frame:

(a) Shall cause the Indian tribe to be liable for taxes under the federal unemployment tax act;

(b) Shall cause the Indian tribe to lose the option to make payments in lieu of contributions; and

(c) Could cause the Indian tribe to be excepted from the definition of "covered employer" as provided in subsection (1) of this section, and services in the employ of the Indian tribe as provided in subsection (2) of this section, to be excepted from "covered employment."

(7) An Indian tribe and its tribal units shall be jointly and severally liable for all payments due under this chapter, including assessments of interest and penalties.

(8) Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe or tribal unit.

(9) If an Indian tribe fails to make payments required under this section, including assessments of interest and penalty, within ninety (90) days of a final notice of delinquency, or fails to timely file a required bond, the director shall immediately notify the United States internal revenue service and the United States department of labor.

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 26, 2002.

CHAPTER 46
(S.B. No. 1303)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO PROVIDE A CORRECT REFERENCE TO SECTION 401 OF THE INTERNAL REVENUE CODE IN THE DEFINITION FOR SALARY; AND DECLARING AN EMERGENCY.

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 professional-technical program at and employed by a state college, university, community college or professional-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(~~l~~a)(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. 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 the calendar month. 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 member" means 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. 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 26, 2002.

CHAPTER 47
(H.B. No. 388, As Amended)

AN ACT

RELATING TO THE COMMISSION ON AGING; AMENDING SECTION 67-5001, IDAHO CODE, TO DEFINE APPLICATION OF TERMS; AMENDING SECTION 67-5002, IDAHO CODE, TO SPECIFY DUTIES OF THE COMMISSIONERS; AMENDING SECTION 67-5003, IDAHO CODE, TO SPECIFY DUTIES OF THE ADMINISTRATOR AND STAFF OF THE COMMISSION; AND AMENDING SECTION 67-5004, IDAHO CODE, TO GOVERN APPOINTMENT AND SALARY OF THE ADMINISTRATOR.

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

SECTION 1. That Section 67-5001, Idaho Code, be, and the same is hereby amended to read as follows:

67-5001. CREATION OF COMMISSION ON AGING — COMPOSITION -- APPOINTMENT. There is hereby established in the executive office of the governor the Idaho commission on aging, hereafter referred to as the "commission," which shall have the duties, powers, and authorities as provided in this act. The board of commissioners shall consist of seven (7) members to be appointed by the governor of the state of Idaho, hereafter referred to singly as a "commissioner" or collectively as "commissioners," who shall hold office during the pleasure of the governor and who shall be subject to removal by ~~him~~ the governor. No ~~member~~ commissioner shall hold any other elective or appointive office, state, county or municipal, or any office in any political party organization. Not more than four (4) ~~members of said~~ commissioners shall at any time belong to the same political party. At least four (4) ~~members~~ commissioners must be age sixty (60) years or older. Each of the ~~members of said~~ commissioners shall be a citizen of the United States, and of the state of Idaho, and shall be appointed to assure appropriate geographic representation of the state of Idaho.

The ~~members of said~~ commissioners shall be appointed for a term of four (4) years; provided, that in the case of death of any commissioner, or his or her removal from office as hereinbefore provided, the governor shall appoint a successor from the same geographic area. ~~Commencing July 1, 1995, the governor shall appoint three (3) members for a term of two (2) years, three (3) members for a term of three (3) years, and one (1) member for a term of four (4) years. Thereafter all members~~ All commissioners shall be appointed for a term of four (4) years on a staggered basis. No ~~member~~ commissioner shall serve more than two (2) consecutive terms, except that a ~~member~~ commissioner appointed to fill an unexpired term may be appointed to two (2) additional full terms.

SECTION 2. That Section 67-5002, Idaho Code, be, and the same is hereby amended to read as follows:

67-5002. ORGANIZATION -- MEETINGS — QUORUM — COMPENSATION -- EXPENSES. (1) The commissioners shall oversee the duties, powers and authorities of the commission.

(2) The commissioners shall elect a chairman and vice-chairman at its first meeting. Thereafter, the chairman and vice-chairman shall be elected during the first meeting of each calendar year. The commissioners shall meet at least once every three (3) months and at such times as may be called by the chairman. A majority of the commissioners shall constitute a quorum for the transaction of business, or for the exercise of any power.

(~~2~~3) Each ~~member of the~~ commissioner shall be compensated as provided in section 59-509(h), Idaho Code.

SECTION 3. 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 administrator and staff shall ~~have~~ carry out the following powers and duties, in consultation with the commissioners:

(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 funding agreements as 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 4. That Section 67-5004, Idaho Code, be, and the same is hereby amended to read as follows:

67-5004. ADMINISTRATOR -- APPOINTMENT AND TERM. An administrator of the Idaho commission on aging shall be appointed by the governor. ~~after considering recommendations from the commission.~~ The appointment shall be subject to confirmation by the senate. The administrator may be removed by the governor at will. ~~His~~ The administrator's compensation shall be fixed by the governor within the limits of appropriations available to the office and based upon an annual performance evaluation ~~of~~ by the commission.

Approved February 27, 2002.

CHAPTER 48
(H.B. No. 419)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-902, IDAHO CODE, TO STRIKE AN EXCEPTION TO THE PROHIBITION AGAINST THE USE, POSSESSION OR TAKING OF CERTAIN FISH IN THE STATE OF IDAHO.

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

SECTION 1. That Section 36-902, Idaho Code, be, and the same is hereby amended to read as follows:

36-902. UNLAWFUL FISHING METHODS -- DESTRUCTION OF FISH PROHIBITED -- EXCEPTIONS. Except as may be otherwise permitted by law or commission rule or proclamation no person shall:

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

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

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

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

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

(f) Penalty. Any person convicted of any violation of any of the provisions of this section shall: for subsections (a) and (b), be fined in a sum of not less than one hundred fifty dollars ($150) for each offense, and/or by commitment to jail for a period of not more than six (6) months; for subsection (c), not less than fifty dollars ($50.00), and/or by commitment to jail for a period of not more than six (6) months; for subsections (d) and (e), as provided in section 36-1402, Idaho Code.

Approved February 27, 2002.

CHAPTER 49
(H.B. No. 428)

AN ACT

RELATING TO THE DIVISION OF VETERANS SERVICES; AMENDING SECTION 65-107, IDAHO CODE, TO AUTHORIZE THE DIVISION TO ENTER INTO CONTRACTS AND ACCEPT DONATIONS AND FUNDS AND PERSONAL PROPERTY TO OPERATE AND MAINTAIN A VETERANS CEMETERY AND TO DELETE CERTAIN AUTHORITIES OF THE ADMINISTRATOR OF THE DIVISION OF VETERANS SERVICES; AMENDING CHAPTER 1, TITLE 65, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 65-108, IDAHO CODE, TO PROVIDE FOR THE ADMINISTRATION OF AN IDAHO STATE VETERANS CEMETERY BY THE DIVISION OF VETERANS SERVICES AND TO PROVIDE THAT THE STATE VETERANS CEMETERY SHALL NOT BE SUBJECT TO LOCAL LAND USE PLANNING ORDINANCES PURSUANT TO THE LOCAL PLANNING ACT; AMENDING SECTION 65-202, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF THE ADMINISTRATOR, TO ALLOW THE DIVISION TO ACCEPT MONEYS AND PERSONAL PROPERTY, TO ENTER INTO CONTRACTS AND TO ADMINISTER,

WITH THE ADVICE AND APPROVAL OF THE VETERANS AFFAIRS COMMISSION, THE VETERANS CEMETERY MAINTENANCE FUND; AMENDING SECTION 67-2322, IDAHO CODE, TO AUTHORIZE CEMETERY MAINTENANCE DISTRICTS TO TRANSFER PROPERTY TO OTHER PUBLIC ENTITIES AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 65-107, Idaho Code, be, and the same is hereby amended to read as follows:

65-107. VETERANS CEMETERY MAINTENANCE FUND. (1) There is hereby created in the state treasury a fund to be known as the "veterans cemetery maintenance fund" to which shall be deposited the revenues derived from the program fees for special veterans motor vehicle license plates as provided in section 49-418, Idaho Code, gifts, grants, contributions and bequests to the fund and any other moneys as may be provided by law. Interest earned on idle moneys in the veterans cemetery maintenance fund shall be paid to such fund.

(2) Benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at the state veterans cemetery shall be deposited by the administrator of the division of veterans services as authorized and directed in section 65-202, Idaho Code.

(3) Moneys in the fund shall be used exclusively for the purposes of operating, ~~and~~ maintaining and acquiring services and personal property for a state veterans cemetery, and moneys shall be continuously appropriated for such purposes.

~~(4) The administrator of the division of veterans services shall have the authority and the responsibility, with the advice and approval of the Idaho veterans affairs commission created in section 65-201, Idaho Code, to administer moneys for the purposes indicated.~~

SECTION 2. That Chapter 1, Title 65, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 65-108, Idaho Code, and to read as follows:

65-108. IDAHO STATE VETERANS CEMETERY. The operation, management and control, maintenance and improvement of the lands and property belonging to the state of Idaho or acquired by the state of Idaho, for a state veterans cemetery is hereby vested in the division of veterans services. Title to real property belonging to the state of Idaho for a veterans cemetery shall be vested in the state board of land commissioners. The state board of land commissioners may purchase, receive by donation or in any manner acquire real property on behalf of the state of Idaho for a veterans cemetery, within the limit of funds available therefore. The state veterans cemetery shall not be subject to local land use planning ordinances established pursuant to chapter 65, title 67, Idaho Code.

SECTION 3. That Section 65-202, Idaho Code, be, and the same is hereby amended to read as follows:

65-202. POWERS AND DUTIES. The administrator of the division of veterans services shall have full power and authority on behalf of the

state of Idaho, in recognition of the services rendered by veterans of the armed forces of the United States, to:

(1) Ooversee the management and operation of the veterans homes in the state and the state veterans cemetery, and provide ~~such~~ care to veterans of the armed forces of the United States~~. Further, the administrator shall~~ under such rules as the administrator may from time to time adopt.

(2) Eextend financial relief and assistance to disabled or destitute wartime veterans and to those dependent upon such disabled or des~~titute wartime~~ veterans as the commission shall determine to be reasonably required under such rules as the administrator may, from time to time, adopt. ~~The administrator is further authorized to~~

(3) Ccollect benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at the state veterans cemetery and the administrator is hereby directed to cause such benefits to be deposited in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(4) Prescribe, ~~w~~With the approval of the commission, ~~the administrator may prescribe~~ the qualifications of all personnel ~~on a nonpartisan merit basis~~ in accordance with the Idaho personnel system law. ~~for employment of personnel in the division of veterans services.~~

(5) Accept gifts, grants, contributions and bequests of funds, and personal property to the state of Idaho for the benefit of veterans of the armed forces of the United States.

(6) Enter into contracts, within the limit of funds available therefor, acquire services and personal property, and do and perform any acts that may be necessary in the administration of services to veterans of the armed forces of the United States.

(7) Administer, with the advice and approval of the commission, moneys in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

SECTION 4. That Section 67-2322, Idaho Code, be, and the same is hereby amended to read as follows:

67-2322. TRANSFER OF PROPERTY BY LOCAL UNIT OF GOVERNMENT TO OTHER GOVERNMENT BODY AUTHORIZED. In addition to any other general or special powers vested in counties, school districts, ~~junior~~ community college districts, highway districts, fire districts, irrigation districts, drainage districts, sewer districts, hospital districts, health districts, cemetery maintenance districts and airports for the performance of their respective functions, powers or duties on an individual, cooperative, joint or contract basis, said units of the government or districts shall have the power to convey or transfer real or personal property to another such unit or to the United States, state of Idaho, any city or village with or without consideration. Such conveyance or transfer may be made without consideration or payment when it is in the best interest of the public in the judgment of the governing body of the granting unit.

SECTION 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 November 1, 2001.

Approved February 27, 2002.

CHAPTER 50
(H.B. No. 464)

AN ACT

RELATING TO THE IDAHO COLLEGE SAVINGS PROGRAM; AMENDING SECTION 33-5401, IDAHO CODE, TO EXPAND THE DEFINITION OF "FAMILY MEMBER" TO INCLUDE FIRST COUSINS AND TO REVISE THE DEFINITIONS OF "NONQUALIFIED WITHDRAWAL" AND "QUALIFIED HIGHER EDUCATION EXPENSES" TO COMPLY WITH FEDERAL LAW; AMENDING SECTION 33-5404, IDAHO CODE, TO ELIMINATE THE PENALTY TO BE ASSESSED AGAINST NONQUALIFIED WITHDRAWALS AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 33-5401, Idaho Code, be, and the same is hereby amended to read as follows:

33-5401. DEFINITIONS. As used in this chapter, the following terms have the following meanings unless the context clearly denotes otherwise:

(1) "Account" means an individual trust account or savings account established as prescribed in this chapter.

(2) "Account owner" means the person designated at the time an account is opened as having the right to withdraw moneys from the account before the account is disbursed to or for the benefit of the designated beneficiary.

(3) "Board" means the state college savings program board created in section 33-5402, Idaho Code.

(4) "Designated beneficiary," except as provided in section 33-5404, Idaho Code, means, with respect to an account, the person designated at the time the account is opened as the person whose higher education expenses are expected to be paid from the account or, if this designated beneficiary is replaced in accordance with section 33-5404, Idaho Code, the replacement beneficiary.

(5) "Financial institution" means any state bank, national bank, savings bank, savings and loan association, credit union, insurance company, brokerage firm or other similar entity that is authorized to do business in this state.

(6) "Higher education institution" means any of the following:

(a) An institution described in the higher education act of 1965 (P.L. 89-329; 79 Stat. 1219; 20 U.S.C. sections 1001 et seq.);

(b) An area vocational educational school as defined in 20 U.S.C. section 2471(4);

(c) An institution regulated by the state board of education.

(7) "Member of the family" means any of the following:

(a) A son or daughter of a person or a descendant of the son or daughter of the person;

(b) A stepson or stepdaughter of a person;

(c) A brother, sister, stepbrother or stepsister of a person. For purposes of this paragraph, "brother" and "sister" include a brother or sister by the half-blood;

(d) The father or mother of a person or the ancestor of the father or mother of a person;

(e) A stepfather or stepmother of a person;

(f) A son or daughter of a person's brother or sister. For purposes of this paragraph, "brother" and "sister" include a brother or sister by the half-blood;

(g) A brother or sister of the person's father or mother. For purposes of this paragraph, "brother" and "sister" include a brother or sister by the half-blood;

(h) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law of a person;

(i) The spouse of a person or the spouse of any individual described in this paragraph;

(j) The first cousin of a person;

(k) Any individual who meets the criteria for family membership described in this subsection as a result of legal adoption.

(8) "Nonqualified withdrawal" means an account withdrawal ~~from--an account-other-than~~ that is not one (1) of the following:

(a) A qualified withdrawal;

(b) A withdrawal made as the result of the death or disability of the designated beneficiary of an account;

(c) A withdrawal that is made on ~~the~~ account of a scholarship~~,--or the-allowance-or-payment-described-in-section-135(d)(1)(B)-or-(6)-of the--Internal--Revenue--Code,-and-that-is-received-by-the-designated beneficiary,-but-only-to-the-extent-of-the-amount-of--this--scholarship,-allowance-or-payment~~ as defined in 26 U.S.C. section 117 or an educational allowance as defined in 26 U.S.C. section 25A(g)(2);

(d) A rollover or change of the designated beneficiary.

(9) "Program" means the college savings program established under this chapter.

(10) "Qualified higher education expenses" ~~means--tuition,--fees, books,--supplies,--room-and-board,-and-equipment-required-for-enrollment or-attendance-of-a-designated-beneficiary-at-a-higher-education-institution~~ shall have the meaning provided in 26 U.S.C. section 529(e)(3).

(11) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account, but only if the withdrawal is made in accordance with this chapter.

SECTION 2. That Section 33-5404, Idaho Code, be, and the same is hereby amended to read as follows:

33-5404. PROGRAM REQUIREMENTS. (1) The program shall be operated through the use of accounts. An account may be opened by any person who desires to save to pay the qualified higher education expenses of a person by satisfying each of the following requirements:

(a) Completing an application in the form prescribed by the board.

The application shall include the following information:

(i) The name, address and social security number or employer identification number of the contributor;

(ii) The name, address and social security number of the account owner if the account owner is not the contributor;

(iii) The name, address and social security number of the designated beneficiary;

(iv) The certification relating to no excess contributions required by subsection (1~~7~~3) of this section;

(v) Any other information that the board may require;

(b) Paying the one-time application fee established by the board;

(c) Making the minimum contribution required by the board or by opening an account;

(d) Designating the type of account to be opened if more than one

(1) type of account is offered.

(2) Any person may make contributions to an account after the account is opened.

(3) Contributions to accounts may be made only in cash.

(4) Account owners may withdraw all or part of the balance from an account on sixty (60) days' notice, or a shorter period as may be authorized by the board, under rules prescribed by the board. These rules shall include provisions that will generally enable the board or program manager to determine if a withdrawal is a nonqualified withdrawal or a qualified withdrawal. The rules may, but need not, require one (1) or more of the following:

(a) Account owners seeking to make a qualified withdrawal or other withdrawal that is not a nonqualified withdrawal shall provide certifications, copies of bills for qualified higher education expenses or other supporting material;

(b) Qualified withdrawals from an account shall be made only by a check payable as designated by the account owner~~;~~

~~(c) Withdrawals not meeting certain requirements shall be treated as nonqualified withdrawals by the program manager, and if these withdrawals are not nonqualified withdrawals, the account owner must seek refunds of penalties directly from the board.~~

(5) An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the former designated beneficiary in accordance with procedures established by the board.

(6) On the direction of an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account.

(7) Changes in designated beneficiaries and rollovers under this section are not permitted if the changes or rollovers would violate either of the following provisions of this section relating to excess contributions or to investment choice.

(8) ~~In the case of any nonqualified withdrawal from an account, an amount equal to ten percent (10%) of the portion of the proposed withdrawal that would constitute income as determined in accordance with section 529 of the Internal Revenue Code shall be withheld as a penalty and paid to the board for use in operating and marketing the program and for state student financial aid.~~

~~(9) The board, by rule, shall increase the percentage of the pen-~~

~~alty prescribed in subsection (8) of this section or change the basis of this penalty if the board determines that the amount of the penalty must be increased to constitute a penalty that is more than a de minimis penalty for purposes of qualifying the program as a qualified state tuition program under section 529 of the Internal Revenue Code.~~

~~(10) The board may decrease the percentage of the penalty prescribed in subsection (8) of this section if it determines that both of the following conditions exist:~~

~~(a) The penalty is greater than is required to constitute a penalty that is more than a de minimis penalty for purposes of qualifying the program as a qualified state tuition program under section 529 of the Internal Revenue Code;~~

~~(b) The penalty, when combined with other revenue generated under this chapter, is producing more revenue than is required to cover the costs of operating and marketing the program and to recover any costs not previously recovered.~~

~~(11) If an account owner makes a nonqualified withdrawal and no penalty amount is withheld pursuant to subsection (8) of this section or the amount withheld is less than the amount required to be withheld under that subsection for nonqualified withdrawals, the account owner shall pay the unpaid portion of the penalty to the state tax commission on or before April 15 of the following tax year.~~

~~(12)~~ Each account shall be maintained separately from each other account under the program.

(~~13~~9) Separate records and accounting shall be maintained for each account for each designated beneficiary.

(~~14~~0) No contributor to, account owner of or designated beneficiary of any account may direct the investment of any contributions to an account or the earnings from the account.

(~~15~~1) If the board terminates the authority of a financial institution to hold accounts and accounts must be moved from that financial institution to another financial institution, the board shall select the financial institution and type of investment to which the balance of the account is moved unless the internal revenue service provides guidance stating that allowing the account owner to select among several financial institutions that are current contractors would not cause a plan to cease to be a qualified ~~state~~ tuition ~~plan~~ program.

(~~16~~2) Neither an account owner nor a designated beneficiary may use an interest in an account as security for a loan. Any pledge of an interest in an account is of no force and effect.

(~~17~~3) The board shall adopt rules to prevent contributions on behalf of a designated beneficiary in excess of those necessary to pay the qualified higher education expenses of the designated beneficiaries. The rules shall address the following:

(a) Procedures for aggregating the total balances of multiple accounts established for a designated beneficiary;

(b) The establishment of a maximum total balance that may be held in accounts for a designated beneficiary;

(c) The board shall review the quarterly reports received from participating financial institutions and certify that the balance in all qualified ~~state~~ tuition programs, as defined in section 529 of the Internal Revenue Code, of which that person is the designated beneficiary does not exceed the lesser of:

(i) A maximum college savings amount established by the board

from time to time;

(ii) The cost in current dollars of qualified higher education expenses that the contributor reasonably anticipates the designated beneficiary will incur;

(d) Requirements that any excess balances with respect to a designated beneficiary be promptly withdrawn in a nonqualified withdrawal or rolled over to another account in accordance with this section.

(~~18~~4) If there is any distribution from an account to any person or for the benefit of any person during a calendar year, the distribution shall be reported to the internal revenue service and the account owner or the designated beneficiary to the extent required by federal law.

(~~19~~5) The financial institution shall provide statements to each account owner at least once each year within thirty-one (31) days after the twelve (12) month period to which they relate. The statement shall identify the contributions made during a preceding twelve (12) month period, the total contributions made through the end of the period, the value of the account as of the end of this period, distributions made during this period and any other matters that the board requires be reported to the account owner.

(~~20~~16) Statements and information returns relating to accounts shall be prepared and filed to the extent required by federal or state tax law.

(~~21~~7) A state or local government or organization described in section 501(c)(3) of the Internal Revenue Code may open and become the account owner of an account to fund scholarships for persons whose identity will be determined after an account is opened.

(~~22~~18) In the case of any account described in subsection (~~21~~7) of this section, the requirement that a designated beneficiary be designated when an account is opened does not apply and each person who receives an interest in the account as a scholarship shall be treated as a designated beneficiary with respect to the interest.

(~~23~~19) Any social security numbers, addresses or telephone numbers of individual account holders and designated beneficiaries that come into the possession of the board are confidential, are not public records and shall not be released by the board.

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, 2002.

Approved February 27, 2002.

CHAPTER 51
(H.B. No. 469, As Amended)

AN ACT

RELATING TO THE CIVIL SERVICE COMMISSION; AMENDING SECTION 50-1604, IDAHO CODE, TO PROVIDE FOR THE REHIRING OF FORMER EMPLOYEES UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Section 50-1604, Idaho Code, be, and the same is hereby amended to read as follows:

50-1604. EXAMINATIONS -- QUALIFICATIONS OF APPLICANTS — REHIRES -- CAUSES FOR REMOVAL, DISCHARGE OR SUSPENSION OF INCUMBENTS. (1) Except as provided in subsection (3) of this section, all applicants for places of employment in the classified civil service shall be subject to examination, which shall be public competitive and free and shall be held at such times and places as the civil service commission shall from time to time determine. Such examinations shall be for the purpose of determining the qualifications of applicants for positions and shall be practical and shall fairly test the fitness of the persons examined to discharge the duties of the position to which they seek appointment.

(2) The governing body of each city, having created a civil service commission, shall provide a job description for each civil service position of the city and shall determine and establish the standards and qualifications therefor to be met by each applicant before appointment.

(3) Any applicant who, while in good standing, voluntarily terminated his or her employment with the agency with whom an appointment is sought may, upon written request to and approval from the appointing officer and in accordance with the written policy of the civil service commission, be rehired without taking an examination provided:

(a) The applicant is otherwise qualified for the position; and

(b) The written request for rehire is physically delivered, mailed or electronically transferred to the appointing officer within such time as provided by the written policy of the civil service commission.

(4) All incumbents and applicants thereafter appointed shall hold office, place, position or employment only during good behavior, and any such person may be removed, discharged, suspended without pay, demoted, reduced in rank, deprived of vacation privileges or other special privileges for any of the following reasons, subject to the determination of the facts in each case by the commission:

(a) Incompetency, inefficiency or inattention to, or dereliction of duty;

(b) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service; willful failure on the part of the employee to properly conduct himself, or any other willful violation of the civil service rules and regulations;

(c) Mental or physical unfitness for the position which the employee holds;

(d) Dishonest, disgraceful, immoral or prejudicial conduct;

(e) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee or which prevents the employee from properly performing the functions and duties of any position under civil service;

(f) Conviction of a felony or a misdemeanor involving moral turpitude;

(g) Any other act or failure to act, which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

Approved February 27, 2002.

CHAPTER 52
(H.B. No. 481)

AN ACT

RELATING TO THE SALES AND USE TAX AND LIVESTOCK MARKETS; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622MM, IDAHO CODE, TO PROVIDE FOR AN EXEMPTION FROM THE SALES OR USE TAX ON THE SALE, PURCHASE OR USE OF LIVESTOCK WHEN SOLD AT A LIVESTOCK MARKET AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY.

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 63-3622MM, Idaho Code, and to read as follows:

63-3622MM. LIVESTOCK SOLD AT LIVESTOCK MARKETS. (1) There are exempted from the taxes imposed by this chapter, the sale, purchase or use of livestock when sold at a livestock market.

(2) As used in this section, the term "livestock market" shall mean:

(a) A "public livestock market" as defined in section 25-1721, Idaho Code, and holding a charter issued by the Idaho department of agriculture pursuant to chapter 17, title 25, Idaho Code; and

(b) Those organizations expressly exempted from the chartering requirement by section 25-1722, Idaho Code.

(3) As used in this section, the term "livestock" shall mean cattle, calves, sheep, mules, horses, swine or goats.

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 27, 2002.

CHAPTER 53
(H.B. No. 407)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1008, IDAHO CODE, TO REVISE THE LICENSING PERIODS FOR SPECIFIED LICENSES; AMENDING SECTION 54-1013, IDAHO CODE, TO PROVIDE THAT LICENSES MAY BE RENEWED DURING THE FINAL MONTH OF THE LICENSING PERIOD; AMENDING CHAPTER 10, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1013A, IDAHO CODE, TO PROVIDE FOR THE RENEWAL OF

SPECIFIC LICENSES ISSUED PRIOR TO JULY 1, 2002; AND AMENDING SECTION 54-1014, IDAHO CODE, TO REVISE FEES CHARGED FOR LICENSES AND LICENSE APPLICATIONS, RENEWALS AND REVIVALS AND TO PROVIDE THAT FEES FOR CERTAIN LICENSES SHALL BE PRORATED.

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

SECTION 1. That Section 54-1008, Idaho Code, be, and the same is hereby amended to read as follows:

54-1008. DURATION OF LICENSE. All licenses, including license renewals other than as provided in section 54-1013A, Idaho Code, for master electricians, journeyman electricians and specialty journeyman electricians shall bear the date of issue, and shall expire ~~on the first day of July next following~~ thirty-six (36) calendar months from the date of issue, unless renewed as provided in ~~this act~~ section 54-1013, Idaho Code. Electrical contractor, specialty electrical contractor and apprentice/specialty trainee licenses issued after July 1, 2002, shall bear the date of issue and shall expire on the first day of July next following the date of issue, unless renewed as provided in section 54-1013, Idaho Code. Each licensing period shall end at midnight on the last day of the licensing period.

SECTION 2. 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 final month of ~~July next following its issuance~~ the licensing period on the payment of the renewal fee herein specified, proof of satisfaction of the continuing education requirements as established by the electrical board, and provided that all outstanding civil penalties, and permit or other fees, have been paid in full, and all outstanding correction notices have been satisfactorily resolved. Any license which has expired may be revived at any time within one (1) year from the first day of ~~July next following its issuance~~ the final month of the licensing period, by payment of the revival fee herein specified, together with all outstanding civil penalties, and permit or other fees and penalties, and upon proof that outstanding correction notices have been satisfactorily resolved. 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.

SECTION 3. That Chapter 10, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1013A, Idaho Code, and to read as follows:

54-1013A. RENEWAL OF CERTAIN LICENSES ISSUED PRIOR TO JULY 1, 2002. (1) The following licensing periods shall apply to master electrician, journeyman electrician and specialty journeyman electrician licenses issued prior to July 1, 2002:

(a) One-third (1/3) of such licenses, as determined alphabetically by the administrator, shall expire one (1) year after the date of issue;

(b) One-third (1/3) of such licenses, as determined alphabetically by the administrator, shall expire two (2) years after the date of issue; and

(c) One-third (1/3) of such licenses, as determined alphabetically by the administrator, shall expire three (3) years after the date of issue.

(2) Each subsequent renewal of a master electrician, journeyman electrician or specialty journeyman electrician license issued prior to July 1, 2002, shall be for a period of three (3) years, provided all requirements for renewal as set forth in section 54-1013, Idaho Code, have been met.

SECTION 4. 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 shall charge the following fees:

(1) Application for license	$ 15.00
(2) One-year licenses:	
(a) Electrical contractor's license	$125.00
(b) ~~Renewal of e~~Electrical contractor's license renewal	100.00
~~Journeyman electrician's license~~	~~25.00~~
~~Renewal of journeyman electrician's license~~	~~15.00~~
~~Application for license~~	~~15.00~~
(c) ~~Revival of e~~Electrical contractor's license revival	125.00
~~Revival of journeyman electrician's license~~	~~25.00~~
(d) Apprentice/specialty trainee 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~~
(e) Specialty contractor's license	125.00
(f) Specialty contractor's license renewal	100.00
(g) Specialty contractor's license revival	125.00
(3) Three-year licenses, in accordance with sections 54-1008, 54-1013 and 54-1013A, Idaho Code:	
(a) Master electrician's license	$365.00
(b) Master ~~electrician's~~ license renewal	~~145~~.00
(c) Master electrician's license revival	~~255~~.00
(d) Journeyman electrician license	55.00
(e) Journeyman electrician license renewal	45.00
(f) Journeyman electrician license revival	55.00
(g) Specialty journeyman electrician license	55.00
(h) Specialty journeyman electrician license renewal	45.00
(i) Specialty journeyman electrician license revival	55.00

(4) For licenses issued or renewed pursuant to section 54-1013A, Idaho Code, the administrator of the division of building safety shall prorate the fees set forth in subsection (3) of this section for the actual number of months the license will be in effect.

Approved March 4, 2002.

CHAPTER 54
(H.B. No. 412)

AN ACT

RELATING TO VETERANS SERVICES AND AFFAIRS; AMENDING SECTION 65-202, IDAHO CODE, TO PROVIDE THAT CERTAIN ADMINISTRATORS SHALL BE CONSIDERED NONCLASSIFIED EXEMPT EMPLOYEES OF THE STATE OF IDAHO AND SHALL SERVE AT THE PLEASURE OF THE ADMINISTRATOR OF THE DIVISION OF VETERANS SERVICES.

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

SECTION 1. That Section 65-202, Idaho Code, be, and the same is hereby amended to read as follows:

65-202. POWERS AND DUTIES. The administrator of the division of veterans services shall have full power and authority on behalf of the state of Idaho, in recognition of the services rendered by veterans of the armed forces of the United States, to oversee the management and operation of the veterans homes in the state and the state veterans cemetery, and provide such care to veterans of the armed forces of the United States. Further, the administrator shall extend financial relief and assistance to disabled or destitute wartime veterans and to those dependent upon such disabled or destitute wartime veterans as the commission shall determine to be reasonably required under such rules as the administrator may, from time to time, adopt. The administrator is further authorized to collect benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at the state veterans cemetery and directed to cause such benefits to be deposited in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

With the approval of the commission, the administrator may prescribe the qualifications of all personnel on a nonpartisan merit basis in accordance with the Idaho personnel system law for employment of personnel in the division of veterans services. The administrators in charge of state veterans homes and the office of veterans advocacy shall be considered nonclassified exempt employees pursuant to the provisions of chapter 53, title 67, Idaho Code, and shall serve at the pleasure of the administrator of the division of veterans services.

Approved March 4, 2002.

CHAPTER 55
(H.B. No. 422, As Amended)

AN ACT

RELATING TO THE LAVA HOT SPRINGS FOUNDATION; AMENDING SECTION 67-4402, IDAHO CODE, TO REVISE AND PROVIDE FOR CERTAIN POWERS AND DUTIES OF THE FOUNDATION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-4404, IDAHO CODE, TO STRIKE REFERENCE TO THE EMPLOYMENT OF A SUPERINTENDENT, TO STRIKE REFERENCE TO REGULATIONS AND TO PROVIDE FOR THE APPOINTMENT, POWERS AND DUTIES OF AN EXECUTIVE DIRECTOR.

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

SECTION 1. That Section 67-4402, Idaho Code, be, and the same is hereby amended to read as follows:

67-4402. POWERS AND DUTIES OF FOUNDATION. ~~----ANNUAL--MEETING.~~ The ~~said~~ foundation ~~is-hereby-authorized-and-it-is-made-its-duty~~ shall have powers and duties as follows:

(1) ~~T~~to take charge of all personal property and the lands and property of the state of Idaho situated within and near the village of Lava Hot Springs and hereinafter more fully described~~,~~ and to have a general supervision and control of all buildings, improvements, and property appertaining thereto.

(2) ~~Said-foundation-shall-have-the-authority-t~~To lease any real or personal property not used or needed by the foundation for a period not exceeding ninety-nine (99) years, to ~~an~~ any individual or company, subject to approval by the board of examiners of the state of Idaho~~,-for-a period-not-exceeding-ninety-nine-(99)-years,-as-the-purposes-of-the-corporation-or-individual-may-require,-subject-to-such-limitations--as--may be--prescribed--by-law;~~. Any lease entered into pursuant to this section shall be exempt from limitation as to term of lease as set forth in section 58-307, Idaho Code.

(3) ~~T~~to enter into contracts with federal, state, and local governmental agencies for flood control projects and measures, for multiple use water resource development, and for any other project or measure incidental or conducive to the attainment of the purposes of the foundation.~~;-and,-in-general,~~

(4) ~~T~~to exercise such powers as are incidental or conducive to the attainment of the purposes of the foundation, including the power to contract and the power to sue and be sued.

(5) To promulgate such rules as may be necessary to discharge the duties of the foundation.

(6) To employ such personnel as may be necessary for the administration of its duties in accordance with the rules of the administrator of the division of human resources promulgated pursuant to chapter 52, title 67, Idaho Code.

(7) To appoint an executive director of the foundation as provided herein and to advise him in the performance of his duties and his formulation of general policies affecting the foundation.

(8) To encourage and promote interest in the Lava Hot Springs properties and in the foundation.

(9) ~~The--said--members-of-the-said-foundation-shall-meet~~ To hold an annual~~ly~~ meeting during the month of January in each year and, in addition thereto, at such other times as the said members may prescribe. ~~Any lease-or-leases-made-pursuant-to-the-provisions-of-this-section-shall-be exempt--from--the--limitations--as-to-term-of-lease-set-forth-in-section 58-307,-Idaho-Code.~~

(10) To have and use an official seal.

SECTION 2. That Section 67-4404, Idaho Code, be, and the same is hereby amended to read as follows:

67-4404. ~~SUPERINTENDENT--AND--EMPLOYEES------RULES--AND REGULATIONS~~ EXECUTIVE DIRECTOR -- APPOINTMENT, POWERS, AND DUTIES. The ~~said~~ foundation shall ~~have power to employ a superintendent of the hot springs and bathing facilities, necessary medical, surgical and other professional assistants, and to employ such other help as may be necessary, and to prescribe the duties of the said superintendent, medical, surgical and other professional assistants, and all other employees; it shall have power to remove the said superintendent, medical, surgical and other professional assistants, or other employees, at its pleasure, and shall make and ordain such rules and regulations for the conduct and administration of the said hot springs, bathing facilities and sanitarium and hospital as it shall deem necessary and proper~~ appoint an executive director who shall serve at the pleasure of the foundation, and be qualified by reason of education, training, experience, and demonstrated ability to fill such position. The executive director shall exercise the following powers and duties in addition to all other powers and duties inherent in the position or delegated or imposed by the foundation:

(1) Be a nonvoting member of the foundation and secretary thereto.

(2) Be the administrative officer of the foundation.

(3) Suggest such rules as may be necessary for the efficient operation of his office.

Approved March 4, 2002.

CHAPTER 56
(H.B. No. 423)

AN ACT

RELATING TO A LICENSE TO CONDUCT HORSE RACES; AMENDING SECTION 54-2508, IDAHO CODE, TO REVISE THE CRITERIA FOR THE MINIMUM NUMBER OF RACES THAT MUST BE CONDUCTED PER DAY DEPENDING IF THE RACE HANDLE EXCEEDED FIVE MILLION DOLLARS DURING THE LAST CALENDAR YEAR OR WAS FIVE MILLION DOLLARS OR LESS DURING THE LAST CALENDAR YEAR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2508, Idaho Code, be, and the same is hereby amended to read as follows:

54-2508. LICENSE -- APPLICATION THEREFOR -- TYPE AND NUMBER OF RACES -- FEE PER DAY -- REFUND -- CANCELLATION -- HEARING. It shall be unlawful for any person to hold any race meet in this state without having first obtained and having in force and effect a license issued by the commission as in this act provided. Every person making application for a license to hold a race meet, under the provisions of this act, shall file an application with the commission which shall set forth the time, place and number of days such will continue, an agreement with a horsemen's group as the term "horsemen's group" is defined in section 54-2502, Idaho Code, and such other information as the commission may require. The agreement shall be reached voluntarily or pursuant to binding arbitration in conformance with chapter 9, title 7, Idaho Code, and

shall address, but not be limited to, number of live race days and percentage of the live race and simulcast handle that is dedicated to the live horse race purse structure. Race days agreed upon shall be submitted to the Idaho racing commission for its approval.

No person who has been convicted of any crime involving moral turpitude shall be issued a license of any kind, nor shall any license be issued to any person who has violated the terms or provisions of this act, or any of the rules of the commission, or who has failed to pay any of the fees, taxes or moneys required under the provisions of this act.

All applications to hold race meets shall be submitted to the commission which shall act upon such applications within thirty (30) days. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue.

The license issued shall specify the kind and character of the race meets to be held, the number of days the race meet shall continue and the number of races per day~~, which, in the event of live races, shall not be less than eight (8)~~. For those licensees that have had a total race handle from both live races and simulcast races exceeding five million dollars ($5.000.000) during the last calendar year in operation, the number of races per day shall not be less than eight (8). For those licensees that have had a total race handle from both live races and simulcast races of five million dollars ($5,000,000) or less during the last calendar year in operation, the number of races per day shall not be less than six (6). The licensee shall pay in advance of the scheduled race meet to the state treasurer a fee of not less than twenty-five dollars ($25.00) for each day of racing, which fees shall be placed in the public school income fund of the state of Idaho. Provided, that if unforeseen obstacles arise, which prevent the holding, or completion of any race meet, the license fee held may be refunded the licensee, if the commission deems the reason for failure to hold or complete the race meet sufficient. Any unexpired license held by any person who violates any of the provisions of this act, pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of this act, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three (3) days' notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

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

Approved March 4, 2002.

CHAPTER 57
(H.B. No. 431)

AN ACT

RELATING TO CORONERS; AMENDING SECTION 31-2802, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING INQUESTS BY CORONERS AND TO MAKE GRAMMATICAL CHANGES.

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

SECTION 1. That Section 31-2802, Idaho Code, be, and the same is hereby amended to read as follows:

31-2802. BURIAL OF UNCLAIMED BODIES. When ~~an inquest is held by the coroner, and~~ no ~~other~~ person takes charge of the body of the deceased, the coroner must cause ~~it~~ the body to be decently interred; and if there is not sufficient property belonging to the estate of the deceased to pay the necessary expenses of the burial, the expenses are a legal charge against the county.

Approved March 4, 2002.

CHAPTER 58
(H.B. No. 432)

AN ACT

RELATING TO CORONERS; AMENDING SECTION 31-2808, IDAHO CODE, TO PROVIDE THAT CERTAIN PROVISIONS RELATING TO THE FINAL DISPOSITION OF DEAD HUMAN BODIES SHALL NOT APPLY IN COUNTIES WHERE THERE IS ONLY ONE LICENSED FUNERAL ESTABLISHMENT.

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

SECTION 1. That Section 31-2808, Idaho Code, be, and the same is hereby amended to read as follows:

31-2808. MAKING FINAL DISPOSITION OF DEAD HUMAN BODIES PROHIBITED. No coroner or person acting as coroner who is a licensed funeral director or a licensed mortician, owner, proprietor or employee of any establishment engaged in making final disposition of dead human bodies, and no establishment with which such coroner or person acting as coroner is associated, shall, except for ambulance services, perform any of the services of a funeral director or mortician or furnish any materials connected with or incidental to the final disposition of the body of any person whose death is required by law to be investigated by such coroner or other person acting in that capacity. Any person who violates this section shall be guilty of a misdemeanor. Provided, however, that the provisions of this section shall not be applicable in counties wherein there ~~resides~~ is only one (1) licensed funeral ~~director or licensed mortician~~ establishment.

Approved March 4, 2002.

CHAPTER 59
(H.B. No. 492)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE; AMENDING SECTION 14-402, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE FOR STATE ESTATE TAX PURPOSES 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 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, 200~~1~~2.

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

SECTION 2. That Section 14-402, Idaho Code, be, and the same is hereby amended to read as follows:

14-402. DEFINITIONS. As used in this chapter:

(1) "Commission" means the Idaho state tax commission.

(2) "Decedent" means a deceased individual.

(3) "Federal credit" means the maximum amount of the credit for state death taxes allowed by section 2011 of the United States ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986, ~~as amended or renumbered,~~ and the maximum amount of the credit for the generation skipping tax allowed by section 2604 of the United States ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986, ~~as amended or renumbered,~~ in respect to a decedent's taxable estate.

(4) "Federal estate tax return" means any form or other document which establishes, changes or amends a federal estate tax amount.

(5) "Gross estate" means "gross estate" as defined and used in section 2031 of the United States ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986~~, as amended or renumbered~~.

(6) "Internal Revenue Code of 1986" shall be as defined in section 63-3004, Idaho Code.

(7) "Nonresident" means a decedent who was domiciled outside Idaho at the time of death.

(~~7~~8) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof.

(~~8~~9) "Personal representative" means the executor or administrator of the decedent or, if no executor or administrator is appointed, quali-

fied and acting, any person who has possession of any property.

(~~9~~10) "Property" means property included in the gross estate.

(1~~0~~1) "Release" means a release of no tax due or a receipt for payment of the tax due under this chapter.

(1~~1~~2) "Resident" means a decedent who was domiciled in Idaho at the time of death.

(1~~2~~3) "Section 2011" means section 2011 of the United States ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986~~, as amended or renumbered~~.

(1~~3~~4) "Section 2032A" means section 2032A of the United States ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986~~, as amended or renumbered~~.

(1~~4~~5) "Section 6501" means section 6501 of the United States ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986~~, as amended or renumbered~~.

(1~~5~~6) "Taxable estate" means "taxable estate" as defined in section 2051 of the United States ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986~~, as amended or renumbered~~.

(1~~6~~7) "Transfer" means "transfer" as defined and used in section 2001 of the United States ~~i~~Internal ~~r~~Revenue ~~c~~Code of 1986~~, as amended or renumbered~~.

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, 2002.

Approved March 4, 2002.

CHAPTER 60
(H.B. No. 513)

AN ACT

RELATING TO EXEMPTIONS FROM SALES TAX; AMENDING SECTION 63-3622R, IDAHO CODE, TO PROVIDE THAT CERTAIN VEHICLES INCLUDING OFF-ROAD MOTORCYCLES, ALL TRAILERS AND CERTAIN VESSELS SHALL BE EXEMPT FROM SALES TAX IF PURCHASED IN IDAHO BY NONRESIDENTS FOR USE OUTSIDE THE STATE, TO CLARIFY CONDITIONS RELATIVE TO REGISTRATION AND TITLING OF VEHICLES EXEMPTED UNDER THE PROVISIONS OF THIS SECTION, AND TO DEFINE "ALL-TERRAIN VEHICLE" AND "VESSEL" FOR PURPOSES OF THIS SECTION.

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

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

63-3622R. MOTOR VEHICLES, USED MANUFACTURED HOMES, VESSELS, ~~AND ATTACHED MOTOR,~~ ALL-TERRAIN VEHICLES, ~~UTILITY~~ TRAILERS, OFF-ROAD MOTORCYCLES AND SNOWMOBILES. There are exempted from the taxes imposed by this chapter:

(a) Sales to nonresidents of motor vehicles, ~~or~~ trailers, vessels ~~and attached motor~~, all-terrain vehicles (ATVs), ~~utility trailers~~ motorcycles intended for off-road use and snowmobiles, for use outside of this state~~,~~ even though delivery be made within this state, but only when:

(1) The motor vehicles, vessels, ~~and attached motor,~~ ATVs, ~~utility trailers,~~ motorcycles intended for off-road use, snowmobiles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and

(2) The motor vehicles, vessels, ~~and attached motor,~~ ATVs, ~~utility trailers,~~ motorcycles intended for off-road use, snowmobiles and trailers will be ~~titled and licensed~~ registered immediately under the laws of another state, will be titled in another state if required to be titled ~~and licensed~~ in that state, will not be used in this state more than ~~ninety~~ sixty (~~90~~60) days in any ~~calendar year~~ twelve (12) month period, and will not be required to be titled under the laws of this state.

(3) For the purpose of this subsection (a), the term "all-terrain vehicle" or "ATV" means any recreational vehicle with two (2) or more tires, weighing under six hundred fifty (650) pounds, less than forty-eight (48) inches in width, traveling on low pressure tires of less than seven (7) psi, and designed to be ridden by one (1) person.

(4) For the purpose of this section, the term "vessel" means any boat intended to carry one (1) or more persons upon the water which is either:

(i) Sold together with a motor, or

(ii) Eleven (11) feet in length or more, but shall not include canoes, kayaks or inflatable boats, unless such canoes, kayaks or inflatable boats are sold together with a motor.

(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.

Approved March 4, 2002.

CHAPTER 61
(H.B. No. 559)

AN ACT

RELATING TO MANUFACTURED HOMES; AMENDING SECTION 63-304, IDAHO CODE, TO PROVIDE THAT MANUFACTURED HOMES MAY CONSTITUTE REAL PROPERTY IF THE HOME IS PERMANENTLY AFFIXED TO A FOUNDATION ON LAND WHICH IS BEING LEASED BY THE OWNER OR PURCHASER OF THE HOME AND SUBJECT TO CERTAIN FINANCING RESTRICTIONS AND TO PROVIDE THAT IF A COUNTY TAKES A TAX DEED TO THE MANUFACTURED HOME THE COUNTY SHALL NOT BE LIABLE FOR ANY DELINQUENT OR ONGOING LEASES, RENTS OR ANY OTHER LIABILITIES OWED DUE TO THE PLACEMENT OF SUCH PROPERTY; AND AMENDING SECTION 63-305, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF COSTS, FEES AND EXPENSES IF A MANUFACTURED HOME IS PHYSICALLY REMOVED UNLAWFULLY AND TO PROVIDE THAT A JUDGMENT MAY BE RECORDED AS A LIEN UPON SUCH HOME.

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

SECTION 1. That Section 63-304, Idaho Code, be, and the same is hereby amended to read as follows:

63-304. MANUFACTURED HOMES TO CONSTITUTE REAL PROPERTY. (1) A manufactured home may constitute real property if the running gear is removed and:

(a) If the manufactured home becomes permanently affixed to a foundation:

(i) On land which is owned or being purchased by the owner or purchaser of said manufactured home; or

(ii) On land which is being leased by the owner or purchaser of the manufactured home if such home is being financed in accordance with the guidelines of the federal home loan mortgage corporation, the federal national mortgage association, the United States department of agriculture or any other entity or agency that requires, as part of its financing program, similar restrictions on ownership and actions affecting title and possession, provided that if a county takes a tax deed to the manufactured home the county shall not be liable for any delinquent or ongoing leases, rents or any other liabilities owed due to the placement of such property; and

(b) If the owner or purchaser of a manufactured home records with the county recorder in the county in which the manufactured home will be situated a statement of intent to declare the manufactured home as real property.

(2) The exercise of said option shall require all county assessors to treat those manufactured homes whose owners or purchasers have exercised said option as any other site-built residence and shall permit lending institutions to treat said manufactured homes as real property or as any other residence.

(3) The form of the declaration shall be prescribed by the state tax commission. Any form used shall have attached to it the certificate of origin or the original title to the manufactured home to allow a reversal of the declaration as provided in section 63-305, Idaho Code.

SECTION 2. That Section 63-305, Idaho Code, be, and the same is hereby amended to read as follows:

63-305. REVERSAL OF DECLARATION WHICH TREATS A MANUFACTURED HOME AS REAL PROPERTY. (1) Once a manufactured home has been converted to real property under the provisions of section 63-304, Idaho Code, it shall be deemed a fixture and an improvement to the real property to which it is affixed. Physical removal shall be prohibited without the consent of all persons or entities who, at the time of removal have an interest in the real property or title to any estate in the real property to which the manufactured home has been affixed. The homeowner shall obtain a title report from a title insurance company which shall establish the identity of those individuals or entities whose consent must be obtained. Consent to removal of the manufactured home shall not be required from the owners of rights-of-way, easements or owners of subsurface rights.

(2) Physical removal shall include, without limitation, the separation of the manufactured home from the foundation system, except for the temporary purposes of repair or improvement thereto.

(3) At least thirty (30) days before the manufactured home is to be removed, the homeowner shall give written notice of the intended removal to the county assessor in the county in which the real property is located. The county assessor shall require written evidence that the necessary consents have been obtained from those persons or entities identified in the title report as required in the provisions of subsection (1) of this section. In addition, removal shall be prohibited until the county tax collector has given written approval for the removal of the manufactured home by certifying that all property taxes, due and payable, have been paid.

(4) The homeowner shall, within five (5) days of removal, make application for the issuance of a certificate of title for the manufactured home. Prior to the issuance of a certificate of title, the declaration of reversal shall be recorded. Immediately upon issuance of a certificate of title, the manufactured home shall again become personal property for the purpose of financing and for the purpose of taxation shall be assessed pursuant to section 63-302, Idaho Code.

(5) The state tax commission shall prescribe the forms to be used by the county assessor to reverse the option exercised under the provisions of section 63-304, Idaho Code, which created the real property designation.

(6) A homeowner who physically removes a manufactured home in violation of the provisions of this section shall be liable for all legal costs and fees, together with actual expenses incurred to restore the real property to its former condition. Any judgment obtained pursuant to this section may be recorded as a lien upon the manufactured home removed from the property.

Approved March 4, 2002.

CHAPTER 62
(H.B. No. 560)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-340B, IDAHO CODE, TO DELETE REFERENCE TO OPERATION AND SECURITY MANUALS, PLANS OR CODES OF COUNTY JAILS AND BUILDINGS OWNED OR LEASED BY IDAHO STATE GOVERNMENT, A COUNTY OR A CITY, TO EXEMPT FROM DISCLOSURE RECORDS OF BUILDINGS, FACILITIES, INFRASTRUCTURES AND SYSTEMS HELD BY OR IN THE CUSTODY OF ANY PUBLIC AGENCY ONLY WHEN THE DISCLOSURE OF SUCH INFORMATION WOULD JEOPARDIZE THE SAFETY OF PERSONS OR THE PUBLIC SAFETY, TO PROVIDE THAT SUCH RECORDS MAY INCLUDE EMERGENCY EVACUATION, ESCAPE OR OTHER EMERGENCY RESPONSE PLANS, VULNERABILITY ASSESSMENTS, OPERATION AND SECURITY MANUALS, PLANS, BLUEPRINTS OR SECURITY CODES, TO DEFINE "SYSTEM" AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 9-340B, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Investigatory records of a law enforcement agency, as defined in section 9-337(6), 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) (a) The following records of the department of correction:

(i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;

(ii) Records that contain any identifying information, or any information that would lead to the identification of any victims or witnesses;

(iii) Records that reflect future transportation or movement of a prisoner;

(iv) Records gathered during the course of the presentence investigation;

(v) Records of a prisoner, as defined in section 9-337(9), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.

(b) ~~Operation--and-security-manuals,-plans-or-codes-of-county-jails and-buildings-owned-or-leased-by-Idaho-state-government,-a-county-or a-city.-"Operation-manuals"-are--those--internal--documents--of--any state-government-agency,-county-or-city-building-or-jail-that-define the--procedures-utilized-to-maintain-security-within-the-building-or jail.-"Plans-or-codes"-relate-only-to-those-documents,--the--release of--which--could-jeopardize-the-safety-of-workers,-visitors-or-prisoners-in-those-buildings,-or--adversely--affect--the--public--safety~~ Records of buildings, facilities, infrastructures and systems held by or in the custody of any public agency only when the disclosure of such information would jeopardize the safety of persons or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this section "system" shall mean electrical, heating, ventilation. air conditioning and telecommunication systems.

(c) Records of the commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A, Idaho Code, and section 20-223, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.

(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 Idaho state police 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 Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

(12) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

(1~~2~~3) Records of a prisoner or former prisoner in the custody of any state or local correctional facility, when the request is made by another prisoner in the custody of any state or local correctional facility.

Approved March 4, 2002.

CHAPTER 63
(S.B. No. 1456)

AN ACT

APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2003; 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 Governor for the Division of Human Resources the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
DIVISION OF HUMAN RESOURCES:				
FROM:				
Division of Human Resources Fund	$2,034,500	$582,800	$27,400	$2,644,700
Seminars and Publications Fund		101,400		101,400
TOTAL	$2,034,500	$684,200	$27,400	$2,746,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Human Resources is authorized no more than thirty-seven (37) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 11, 2002.

CHAPTER 64
(S.B. No. 1457)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 2003; 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
PERSI Administrative Fund	$2,747,000	$2,614,600	$100,000	$5,461,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. PORTFOLIO INVESTMENT:				
FROM:				
PERSI Special Fund	$ 413,300	$ 201,100	$ 14,500	$ 628,900
III. 401(k) ADMINISTRATION:				
FROM:				
PERSI 401(k) Administration Fund		$ 7,700		$ 7,700
GRAND TOTAL	$3,160,300	$2,823,400	$114,500	$6,098,200

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 sixty-three (63) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 11, 2002.

CHAPTER 65
(S.B. No. 1464)

AN ACT
APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2003 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 Executive Office of the Governor the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
I. GOVERNOR'S OFFICE ADMINISTRATION:				
General Fund	$1,188,000	$283,600		$1,471,600
II. GOVERNOR'S EXPENSE ALLOWANCE:				
TO BE EXPENDED PURSUANT TO SECTION 67-808d, IDAHO CODE:				
FROM:				
General Fund		$ 9,900		$ 9,900
III. SOCIAL SERVICES:				
FROM:				
Miscellaneous Revenue Fund	$ 35,000	$ 7,500	$75,000	$ 117,500
Federal Grant Fund	345,300	110,800		456,100
TOTAL	$ 380,300	$118,300	$75,000	$ 573,600
IV. ACTING GOVERNOR PAY:				
FROM:				
General Fund	$ 19,200			$ 19,200
GRAND TOTAL	$1,587,500	$411,800	$75,000	$2,074,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-five (25) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 11, 2002.

CHAPTER 66
(S.B. No. 1465)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2003; 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 for the designated program according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. WAGE AND HOUR:			
FROM:			
General Fund	$369,400	$176,800	$546,200
Miscellaneous Revenue Fund		10,400	10,400
TOTAL	$369,400	$187,200	$556,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Labor is authorized no more than eight (8) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 11, 2002.

CHAPTER 67
(S.B. No. 1466)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 2003; 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 the designated expense classes from the listed fund for the period July 1, 2002, through June 30, 2003:

FOR:	
Personnel Costs	$107,000
Operating Expenditures	14,300
TOTAL	$121,300
FROM:	
General Fund	$121,300

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,

2002, through June 30, 2003, 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 11, 2002.

CHAPTER 68
(S.B. No. 1471)

AN ACT

RELATING TO APPROPRIATIONS; PROVIDING LEGISLATIVE INTENT; TO PROVIDE A REDUCTION IN THE APPROPRIATIONS TO THE VARIOUS STATE AGENCIES, INSTITUTIONS AND ENTITIES, FOR FISCAL YEAR 2002; PROVIDING THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL DIRECT THE STATE CONTROLLER TO REDUCE THE FUNDS TRANSFER TO THE LEGISLATIVE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. The January 2002 revised General Fund revenue estimates indicate that sufficient revenues will not be available to meet the fiscal year 2002 appropriations authorized by the Legislature. Section 11, Article VII, of the Constitution of the State of Idaho provides that: "No appropriation shall be made, nor any expenditure authorized, by the legislature, whereby the expenditure of the state during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure...". Therefore, the Legislature finds it necessary to reduce agency appropriations to balance general fund expenditures with anticipated revenues for the current fiscal year.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation of moneys made in the following sections of the following chapters, Laws of 2001, is hereby reduced by the following amounts from the designated programs according to the designated expense classes from the General Fund for the period July 1, 2001, through June 30, 2002:

(1) SECTION 1, CHAPTER 236
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO
AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE:
FOR:
Lump Sum $ 755,900

(2) SECTION 1, CHAPTER 314
STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO
BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE, THE UNIVERSITY OF IDAHO, AND THE OFFICE OF THE STATE BOARD OF EDUCATION:
FOR:
Lump Sum $ 7,078,200

(3) SECTION 1, CHAPTER 364
STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO
ENDOWMENT LAND EXCHANGE:
FOR:

Lump Sum	$ 15,000

(4) SECTION 1, CHAPTER 391
STATE BOARD OF EDUCATION
COMMUNITY COLLEGE SUPPORT:
FOR:

Trustee and Benefit Payments	$ 617,400

(5) SECTION 1, CHAPTER 266
STATE BOARD OF EDUCATION
IDAHO SCHOOL FOR THE DEAF AND BLIND:
FOR:

Lump Sum	$ 184,300

(6) SECTION 1, CHAPTER 310
STATE BOARD OF EDUCATION
OFFICE OF THE STATE BOARD OF EDUCATION:
FOR:

Personnel Costs	$ 55,700
Operating Expenditures	39,500
Trustee and Benefit Payments	4,000
TOTAL	$ 99,200

(7) SECTION 1, CHAPTER 237
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF EDUCATION
HEALTH EDUCATION PROGRAMS

(a) WOI VETERINARY EDUCATION:
FOR:

Personnel Costs	$ 40,200
Capital Outlay	20,200
SUBTOTAL	$ 60,400

(b) WWAMI MEDICAL EDUCATION:
FOR:

Personnel Costs	$ 102,000
Capital Outlay	10,500
SUBTOTAL	$ 112,500

(c) IDEP DENTAL EDUCATION:
FOR:

Personnel Costs	$ 5,600
Capital Outlay	2,600
Trustee and Benefit Payments	20,800
SUBTOTAL	$ 29,000

(d) WICHE AND UNIVERSITY OF UTAH MEDICAL EDUCATION:
FOR:

Trustee and Benefit Payments	$ 16,100

(e) FAMILY PRACTICE RESIDENCIES:
FOR:

Operating Expenditures	$ 18,800
Capital Outlay	1,500
Trustee and Benefit Payments	20,200
SUBTOTAL	$ 40,500
TOTAL	$ 258,500

(8) SECTION 1, CHAPTER 293
STATE BOARD OF EDUCATION
IDAHO STATE HISTORICAL SOCIETY
(a) HISTORIC PRESERVATION AND EDUCATION:
FOR:

Personnel Costs	$ 24,800
Operating Expenditures	8,000
Capital Outlay	29,800
SUBTOTAL	$ 62,600

(b) HISTORIC SITE MAINTENANCE AND INTERPRETATION:
FOR:

Operating Expenditures	$ 34,500
TOTAL	$ 97,100

(9) SECTION 1, CHAPTER 265
STATE BOARD OF EDUCATION
STATE LIBRARY BOARD:
FOR:

Personnel Costs	$ 84,800
Operating Expenditures	33,000
TOTAL	$ 117,800

(10) SECTION 1, CHAPTER 360
STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION
DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION
(a) STATE LEADERSHIP AND TECHNICAL ASSISTANCE:
FOR:

Personnel Costs	$ 45,700
Capital Outlay	37,300
SUBTOTAL	$ 83,000

(b) GENERAL PROGRAMS:
FOR:

Trustee and Benefit Payments	$ 333,400

(c) POSTSECONDARY PROGRAMS:
FOR:

Lump Sum	$ 1,007,400
TOTAL	$ 1,423,800

(11) SECTION 1, CHAPTER 306
STATE BOARD OF EDUCATION
IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM:
FOR:

Personnel Costs	$ 16,800
Operating Expenditures	49,000
Capital Outlay	251,700
TOTAL	$ 317,500

(12) SECTION 1 AND SECTION 2, CHAPTER 359
PUBLIC SCHOOLS:
FOR:
Lump Sum $23,324,200

(13) SECTION 1, CHAPTER 311
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF EDUCATION
SPECIAL PROGRAMS

(a) FOREST UTILIZATION RESEARCH:	
FOR:	
Personnel Costs	$ 17,700
Operating Expenditures	6,700
SUBTOTAL	$ 24,400
(b) IDAHO GEOLOGICAL SURVEY:	
FOR:	
Operating Expenditures	$ 26,000
Capital Outlay	7,300
SUBTOTAL	$ 33,300
(c) SCHOLARSHIPS AND GRANTS:	
FOR:	
Trustee and Benefit Payments	$ 88,900
(d) IDAHO MUSEUM OF NATURAL HISTORY:	
FOR:	
Capital Outlay	$ 22,400
(e) IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:	
FOR:	
Trustee and Benefit Payments	$ 18,800
(f) IDAHO COUNCIL FOR ECONOMIC EDUCATION:	
FOR:	
Trustee and Benefit Payments	$ 2,200
TOTAL	$ 190,000

(14) SECTION 1, CHAPTER 17
STATE BOARD OF EDUCATION
SPECIAL PROGRAMS
SCHOLARSHIPS AND GRANTS:
FOR:
Trustee and Benefit Payments $ 158,000

(15) SECTION 1, CHAPTER 320
SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION:
FOR:

Personnel Costs	$ 69,500
Operating Expenditures	96,500
Trustee and Benefit Payments	62,800
TOTAL	$ 228,800

(16) SECTION 1, CHAPTER 341
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF EDUCATION
TEACHER TRAINING:
FOR:

Trustee and Benefit Payments	$ 28,000

(17) SECTION 1, CHAPTER 312
STATE BOARD OF EDUCATION
DIVISION OF VOCATIONAL REHABILITATION

(a) EPILEPSY SERVICES:	
FOR:	
Trustee and Benefit Payments	$ 3,200
(b) INDEPENDENT LIVING COUNCIL:	
FOR:	
Trustee and Benefit Payments	$ 3,300
(c) RENAL DISEASE:	
FOR:	
Trustee and Benefit Payments	$ 25,000
(d) VOCATIONAL REHABILITATION:	
FOR:	
Trustee and Benefit Payments	$ 132,600
TOTAL	$ 164,100

(18) SECTION 1, CHAPTER 221
CATASTROPHIC HEALTH CARE COST FUND:
FOR:

Lump Sum	$ 400,000

(19) SECTION 1, CHAPTER 367
DEPARTMENT OF HEALTH AND WELFARE
DIVISION OF FAMILY AND COMMUNITY SERVICES

(a) CHILDREN'S SERVICES:	
FOR:	
Personnel Costs	$ 116,800
Operating Expenditures	143,700
SUBTOTAL	$ 260,500
(b) DEVELOPMENTAL DISABILITIES SERVICES:	
FOR:	
Personnel Costs	$ 805,500
Operating Expenditures	88,000
Trustee and Benefit Payments	350,000
SUBTOTAL	$ 1,243,500

(c) MENTAL HEALTH SERVICES:
FOR:

Personnel Costs	$ 426,700
Operating Expenditures	395,700
Trustee and Benefit Payments	56,900
SUBTOTAL	$ 879,300
TOTAL	$ 2,383,300

(20) SECTION 1, CHAPTER 365
DEPARTMENT OF HEALTH AND WELFARE
INDIRECT SUPPORT SERVICES AND THE INDEPENDENT COMMISSIONS AND COUNCILS
(a) COUNCIL ON THE DEAF AND HARD OF HEARING:
FOR:

Operating Expenditures	$ 4,200

(b) DEVELOPMENTAL DISABILITIES COUNCIL:
FOR:

Operating Expenditures	$ 4,200

(c) DOMESTIC VIOLENCE COUNCIL:
FOR:

Personnel Costs	$ 400

(d) INDIRECT SUPPORT SERVICES:
FOR:

Personnel Costs	$ 360,100
Operating Expenditures	400,200
SUBTOTAL	$ 760,300
TOTAL	$ 769,100

(21) SECTION 1, CHAPTER 368
DEPARTMENT OF HEALTH AND WELFARE
MEDICAL ASSISTANCE SERVICES:
FOR:

Trustee and Benefit Payments	$ 9,233,700

(22) SECTION 1, CHAPTER 366
DEPARTMENT OF HEALTH AND WELFARE
PUBLIC HEALTH SERVICES:
FOR:

Operating Expenditures	$ 659,000

(23) SECTION 1, CHAPTER 369
DEPARTMENT OF HEALTH AND WELFARE
SELF-RELIANCE PROGRAMS:
FOR:

Personnel Costs	$ 426,400
Operating Expenditures	274,700
Trustee and Benefit Payments	574,700
TOTAL	$ 1,275,800

(24) SECTION 1, CHAPTER 233
PUBLIC HEALTH TRUST FUND:
FOR:

Lump Sum	$ 422,300

(25) SECTION 1, CHAPTER 210, AS AMENDED BY SECTION 2, HOUSE BILL NO. 510, AS ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE

DEPARTMENT OF CORRECTION

(a) ADMINISTRATION DIVISION:	
FOR:	
Personnel Costs	$ 17,000
Operating Expenditures	120,400
SUBTOTAL	$ 137,400
(b) FIELD AND COMMUNITY SERVICES:	
FOR:	
Personnel Costs	$ 296,100
Operating Expenditures	166,600
SUBTOTAL	$462,700
(c) INSTITUTIONAL SUPPORT:	
FOR:	
Personnel Costs	$ 184,900
Operating Expenditures	279,600
Capital Outlay	6,300
SUBTOTAL	$ 470,800
(d) PRISONS ADMINISTRATION:	
FOR:	
Personnel Costs	$ 4,000
Operating Expenditures	114,300
SUBTOTAL	$ 118,300
(e) IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:	
FOR:	
Personnel Costs	$ 287,500
Operating Expenditures	408,700
Capital Outlay	63,400
SUBTOTAL	$ 759,600
(f) IDAHO CORRECTIONAL INSTITUTION - OROFINO:	
FOR:	
Personnel Costs	$ 25,600
Operating Expenditures	117,800
Capital Outlay	96,800
SUBTOTAL	$ 240,200
(g) NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:	
FOR:	
Personnel Costs	$ 59,200
Operating Expenditures	81,700
Capital Outlay	58,700
SUBTOTAL	$ 199,600
(h) SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:	
FOR:	
Personnel Costs	$ 69,500
Operating Expenditures	345,300
Capital Outlay	76,900
SUBTOTAL	$ 491,700
(i) IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:	
FOR:	
Personnel Costs	$ 105,200
Operating Expenditures	193,200
Capital Outlay	28,800
SUBTOTAL	$ 327,200

(j) ST. ANTHONY WORK CAMP:	
FOR:	
Personnel Costs	$ 7,400
Operating Expenditures	78,400
Capital Outlay	23,900
SUBTOTAL	$ 109,700
(k) POCATELLO WOMEN'S CORRECTIONAL CENTER:	
FOR:	
Personnel Costs	$ 107,400
Operating Expenditures	88,500
Capital Outlay	81,400
SUBTOTAL	$ 277,300
(l) PRIVATELY-OPERATED STATE PRISON:	
FOR:	
Operating Expenditures	$ 899,200
(m) COMMISSION FOR PARDONS AND PAROLE:	
FOR:	
Operating Expenditures	$ 24,600
TOTAL	$ 4,518,300

(26) SECTION 1, CHAPTER 229

SUPREME COURT

(a) SUPREME COURT:	
FOR:	
Lump Sum	$ 43,700
(b) LAW LIBRARY:	
FOR:	
Lump Sum	$ 35,000
(c) DISTRICT COURTS:	
FOR:	
Lump Sum	$ 337,900
(d) MAGISTRATES DIVISION:	
FOR:	
Lump Sum	$ 322,600
(e) JUDICIAL COUNCIL:	
FOR:	
Lump Sum	$ 4,000
(f) COURT OF APPEALS:	
FOR:	
Lump Sum	$ 26,000
(g) GUARDIAN AD LITEM ACCOUNT:	
FOR:	
Lump Sum	$ 13,800
(h) SNAKE RIVER BASIN ADJUDICATION:	
FOR:	
Lump Sum	$ 4,000
TOTAL	$ 787,000

(27) SECTION 1, CHAPTER 379
DEPARTMENT OF JUVENILE CORRECTIONS

(a) ADMINISTRATION:	
FOR:	
Personnel Costs	$ 20,000
Operating Expenditures	35,000
SUBTOTAL	$ 55,000
(b) COMMUNITY SERVICES:	
FOR:	
Personnel Costs	$ 17,000
Operating Expenditures	3,000
SUBTOTAL	$ 20,000
(c) INSTITUTIONS:	
FOR:	
Personnel Costs	$ 50,000
Operating Expenditures	28,000
Trustee and Benefit Payments	1,219,600
SUBTOTAL	$ 1,297,600
TOTAL	$ 1,372,600

(28) SECTION 1, CHAPTER 378, AS AMENDED BY SECTION 1, HOUSE BILL NO. 508, AS ENACTED BY THE SECOND REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE
IDAHO STATE POLICE

(a) DIRECTOR'S OFFICE:	
FOR:	
Personnel Costs	$ 22,100
Operating Expenditures	14,400
SUBTOTAL	$ 36,500
(b) INVESTIGATIONS:	
FOR:	
Personnel Costs	$ 115,600
Operating Expenditures	128,700
SUBTOTAL	$ 244,300
(c) PATROL:	
FOR:	
Personnel Costs	$ 373,500
Operating Expenditures	27,800
SUBTOTAL	$ 401,300
(d) LAW ENFORCEMENT PROGRAMS:	
FOR:	
Personnel Costs	$ 13,200
Operating Expenditures	19,000
SUBTOTAL	$ 32,200
(e) SUPPORT SERVICES:	
FOR:	
Personnel Costs	$ 50,900
Operating Expenditures	18,700
SUBTOTAL	$ 69,600

(f) FORENSIC SERVICES:	
FOR:	
Personnel Costs	$ 21,300
Operating Expenditures	21,200
SUBTOTAL	$ 42,500
TOTAL	$ 826,400

(29) SECTION 1, CHAPTER 361
DEPARTMENT OF ENVIRONMENTAL QUALITY

(a) ADMINISTRATION AND SUPPORT SERVICES:	
FOR:	
Personnel Costs	$ 20,600
Operating Expenditures	85,000
SUBTOTAL	$ 105,600
(b) AIR QUALITY:	
FOR:	
Personnel Costs	$ 30,000
Operating Expenditures	21,300
SUBTOTAL	$ 51,300
(c) WATER QUALITY:	
FOR:	
Personnel Costs	$ 38,800
Operating Expenditures	104,500
Trustee and Benefit Payments	294,200
SUBTOTAL	$ 437,500
(d) WASTE MANAGEMENT AND REMEDIATION:	
FOR:	
Personnel Costs	$ 29,500
Operating Expenditures	16,700
Trustee and Benefit Payments	40,000
SUBTOTAL	$ 86,200
(e) INEEL OVERSIGHT:	
FOR:	
Operating Expenditures	$ 6,000
TOTAL	$ 686,600

(30) SECTION 1, CHAPTER 230
DEPARTMENT OF LANDS

(a) SUPPORT SERVICES:	
FOR:	
Personnel Costs	$ 20,000
Operating Expenditures	11,400
SUBTOTAL	$ 31,400
(b) FOREST RESOURCES MANAGEMENT:	
FOR:	
Personnel Costs	$ 10,000
Operating Expenditures	7,400
SUBTOTAL	$ 17,400

(c) LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:	
FOR:	
Personnel Costs	$ 42,800
Operating Expenditures	63,600
SUBTOTAL	$ 106,400
(d) FOREST AND RANGE FIRE PROTECTION:	
FOR:	
Lump Sum	$ 61,000
TOTAL	$ 216,200

(31) SECTION 1, CHAPTER 376
DEPARTMENT OF PARKS AND RECREATION

(a) ADMINISTRATION:	
FOR:	
Personnel Costs	$ 39,000
(b) PARK OPERATIONS:	
FOR:	
Personnel Costs	$ 98,200
(c) PARK DEVELOPMENT:	
FOR:	
Personnel Costs	$ 6,800
Capital Outlay	280,800
SUBTOTAL	$ 287,600
(d) RECREATION RESOURCES:	
FOR:	
Personnel Costs	$ 9,600
TOTAL	$ 434,400

(32) SECTION 1, CHAPTER 245
DEPARTMENT OF WATER RESOURCES

(a) MANAGEMENT AND SUPPORT SERVICES:	
FOR:	
Operating Expenditures	$ 700
Capital Outlay	125,000
SUBTOTAL	$ 125,700
(b) PLANNING AND TECHNICAL SERVICES:	
FOR:	
Operating Expenditures	$ 106,800
(c) SNAKE RIVER BASIN ADJUDICATION:	
FOR:	
Personnel Costs	$ 36,500
Operating Expenditures	12,400
Capital Outlay	30,200
SUBTOTAL	$ 79,100
(d) WATER MANAGEMENT:	
FOR:	
Personnel Costs	$ 69,700
Operating Expenditures	6,200
Capital Outlay	80,900
SUBTOTAL	$ 156,800
TOTAL	$ 468,400

(33) SECTION 1, CHAPTER 246
DEPARTMENT OF AGRICULTURE

(a) ADMINISTRATION:		
FOR:		
Operating Expenditures	$	7,800
Trustee and Benefit Payments		7,800
SUBTOTAL	$	15,600
(b) ANIMAL INDUSTRIES:		
FOR:		
Personnel Costs	$	7,000
Operating Expenditures		68,000
Trustee and Benefit Payments		35,000
SUBTOTAL	$	110,000
(c) AGRICULTURAL RESOURCES:		
FOR:		
Personnel Costs	$	8,000
Operating Expenditures		98,800
SUBTOTAL	$	106,800
(d) PLANT INDUSTRIES:		
FOR:		
Operating Expenditures	$	2,100
Capital Outlay		8,000
Trustee and Benefit Payments		3,000
SUBTOTAL	$	13,100
(e) AGRICULTURAL INSPECTIONS:		
FOR:		
Personnel Costs	$	8,800
Operating Expenditures		5,000
SUBTOTAL	$	13,800
(f) MARKETING AND DEVELOPMENT:		
FOR:		
Operating Expenditures	$	1,800
(g) ANIMAL DAMAGE CONTROL:		
FOR:		
Trustee and Benefit Payments	$	4,800
(h) SHEEP COMMISSION:		
FOR:		
Operating Expenditures	$	1,000
TOTAL	$	266,900

(34) SECTION 1, CHAPTER 231
SOIL CONSERVATION COMMISSION:
FOR:

Personnel Costs	$	27,500
Operating Expenditures		4,900
Capital Outlay		600
Trustee and Benefit Payments		144,000
TOTAL	$	177,000

(35) SECTION 1, CHAPTER 349
DEPARTMENT OF COMMERCE:
FOR:

Operating Expenditures	$	301,000

(36) SECTION 1, CHAPTER 244
DEPARTMENT OF LABOR
WAGE AND HOUR:
FOR:

Personnel Costs	$	23,700

(37) SECTION 1, CHAPTER 225
SELF-GOVERNING AGENCIES

(a) BOARD OF EXAMINERS:		
FOR:		
Trustee and Benefit Payments	$	300
(b) COMMISSION ON HISPANIC AFFAIRS:		
FOR:		
Operating Expenditures	$	4,900
TOTAL	$	5,200

(38) SECTION 1, CHAPTER 227
OFFICE OF STATE APPELLATE PUBLIC DEFENDER:
FOR:

Operating Expenditures	$	49,400

(39) SECTION 1, CHAPTER 243
DIVISION OF VETERANS SERVICES:
FOR:

Lump Sum	$	83,700

(40) SECTION 1, CHAPTER 218
IDAHO TRANSPORTATION DEPARTMENT
AERONAUTICS:
FOR:

Trustee and Benefit Payments	$	14,000

(41) SECTION 1, CHAPTER 219
DEPARTMENT OF ADMINISTRATION

(a) DIRECTOR'S OFFICE:		
FOR:		
Personnel Costs	$	2,000
Operating Expenditures		4,600
SUBTOTAL	$	6,600
(b) INFORMATION TECHNOLOGY & COMMUNICATIONS:		
FOR:		
Operating Expenditures	$	29,500
(c) PUBLIC WORKS:		
FOR:		
Operating Expenditures	$	24,100
Capital Outlay		110,800
SUBTOTAL	$	134,900

(d) PURCHASING:
FOR:

Personnel Costs	$ 10,700
Operating Expenditures	15,200
SUBTOTAL	$ 25,900
TOTAL	$ 196,900

(42) SECTION 1, CHAPTER 228
ATTORNEY GENERAL
(a) STATE LEGAL SERVICES:
FOR:

Personnel Costs	$ 317,300

(b) SPECIAL LITIGATION:
FOR:

Operating Expenditures	$ 317,300
TOTAL	$ 634,600

(43) SECTION 1, CHAPTER 319
STATE CONTROLLER
(a) ADMINISTRATION:
FOR:

Lump Sum	$ 19,100

(b) STATEWIDE ACCOUNTING:
FOR:

Lump Sum	$ 117,700

(c) STATEWIDE PAYROLL:
FOR:

Lump Sum	$ 107,800
TOTAL	$ 244,600

(44) SECTION 1, CHAPTER 223
OFFICE OF THE GOVERNOR
COMMISSION ON AGING:
FOR:

Operating Expenditures	$ 18,100
Trustee and Benefit Payments	181,100
TOTAL	$ 199,200

(45) SECTION 1, CHAPTER 307
OFFICE OF THE GOVERNOR
COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:
FOR:

Personnel Costs	$ 47,800
Operating Expenditures	19,500
TOTAL	67,300

(46) SECTION 1, CHAPTER 275
OFFICE OF THE GOVERNOR
DIVISION OF FINANCIAL MANAGEMENT:
FOR:

Personnel Costs	$ 91,800

(47) SECTION 1, CHAPTER 239
EXECUTIVE OFFICE OF THE GOVERNOR
GOVERNOR'S OFFICE ADMINISTRATION:
FOR:

Personnel Costs	$	66,200

(48) SECTION 1, CHAPTER 303
OFFICE OF THE GOVERNOR
HUMAN RIGHTS COMMISSION:
FOR:

Personnel Costs	$	9,700
Operating Expenditures		12,100
Capital Outlay		3,500
TOTAL	$	25,300

(49) SECTION 1, CHAPTER 232
OFFICE OF THE GOVERNOR
MILITARY DIVISION

(a) MILITARY MANAGEMENT:		
FOR:		
Personnel Costs	$	66,000
Operating Expenditures		37,700
SUBTOTAL	$	103,700
(b) FEDERAL AND STATE CONTRACTS:		
FOR:		
Operating Expenditures	$	87,000
(c) DISASTER SERVICES:		
FOR:		
Operating Expenditures	$	17,600
(d) BUREAU OF HAZARDOUS MATERIALS:		
FOR:		
Operating Expenditures	$	5,800
TOTAL	$	214,100

(50) SECTION 1, CHAPTER 276
OFFICE OF THE GOVERNOR
OFFICE OF SPECIES CONSERVATION:
FOR:

Personnel Costs	$	21,200

(51) SECTION 1, CHAPTER 216
IDAHO WOMEN'S COMMISSION:
FOR:

Operating Expenditures	$	1,700

(52) SECTION 1, CHAPTER 235
LEGISLATIVE COUNCIL

(a) LEGISLATIVE SERVICES OFFICE:		
FOR:		
Lump Sum	$	156,500
(b) LEGISLATIVE TECHNOLOGY:		
FOR:		
Lump Sum	$	8,400

(c) OFFICE OF PERFORMANCE EVALUATIONS:
FOR:

Lump Sum	$ 25,400
TOTAL	$ 190,300

(53) SECTION 1, CHAPTER 117
LIEUTENANT GOVERNOR:
FOR:

Personnel Costs	$ 5,000

(54) SECTION 1, CHAPTER 267
DEPARTMENT OF REVENUE AND TAXATION
BOARD OF TAX APPEALS:
FOR:

Personnel Costs	$ 8,700
Operating Expenditures	3,600
Capital Outlay	1,200
TOTAL	$ 13,500

(55) SECTION 1, CHAPTER 268
DEPARTMENT OF REVENUE AND TAXATION
STATE TAX COMMISSION
(a) GENERAL SERVICES:
FOR:

Personnel Costs	$ 51,700
Operating Expenditures	525,900
SUBTOTAL	$ 577,600

(b) AUDIT AND COLLECTIONS:
FOR:

Personnel Costs	$ 312,500
Operating Expenditures	187,800
Capital Outlay	39,500
SUBTOTAL	$ 539,800

(c) REVENUE OPERATIONS:
FOR:

Operating Expenditures	$ 75,900
Capital Outlay	40,200
SUBTOTAL	$ 116,100

(d) COUNTY SUPPORT:
FOR:

Personnel Costs	$ 17,900
Operating Expenditures	47,300
SUBTOTAL	$ 65,200
TOTAL	$ 1,298,700

(56) SECTION 1, CHAPTER 240
SECRETARY OF STATE
COMMISSION ON THE ARTS:
FOR:

Operating Expenditures	$ 29,800
Capital Outlay	10,900
TOTAL	$ 40,700

(57) SECTION 1, CHAPTER 238
SECRETARY OF STATE

(a) ADMINISTRATION:	
FOR:	
Operating Expenditures	$ 27,700
(b) CENTRALIZED UNIFORM COMMERCIAL CODE:	
FOR:	
Operating Expenditures	$ 60,200
(c) COMMISSION ON UNIFORM LAWS:	
FOR:	
Operating Expenditures	$ 1,100
TOTAL	$ 89,000

(58) SECTION 1, CHAPTER 220
STATE TREASURER:
FOR:

Operating Expenditures	$ 51,600
GRAND TOTAL	$63,883,500

SECTION 3. On or before June 1, 2002, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall direct the State Controller to reduce by $224,000 the amount transferred from the General Fund to the Legislative Fund pursuant to Section 67-451(2), Idaho Code, for the period July 1, 2001, through June 30, 2002.

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, 2002.

CHAPTER 69
(H.B. No. 391)

AN ACT
RELATING TO THE BOARD OF PHARMACY; AMENDING SECTION 37-3201, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION.

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

SECTION 1. That Section 37-3201, Idaho Code, be, and the same is hereby amended to read as follows:

37-3201. DEFINITIONS. As used in this chapter:
(1) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer or distributor of the drug, or both;

(2) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label even though he is not the actual manufacturer of the drug;

(3) "Solid dosage form" means capsules or tablets intended for oral use;

(4) "Legend drug" means any drug defined by section 54-1705(23~~6~~), Idaho Code.

Approved March 11, 2002.

CHAPTER 70
(H.B. No. 398)

AN ACT

RELATING TO EDUCATION OF DISABLED ADULT STUDENTS HOUSED IN ADULT CORRECTIONAL FACILITIES; AMENDING SECTION 33-2010, IDAHO CODE, TO REVISE ELIGIBILITY REQUIREMENTS FOR SPECIAL EDUCATION SERVICES PROVIDED TO INMATES, OF ADULT CORRECTIONAL FACILITIES, WHO ARE BETWEEN EIGHTEEN AND TWENTY-ONE YEARS OF AGE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-2010, Idaho Code, be, and the same is hereby amended to read as follows:

33-2010. EDUCATION OF DISABLED ADULT STUDENTS HOUSED IN ADULT CORRECTIONAL FACILITIES. Any individual eighteen (18) years of age through the semester of school in which the person attains the age of twenty-one (21) years, who is incarcerated in an adult correctional facility shall not be entitled to special education and related services unless such person was identified as a child with a disability ~~and~~ or had an individualized education program under part B of the federal individuals with disabilities education act (IDEA) in his last educational placement prior to incarceration.

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 11, 2002.

CHAPTER 71
(H.B. No. 399)

AN ACT

RELATING TO PRESERVICE ASSESSMENT MEASURES FOR ELEMENTARY SCHOOL TEACHERS; AMENDING SECTION 33-1207A, IDAHO CODE, TO PROVIDE THAT BY SEPTEMBER 2002, ALL KINDERGARTEN THROUGH GRADE 8 TEACHER CANDIDATES FROM AN IDAHO TEACHER PREPARATION PROGRAM SHALL PASS THE STATE BOARD

OF EDUCATION'S PRESERVICE ASSESSMENT MEASURE IN ORDER TO QUALIFY FOR AN IDAHO STANDARD ELEMENTARY TEACHING CERTIFICATE.

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

SECTION 1. That Section 33-1207A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1207A. TEACHER PREPARATION. (1) Higher Education Institutions. The state board shall review teacher preparation programs at the institutions of higher education under their supervision and shall assure that the course offerings and graduation requirements are consistent with the state board approved, research based "Idaho Comprehensive Literacy Plan." To assure the most immediate compliance with this requirement, the board may allocate funds, subject to appropriation, to institutions which require revision of the program.

The state board shall be responsible for the development of a single preservice assessment measure for all kindergarten through grade eight (8) teacher preparation programs. The assessment must include a demonstration of teaching skills and knowledge congruent with current research on best reading practices. In addition the assessment must include how children acquire language; the basic sound structure of English, including phonological and phonemic awareness; phonics and structural analysis; semantics and syntactics; how to select reading textbooks; and how to use diagnostic tools and test data to improve teaching. It shall also include the preservice teacher's knowledge base of reading process: phonological awareness; sound-symbol correspondence (intensive, systematic phonemes); semantics (meaning); syntax (grammar and language patterns); pragmatics (background knowledge and life experience); and comprehension and critical thinking. By September 2002, all K-8 teacher candidates ~~shall pass this assessment as part of the graduation requirements~~ from an Idaho teacher preparation program shall pass this assessment in order to qualify for an Idaho standard elementary teaching certificate. The state board shall report the number of preservice teachers taking and passing the performance-based reading assessment to the legislature and governor annually. All costs associated with administration of this test shall be borne by the institution which administers the test and shall be shown as a line item in the appropriation request of the institution for state reimbursement.

(2) In-service Programs. Each teacher employed in a classroom for kindergarten through grade eight (8), Title I, or special education and each school administrator of a school which includes kindergarten through grade eight (8), Title I, or special education shall complete three (3) credits (or forty-five (45) contact hours of in-service training) of a state approved reading instruction course titled "Idaho Comprehensive Literacy Course" based on the state approved research based "Idaho Comprehensive Literacy Plan" in order to recertify. Courses which qualify for credit shall be approved by the state department of education, and any educator who completes a state approved reading instruction course prior to September 2001, shall be deemed to have met the requirements of this subsection. Completion of a state approved reading instruction course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education

for renewal. The department shall provide a waiver of this requirement if the applicant successfully completes the reading assessment measure developed for preservice purposes as provided in subsection (1) of this section. The department shall establish a procedure to allow a waiver of this requirement if the applicant teaches in a secondary grade subject which does not directly involve teaching reading or writing.

The board of trustees of every school district shall include in its plan for in-service training, coursework covering reading skills development, including diagnostic tools to review and adjust instruction continuously, and the ability to identify students who need special help in reading. The district plan for in-service training in reading skills shall be submitted to the state department of education for review and approval, in a format specified by the department.

Approved March 11, 2002.

CHAPTER 72
(H.B. No. 480)

AN ACT

RELATING TO CRIMINAL OFFENSES; AMENDING SECTION 18-3124, IDAHO CODE, TO PROVIDE THAT IT IS A CRIME TO KNOWINGLY USE AN FTC NUMBER TO KNOWINGLY AND WILLFULLY EXCEED THE ACTUAL BALANCE OF THE DEMAND DEPOSIT ACCOUNT OR TIME DEPOSIT ACCOUNT OR TO USE AN FTC NUMBER TO WILLFULLY EXCEED AN AUTHORIZED CREDIT LINE IN THE AMOUNT OF ONE THOUSAND DOLLARS OR MORE OR FIFTY PERCENT OF THE AUTHORIZED CREDIT LINE, WHICHEVER IS GREATER; AMENDING SECTION 18-3125, IDAHO CODE, TO PROVIDE FELONY CRIMINAL PENALTIES FOR CERTAIN ACQUISITIONS OF A FINANCIAL TRANSACTION CARD OR FINANCIAL TRANSACTION CARD NUMBER; AND AMENDING SECTION 18-3128, IDAHO CODE, TO DELETE REFERENCE TO A CODE SECTION FOR THE PURPOSE OF IMPOSING MISDEMEANOR PENALTIES.

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

SECTION 1. 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 <u>OR NUMBER</u>. 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 account number, or by the use of any FTC issued;

(2) To use an FTC <u>or FTC number</u> to knowingly and willfully exceed the actual balance of the demand deposit account or time deposit account;

(3) To use an FTC <u>or FTC number</u> to willfully exceed an authorized credit line in the amount of one thousand dollars ($1,000) or more, or fifty 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 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 2. That Section 18-3125, Idaho Code, be, and the same is hereby amended to read as follows:

18-3125. CRIMINAL POSSESSION OF FINANCIAL TRANSACTION CARD, FINANCIAL TRANSACTION NUMBER AND FTC FORGERY DEVICES. It is ~~unlawful~~ a felony punishable as provided in subsection (3) of section 18-3128, Idaho Code, for any person:

(1) To acquire an FTC or FTC number from another without the consent of the card holder or the issuer, or to, with the knowledge that it has been so acquired, receive an FTC or FTC number with the intent to use to defraud, or to sell, or to transfer the FTC or FTC number to another person with the knowledge that it is to be used to defraud;

(2) To acquire an FTC or FTC number that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the card holder, and to retain possession with the intent to use to defraud or to sell or transfer to another person with the knowledge that it is to be used to defraud.

SECTION 3. That Section 18-3128, Idaho Code, be, and the same is hereby amended to read as follows:

18-3128. PENALTY FOR VIOLATION. (1) Any person found guilty of a violation of section 18-3124, ~~18-3125,~~ 18-3125A, 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, 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 11, 2002.

CHAPTER 73
(H.B. No. 498)

AN ACT

RELATING TO JUVENILE SENTENCING; AMENDING SECTION 20-520, IDAHO CODE, TO AUTHORIZE COURTS TO ORDER PARENTS, LEGAL GUARDIANS OR CUSTODIANS OF JUVENILES TO PAY CERTAIN CHARGES.

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, except the court may place a juvenile on formal probation for a period not to exceed the juvenile's twenty-first birthday if the court finds that the

juvenile has committed a crime of a sexual nature;
(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 bring 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) 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;
(h) 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;
(i) 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;
(j) 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;

(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;

(l) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(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;

(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;

(o) The court shall assess a twenty dollar ($20.00) detention/probation training academy fee 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 fund which is created in section 20-542, Idaho Code;

(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;

(q) 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. Court-ordered restitution shall be paid prior to any other court-ordered payments unless the court specifically orders otherwise.

(4) The court may order the juvenile's parents, legal guardian or custodian to pay the charges imposed by community programs ordered by the court for the juvenile, or the juvenile's parents, legal guardian or custodian.

(5) 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.

Approved March 11, 2002.

CHAPTER 74
(H.B. No. 501)

AN ACT

RELATING TO SMALL CLAIMS ACTIONS; AMENDING SECTION 1-2301, IDAHO CODE, TO PROVIDE THAT ACTIONS MAY BE BROUGHT IN THE MAGISTRATE'S DIVISION IN THE COUNTY WHERE THE DEFENDANT RESIDES OR IN THE COUNTY WHERE THE CAUSE OF ACTION AROSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 1-2301, Idaho Code, be, and the same is hereby amended to read as follows:

1-2301. SMALL CLAIMS DEPARTMENT -- CREATION -- SCOPE OF CLAIMS -- VENUE. In every magistrate's division of the district court of this state, the district court may create and organize a "Small Claims Department of the Magistrate's Division," which shall have jurisdiction in cases for the recovery of money where the amount of each claim does not exceed four thousand dollars ($4,000), and in cases for the recovery of personal property where the value of the property does not exceed four thousand dollars ($4,000); provided however, that the small claims department shall not award punitive damages or damages for pain or suffering in any proceeding. Any action brought in a small claims department of the magistrate's division shall be brought in the magistrate's division ~~of~~ in the county where ~~any~~ the defendant resides ~~unless at the time the action is filed all of the defendants reside outside of the state of Idaho, in which case the action shall be brought in~~ or the county where the cause of action arose. A defendant may request a change of venue if an action is brought in an improper county.

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 11, 2002.

CHAPTER 75
(H.B. No. 503)

AN ACT

RELATING TO MUNICIPAL ELECTION LAWS; REPEALING SECTIONS 50-426, 50-433, 50-434 AND 50-435, IDAHO CODE; AMENDING SECTION 50-402, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-407, IDAHO CODE, TO GOVERN ESTABLISHMENT OF AN ABSENTEE VOTING PRECINCT FOR THE CITY; AMENDING SECTION 50-408, IDAHO CODE, TO PROVIDE FOR DESIGNATION OF POLLING PLACES BY THE CITY CLERK; AMENDING SECTION 50-409, IDAHO CODE, TO GOVERN APPOINTMENT AND COMPENSATION OF ELECTION JUDGES AND CLERKS; AMENDING SECTION 50-427, IDAHO CODE, TO GOVERN THE METHOD OF CORRECTING THE COMBINATION ELECTION RECORD AND POLL BOOK; AMENDING SECTION 50-428, IDAHO CODE, TO PROVIDE FOR MAINTENANCE OF THE COMBINATION ELECTION RECORD AND POLL BOOK; AMENDING SECTION 50-430, IDAHO CODE, TO PROVIDE FOR DECLARATION OF CANDIDACY; AMENDING SECTION 50-431, IDAHO CODE, TO PROVIDE THE FORM FOR DECLARATION OF CANDIDACY AND PETITION OF CANDIDACY; AMENDING SECTION 50-432, IDAHO CODE, TO PROVIDE THE TIME AND MANNER FOR FILING DECLARATION OF CANDIDACY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-436, IDAHO CODE, TO GOVERN NOTICE OF ELECTIONS TO BE MADE BY THE CITY CLERK; AMENDING SECTION 50-439, IDAHO CODE, TO PROVIDE THAT PREPARATION OF A SEPARATE BALLOT FOR SPECIAL ISSUES IS OPTIONAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-440, IDAHO CODE, TO GOVERN THE PREPARATION OF SAMPLE BALLOTS; AMENDING SECTION 50-458, IDAHO CODE, TO STRIKE A REQUIREMENT THAT A SECOND ELECTION REGISTER AND POLL BOOK SHALL RECORD THAT AN ELECTOR HAS VOTED; AMENDING SECTION 50-601, IDAHO CODE, TO GOVERN THE RESIDENCY OF A CANDIDATE FOR THE OFFICE OF MAYOR AT THE TIME OF FILING HIS DECLARATION OF CANDIDACY OR DECLARATION OF INTENT; AMENDING SECTION 50-612, IDAHO CODE, TO GOVERN THE NOTICE TO BE GIVEN IN THE EVENT OF A RUNOFF ELECTION; AMENDING SECTION 50-702, IDAHO CODE, TO GOVERN THE QUALIFICATIONS OF A CANDIDATE FOR THE OFFICE OF COUNCILMAN AT THE TIME OF FILING HIS DECLARATION OF CANDIDACY OR DECLARATION OF INTENT; AND AMENDING SECTION 50-707B, IDAHO CODE, TO GOVERN WHEN A RUNOFF ELECTION SHALL BE HELD AND TO PROVIDE FOR NOTICE OF A RUNOFF ELECTION.

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

SECTION 1. That Sections 50-426, 50-433, 50-434 and 50-435, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 50-402, Idaho Code, be, and the same is hereby amended to read as follows:

50-402. DEFINITIONS. The following words and phrases when used in this chapter, have the meanings respectively given herein.

(a) General election. "General election" means the election held on the first Tuesday succeeding the first Monday in November in each odd-numbered year at which there shall be chosen all mayors and councilmen as are by law to be elected in such years.

(b) Special election. "Special election" means any election other than a general election held at any time for any purpose provided by law.

(c) Qualified elector. A "qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in the city at least thirty (30) days next preceding the election at which he desires to vote and who is registered within the time period provided by law. A "qualified elector" shall also mean any person who is eighteen (18) years of age, is a United States citizen, who is a registered voter, and who resides in an area that the city has annexed pursuant to chapter 2, title 50, Idaho Code, within thirty (30) days of a city election.

(d) Residence.

(1) "Residence" for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence. In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, and motor vehicle registration.

(2) A qualified elector shall not be considered to have gained residence in any city of this state into which he comes for temporary purposes only without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.

(3) A qualified elector who has left his home and gone to another area outside the city, for a temporary purpose only shall not be considered to have lost his residence.

(4) If a qualified elector moves outside the city, with the intentions of making it his permanent home, he shall be considered to have lost his residence in the city.

(e) Election official. "Election official" means the city clerk, registrar, judge of election, clerk of election, or constable engaged in the performance of election duties as required by this act.

(f) Election register. The "election register" means the voter registration cards of all electors who are qualified to appear and vote at the designated polling places.

(g) Combination election record and poll book. "Combination election ~~register~~ record and poll book" is the book containing a listing of registered electors who are qualified to appear and vote at the designated polling places.

(h) Tally book. The "tally book" or "tally list" means the forms in which the votes cast for any candidate or special question are counted

and totaled at the polling precinct.

(i) Reference to male. All references to the male elector and male city officials include the female elector and female city officials and the masculine pronoun includes the feminine.

(j) Computation of time. Calendar days shall be used in all computations of time made under the provision of this act. In computing time for any act to be done before any election, the first day shall be included and the last, or election day, shall be excluded. Saturdays, Sundays and legal holidays shall be included, but if the time for any act to be done shall fall on Saturday, Sunday or a legal holiday, such act shall be done upon the day following each Saturday, Sunday or legal holiday.

SECTION 3. That Section 50-407, Idaho Code, be, and the same is hereby amended to read as follows:

50-407. ESTABLISHMENT OF ELECTION PRECINCTS. The city council shall establish a convenient number of election precincts within their city. Said precincts shall conform as nearly as possible and practicable to the county election precincts within the city. The city council may establish an absentee voting precinct for the city. Voted ballots in the absentee voting precinct shall be retained by the city clerk until election day when they shall be transferred to the ballot processing center and thereafter made a part of the election returns.

SECTION 4. That Section 50-408, Idaho Code, be, and the same is hereby amended to read as follows:

50-408. DESIGNATION OF POLLING PLACES. The city ~~council~~ clerk shall, ~~no later than September 15 in a general election year and at least forty five (45)~~ not less than thirty (30) days before any general or special election, designate a suitable polling place for each election precinct. Polling places shall conform to the standards established by the secretary of state pursuant to the authority granted in section 34-302, Idaho Code. The city ~~council~~ clerk shall have the authority to consolidate established precincts within the boundaries of the city. Insofar as possible the polling places shall be in the same location as those provided for county and state elections. If there is no suitable polling place within the precinct, the city ~~council~~ clerk may designate a polling place outside the precinct, but as close and convenient as possible for the electors of the precinct.

SECTION 5. That Section 50-409, Idaho Code, be, and the same is hereby amended to read as follows:

50-409. APPOINTMENT ~~AND COMPENSATION~~ OF ELECTION JUDGES AND CLERKS. The city ~~council~~ clerk in each city~~, at a regular meeting in the month preceding an election,~~ shall appoint an election judge and such clerks as may be necessary for each voting precinct within the city. The election officials shall be qualified city or county electors. The city clerk shall notify the election officials of their appointment. ~~within five (5) days following appointment.~~ If any election judge or clerk fails to report for duty on the day of election the city clerk shall fill such vacancies from among the qualified electors presenting them-

selves to vote. Compensation for the election judges and clerks ~~shall be determined--by--the city council at time of appointment and~~ shall be not less than the minimum wage as prescribed by ~~federal~~ laws of the state of Idaho.

SECTION 6. That Section 50-427, Idaho Code, be, and the same is hereby amended to read as follows:

50-427. CHALLENGES OF ENTRIES IN COMBINATION ELECTION RECORD AND POLL BOOK. At the time of an election, any registered elector may challenge the entry of an elector's name as it appears in the election record and poll book. Such a challenge will be noted in the remarks column following the elector's name stating the reason, such as "died," "moved," or "incorrect address." The elector making the challenge shall sign his name following the remarks. ~~The city clerk--shall--correct--the election--register following the canvass of the ballot by contacting the person whose name was challenged to ascertain if--information--given--by the--challenger--is correct before making any change on the registration card~~ The city clerk shall notify the county clerk of all challenges to the combination election record and poll book. Corrections to the election record shall be made by the county clerk in the manner provided by section 34-432, Idaho Code.

SECTION 7. That Section 50-428, Idaho Code, be, and the same is hereby amended to read as follows:

50-428. COMBINATION ELECTION RECORD AND POLL BOOK. The city clerk shall prepare ~~two (2) election record and poll books for--each--election precinct--from--the election register. The election record and poll book shall be alphabetical according to name of the--registered--elector--and shall include the residence address of the elector~~ and maintain the combination election record and poll book as provided in section 34-111, Idaho Code.

SECTION 8. That Section 50-430, Idaho Code, be, and the same is hereby amended to read as follows:

50-430. METHOD OF NOMINATION -- CLERK TO FURNISH PRINTED FORMS. Candidates for elective city offices shall be nominated by ~~petition~~ declaration. The ~~nominating petition~~ declaration shall contain the name and address of the person and the office and the term for which he ~~is being~~ nominated. There shall be no mention relating to party or principal of the nominee. ~~The number of registered--qualified--electors--required--to sign--a--petition--of--nomination--shall be one (1) per each one hundred (100) population or fraction thereof but in no--case--to--be--less--than three--(3)--nor more than forty (40)~~ The completed declaration of candidacy shall be accompanied by: (1) a petition of candidacy signed by not less than five (5) registered qualified electors; or (2) a nonrefundable filing fee of forty dollars ($40.00) which shall be deposited in the city treasury.

It shall be the duty of the city clerk to furnish upon application a reasonable number of regular printed forms, as herein set forth, to any person or persons applying therefor. ~~Nominating petitions~~ The forms shall be of uniform size as determined by the clerk.

SECTION 9. That Section 50-431, Idaho Code, be, and the same is hereby amended to read as follows:

50-431. FORM OF ~~PETI TION~~ — DECLARATION OF CANDIDACY. ~~Petitions of nomination~~ Declarations of candidacy and petitions of candidacy shall read substantially as herein set forth. Any number of separate petitions of ~~nomination~~ candidacy may be circulated at the same time for any candidate and all petitions for each candidate shall be considered one (1) petition when filed with the city clerk. Each signer of a petition shall be a registered qualified elector.

~~PETI TI ON OF NOMI NATION~~

~~This petition of nomination, if found insufficient, shall be returned to (Name)_____, at _____ Street, City of _____, I dho.~~

DECLARATION OF CANDIDACY

I, the undersigned, ~~being~~ affirm that I am a qualified elector of the City of ------- ....., State of Idaho, and that I have resided in the city for at least thirty (30) days. I hereby declare myself to be a candidate for the office of ------- ....., for a term of ---- .... years, to be voted for at the election to be held on the ---- .... day of ------ ....., ~~19~~-- ...., and certify that I possess the legal qualifications to fill said office, and that my ~~post office~~ residence address is ---------- .....

(Signed)----------
.....

Subscribed and sworn to before me this ---- .... day of -------- ....., ~~19~~-- .....

.....
Notary Public

State of Idaho,
County of -------- ..... ss.
City of -------- .....

PETITION OF CANDIDACY

OF .....
(NAME OF CANDIDATE)

FOR OFFICE OF .....

This petition must be filed in the office of the City Clerk not earlier than 8:00 a.m. on the eighth Friday nor later than 5:00 p.m. on the sixth Friday immediately preceding election day. The submitted petition must have affixed thereto the names of at least five (5) qualified electors who reside within the appropriate city.

~~We~~ I, the undersigned, being a qualified elector of the City of ....., in the State of Idaho, do hereby certify and declare that I reside at the place set opposite my name and that I do hereby join in ~~a~~ the petition ~~for the nomination~~ of ---------- ....., ~~whose residence is at (Number) (Street)_____, (City)_____ for the office of _____ for the term of ____ years,~~ a candidate for the office of ..... to be voted at the ~~general city~~ election to be held ~~in the City of~~

-------- on the ---- .... day of -------- ....., ~~19--....,-and-do further-certify-that-we-are-registered-qualified-electors-and-are-not-at this-time-the-signers-of-any-other-petitions-nominating-any-other-candidate-for-the-above-named-office,-or-in-case-there-are-several--positions to--be--filled--in--the-above-named-office,-that-we-have-not-signed-more petitions-than-there-are-positions--to--be--filled--in--the--above-named office.~~

~~(Signed)----------(Name---printed)--------(Address)~~

Signature of Petitioner	Printed Name	Residence Address	Date Signed
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

STATE OF IDAHO

County of .....

I, ..., being first duly sworn, say: That I am a 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, residence address correctly, that each signer is a qualified elector of the State of Idaho, and the City of .....

Signed .....

Address .....

Subscribed and sworn to before me this ..... day of ....., ...

Signed Notary Public .....

Residing at .....

Commission expires .....

(Notary Seal)

SECTION 10. That Section 50-432, Idaho Code, be, and the same is hereby amended to read as follows:

50-432. TIME AND MANNER OF FILING ~~PETITIONS~~ DECLARATIONS. All ~~petitions~~ declarations of ~~nomination~~ candidacy for elective city offices shall be filed with the clerk of the respective city wherein the elections are to be held, not ~~more-than-sixty-(60)-or-less-than-forty-(40) days,-including-Sundays-and-holidays~~ earlier than 8:00 a.m. on the eighth Friday nor later than 5:00 p.m. on the sixth Friday, immediately preceding election day. ~~When-the-petition-of-nomination-is-presented-for filing-to-the-city-clerk,-he-shall-forthwith-examine-the-same-and-ascertain-whether-it-conforms-to-the-provisions-of-chapter-4,-title-50,-Idaho~~

~~Code. If found not sufficient, he shall immediately, in writing, designate on said nominating petition the defect, omission or reason why such petition is insufficient and shall return the same to the person named as the person to whom the petition may be returned in accordance with section 50-431, Idaho Code. The petition may then be amended and again presented to the clerk if within the time allowed for filing such, as in the first instance. The clerk shall forthwith proceed to examine the amended petition as hereinbefore provided for the original petition. If either the original or the amended form of petition be found sufficient, the clerk shall file the same, endorsing thereon the date and time upon which the petition was accepted by him~~ Signatures on petitions of candidacy shall be verified by the county clerk in the manner described in section 34-1807, Idaho Code, except that the city clerk shall stand in place of the secretary of state. Before any declaration of candidacy and filing fee or petition of candidacy mentioned in section 50-431, Idaho Code, can be filed, the city clerk shall ascertain that it conforms to the provisions of chapter 4, title 50, Idaho Code. The city clerk shall not accept any ~~nominating petitions~~ declarations of candidacy after 5:00 p.m. on the ~~final day for filing petitions~~ sixth Friday immediately preceding election day. Write-in candidates shall be governed by section 34-702A, Idaho Code, but shall file the declarations required in that section with the city clerk.

SECTION 11. That Section 50-436, Idaho Code, be, and the same is hereby amended to read as follows:

50-436. NOTICE OF ELECTION -- CONTENTS -- PUBLICATION. ~~AND POSTING.~~ The city ~~council~~ clerk shall give notice for any general or special city election by publishing such notice in at least two (2) issues of the official newspaper of the city. ~~If the official city newspaper is not published in the city then the notice of election may be posted in three (3) public places in each voting precinct. The notice shall state the date of the election, the polling place in each precinct, the hours during which the polls shall be open for the purpose of voting.~~ The first publication of notice of election shall be made not less than forty-five (45) days prior to the election. The first notice of election shall include the name of the city wherein the election shall be held, the purpose of the election, the date of the election, and the hours during which the polls shall be open for the purpose of voting. If the election is held for the purpose of electing the mayor and/or members of the city council, the first notice of election shall state that declarations of candidacy are available from the city clerk, and provide the deadline for filing such declarations with the city clerk. The last publication of notice shall be made not less than fifteen (15) days prior to the election. The second notice of election shall state the date of the election, the purpose of the election, the polling place in each precinct and the hours during which the polls shall be open for the purpose of voting.

SECTION 12. That Section 50-439, Idaho Code, be, and the same is hereby amended to read as follows:

50-439. PREPARATION AND CONTENTS OF BALLOT. The ballot for each election shall be prepared not less than twenty-one (21) days prior to

the date of election by the city clerk. Candidates for mayor will be listed first followed by councilman positions for four (4) years and then two (2) year councilman positions, provided, that in printing the ballots, the position of the names shall be changed in each office division by placing the top name for that office at the bottom of that division and moving each other name up the column by one (1) position, as many times as there are candidates in the office division in which there are the greatest number of candidates. Candidates' names shall be rotated by precinct for those cities using voting machines or vote tally systems. Nothing shall prevent a voter from writing in the name of any qualified elector of the city for any office to be filled at the said election, and the clerk in preparing the ballot shall make provisions for the writing in of names. Separate ballots ~~will~~ may be used for bond issues, capital improvement levy, recall, referendum, initiative, advisory ballots or any other measure authorized to be decided by the electorate.

SECTION 13. That Section 50-440, Idaho Code, be, and the same is hereby amended to read as follows:

50-440. SAMPLE BALLOTS. The city clerk shall cause to be printed not less than fifteen (15) days before the election, sample ballots containing the candidates for each office, and all measures to be submitted, which sample ballots shall be in the same form as the official ballots to be used, except they shall have printed thereon the words "sample ballot," and shall be on paper of a different color than the official ballot, and the clerk shall furnish copies of the same on application at his office, to anyone applying therefor. Said sample ballot shall be published at least twice in the official newspaper of the city, the last time to be within ~~five~~ seven (~~5~~7) days of the election. ~~If the official city newspaper is not published in the city then the sample ballot may be posted in three (3) public places in each voting precinct.~~

SECTION 14. That Section 50-458, Idaho Code, be, and the same is hereby amended to read as follows:

50-458. SIGNING COMBINATION ELECTION RECORD AND POLL BOOK — DELIVERY OF BALLOT TO ELECTOR. (1) An elector desiring to vote shall state his name and address to the clerk in charge of the combination election record and poll book.

(2) Before receiving his ballot, each elector shall sign his name in the combination election record and poll book following his name therein.

(3) No person shall knowingly sign his name in the combination election record and poll book if his residence address is not within that precinct at the time of signing.

(4) If the residence address of a person contained in the combination election record and poll book is incorrectly given due to an error in preparation of the combination election record and poll book, the judge shall ascertain the correct address and make the necessary correction.

(5) The elector shall then be given the appropriate ballots which have been stamped with the official election stamp and shall be given

folding instructions for such ballots.

~~(6)--A second election register and poll book will be maintained--to record that the elector has voted.~~

SECTION 15. That Section 50-601, Idaho Code, be, and the same is hereby amended to read as follows:

50-601. QUALIFICATIONS. Any person shall be eligible to hold the office of mayor who is a qualified elector of the city at the time ~~of~~ his ~~election~~ declaration of candidacy or declaration of intent is submitted to the city clerk and remains a qualified elector during his term of office.

The term of office of mayor shall be for a period of four (4) years except as otherwise specifically provided. He shall take office at the time and in the manner provided for installation of councilmen.

SECTION 16. That Section 50-612, Idaho Code, be, and the same is hereby amended to read as follows:

50-612. MAJORITY REQUIRED FOR ELECTION -- RUNOFF ELECTION. A city may, by ordinance, provide that a majority of the votes for any candidate running for the office of mayor shall be required for election to that office. In the event that no candidate receives a majority of the votes cast, there shall be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted as in the general election in a manner and at such time, within thirty (30) days of the general election, as prescribed by the city and shall be exempt from the limitation upon elections provided in sections 34-106 and 50-429, Idaho Code. The first notice of election shall be made by the city clerk not less than twenty (20) days next preceding any runoff election, and the designation of polling places shall be made by the city clerk not less than twenty (20) days next preceding any runoff election.

SECTION 17. That Section 50-702, Idaho Code, be, and the same is hereby amended to read as follows:

50-702. QUALIFICATION OF COUNCILMEN -- TERMS -- INSTALLATION. Any person shall be eligible to hold the office of councilman of his city who is a qualified elector at the time ~~of election~~ his declaration of candidacy or declaration of intent is submitted to the city clerk, and remains a qualified elector under the constitution and laws of the state of Idaho. Each councilman elected at a general city election, except as otherwise specifically provided, shall hold office for a term of four (4) years, and until his successor is elected and qualified. Councilmen elected at each general city election shall be installed at the first meeting in January following election. The manner of conducting that meeting shall be as herein set forth and not otherwise: the incumbents shall meet and conduct such business as may be necessary to conclude the fiscal matters of the preceding year; the newly elected shall then subscribe to the oath of office, be presented certificates of election, assume the duties of their position, and conduct such business as may be necessary, one (1) item of which shall be the election of a member as president of the council.

SECTION 18. That Section 50-707B, Idaho Code, be, and the same is hereby amended to read as follows:

50-707B. MAJORITY MAY BE REQUIRED FOR ELECTION -- RUNOFF ELECTION. A city may, by ordinance, provide that a majority of the votes for any candidate running for a council seat adopted by a city in accordance with section 50-707 or 50-707A, Idaho Code, may be required for election to that office. In the event no candidate receives a majority of the votes cast, there ~~may~~ shall be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted as in the general election in a manner and at such time ~~as prescribed by the city~~ within thirty (30) days of the general election, as prescribed by the city and shall be exempt from the limitation upon elections provided in sections 34-106 and 50-429, Idaho Code. The first notice of election shall be made by the city clerk not less than twenty (20) days next preceding any runoff election, and the designation of polling places shall be made by the city clerk not less than twenty (20) days next preceding any runoff election.

Approved March 11, 2002.

CHAPTER 76
(H.B. No. 516)

AN ACT

RELATING TO RAILROAD GRADE CROSSINGS; AMENDING SECTION 62-304A, IDAHO CODE, TO PROVIDE THAT THE RAILROAD GRADE CROSSING PROTECTION FUND MAY BE USED TO SUPPORT PUBLIC EDUCATION AND SAFETY PROGRAMS WHICH PROMOTE AWARENESS OF PUBLIC SAFETY AT RAILROAD GRADE CROSSINGS OF PUBLIC STREETS, ROADS OR HIGHWAYS AND TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTION 62-304C, IDAHO CODE, TO PROVIDE THAT APPLICATION MAY BE MADE TO THE IDAHO TRANSPORTATION DEPARTMENT TO PROVIDE UP TO A MAXIMUM OF TWENTY-FIVE THOUSAND DOLLARS ANNUALLY FROM THE RAILROAD GRADE CROSSING PROTECTION FUND TO SUPPORT PUBLIC EDUCATION AND SAFETY PROGRAMS WHICH PROMOTE AWARENESS OF PUBLIC SAFETY AT RAILROAD GRADE CROSSINGS, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 62-304A, Idaho Code, be, and the same is hereby amended to read as follows:

62-304A. CREATION OF RAILROAD GRADE CROSSING PROTECTION ~~ACCOUNT~~ FUND. In order to promote the public safety at railroad grade crossings and public streets, roads or highways and to provide for the payment of all or part of the costs of installing, reconstructing, maintaining or improving automatic or other safety appliances, signals or devices at railroad grade crossings of public streets, roads or highways over the tracks of any railroad company or companies, or to support public education and safety programs which promote awareness of public safety at railroad grade crossings of public streets, roads or highways, there is

hereby created in the dedicated fund in the state treasury ~~an account~~ fund to be known as the railroad grade crossing protection ~~account~~ fund.

SECTION 2. That Section 62-304C, Idaho Code, be, and the same is hereby amended to read as follows:

62-304C. APPORTIONMENT OF COSTS. The Idaho transportation department shall follow federal guidelines on such grade crossing improvement projects as are to be funded in whole or in part under any federal act, and where the project is not funded entirely by federal funds, the Idaho transportation department may use moneys in the railroad grade crossing protection ~~account~~ fund to pay all or a portion of the matching funds required.

On projects where federal-aid funds are not being utilized in whole or in part, the Idaho transportation department shall apportion the entire cost of the engineering, installation, reconstruction or improvement of any signal or device as described in section 62-304A, Idaho Code, between the railroad company or companies and the Idaho transportation department or the local authority, in proportion to the respective benefits to be derived. The Idaho transportation department may use moneys in the railroad grade crossing protection ~~account~~ fund to pay all or a portion of the cost apportioned to the Idaho transportation department or local authority involved.

The railroad company or companies owning the track or tracks upon which the improvement shall be made shall perform all construction and maintenance of the signals or devices and shall be reimbursed for such part of said costs not to be borne by it, but in allocating said costs and dividing the same among the parties involved, the Idaho transportation department shall limit the amount to be charged against the railroad company or companies to a maximum of ten ~~per cent~~ percent (10%) of the total cost of such construction, unless the crossing is a new one proposed by the railroad company or companies, in which case the entire cost of construction shall be apportioned to said railroad company or companies.

Upon application to the Idaho transportation department, and with the approval of the Idaho transportation board, a maximum of twenty-five thousand dollars ($25,000) annually may be provided from the railroad grade crossing protection fund to support public education and safety programs which promote awareness of public safety at railroad grade crossings of public streets, roads or highways over the tracks of any railroad company or companies.

Approved March 11, 2002.

CHAPTER 77
(H.B. No. 525)

AN ACT

RELATING TO DESIGNATION OF THE STATE VEGETABLE; AMENDING THE HEADING FOR CHAPTER 45, TITLE 67, IDAHO CODE; AMENDING CHAPTER 45, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4511, IDAHO CODE, TO DESIGNATE THE POTATO AS THE STATE VEGETABLE.

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

SECTION 1. That the Heading for Chapter 45, Title 67, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 45
STATE BIRD, STATE FLOWER, STATE GEM, STATE HORSE, STATE SONG, STATE TREE, STATE FOSSIL, STATE INSECT, STATE FRUIT, STATE VEGETABLE AND STATE FISH

SECTION 2. That Chapter 45, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4511, Idaho Code, and to read as follows:

67-4511. STATE VEGETABLE DESIGNATED. The potato is hereby designated and declared to be the state vegetable of the state of Idaho.

Approved March 11, 2002.

CHAPTER 78
(H.B. No. 528)

AN ACT
RELATING TO PERCENTAGE OF OWNERSHIP INTEREST IN A CONDOMINIUM PROPERTY; AMENDING SECTION 55-1505, IDAHO CODE, TO PROVIDE FOR A REALLOCATION OF PERCENTAGE OF OWNERSHIP INTEREST IN A CONDOMINIUM PROPERTY WHEN A SUBSTANTIAL CHANGE HAS OCCURRED AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 55-1505, Idaho Code, be, and the same is hereby amended to read as follows:

55-1505. CONTENTS OF DECLARATION. (1) The declaration shall contain the following:

(a) A legal description of the surface of the ground within the project.

(b) A legal description of each unit in the project, which description may consist of the identifying number, symbol or name of such unit as shown on the plat.

(c) The percentage of ownership interest in the common area which is to be allocated to each unit for purposes of tax assessment under section 55-1514, Idaho Code, and for purposes of liability as provided by section 55-1515, Idaho Code. Such percentage shall be fixed by taking as a basis the value of each unit in relation to the value of the property as a whole. For said purposes, the percentage so fixed shall be conclusive, subject only to clear and convincing proof of bad faith at the time of and in the making of such allocation or the last prior amendment thereof. If a substantial change is made to the value or size of one (1) or more units as compared with other units, upon petition by a unit owner for reevaluation and allocation of percentage of ownership interest, the allocation shall be amended. Reallocation shall not occur more frequently than every

three (3) years. If the board of managers fails to act, reallocation may be accomplished by court action. If court action is necessary the prevailing party may be awarded attorney's fees and costs for unreasonable pursuit or refusal.

(2) The declaration may but need not also contain any of the following:

(a) A description of the buildings in the project, stating the number of stories and basements, the number of units and the principal materials of which they are or are to be constructed.

(b) A statement of the location of each unit, its approximate area, number of rooms, and immediate common area to which it has access, and any other data for its proper identification.

(c) A description of the common areas and facilities.

(d) A description of any limited common areas and facilities, if any, stating to which units their use is reserved or the terms of applicable restrictions or limitations.

(e) The value of the property and of each unit.

(f) A statement of the purposes for which the building and each of the units are intended and restricted as to use.

(g) Provisions as to the percentage of votes by the condominium owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage, taking, or destruction of all or part of the property.

(h) Any or all of the provisions hereinafter referred to in section 55-1507, Idaho Code, as proper provisions of ~~by-laws~~ bylaws.

(i) Provisions for the management of the project by any management body or bodies; for the voting majorities, quorums, notices, meeting dates, and other rules governing such body or bodies; and for recordation, from time to time, as provided for in the declaration, of certificates of identity of the persons then composing such management body or bodies, which certificates shall be conclusive evidence of the facts recited therein in favor of any person relying thereon in good faith.

(j) As to any management body:

(1) For the powers thereof, including power to enforce the provisions of the declaration;

(2) For maintenance by it of fire, casualty, liability, ~~workmen's~~ worker's compensation and other insurance and for bonding of the members of any management body;

(3) For provision by it of and payment by it for maintenance, utility, gardening and other services; for employment of personnel necessary for operation of the project, and legal and accounting services;

(4) For purchase by it of materials, supplies and the like and for maintenance and repair of the project;

(5) For payment by it of taxes and special assessments which would be a lien upon the entire project or common areas, and for discharge by it of any lien or encumbrance levies against the entire project or common areas;

(6) For payment by it for reconstruction of any portion or portions of the project damaged, taken or destroyed;

(7) For delegation by it of its powers;

(8) For entry by it or its agents into any unit when necessary in connection with any maintenance or construction for which

the management body is responsible;

(9) For an irrevocable power of attorney to the management body to sell and convey the entire project for the benefit of all of the owners thereof when partition of the project may be had under section 55-1511, Idaho Code, which power shall: (i) be binding upon all of the owners, whether they expressly assume the obligations of the declaration or not; (ii) if so provided in the declaration, be exercisable by less than all (but not less than fifty ~~per cent~~ percent (50%)) of the voting power of the owners in the project; (iii) be exercisable only after recordation of a certificate by those who have the right to exercise such power of attorney that such power of attorney is properly exercisable under the declaration, which certificate shall be conclusive evidence of the facts recited therein in favor of any person relying thereon in good faith.

(k) Provisions for amendments of such declaration or the ~~by-laws~~ bylaws, if any, which amendments, if made upon the vote or consent of more than fifty ~~per cent~~ percent (50%) of the voting power of the owners in the project, shall be binding upon every owner and every condominium whether the burdens thereon are increased or decreased thereby, and whether or not the owner of each and every condominium consents thereto.

(l) Provisions for independent audit of the accounts of any management body.

(m) (1) Provisions for assessments to meet authorized expenditures of any management body, and for a method for notice and levy thereof, each condominium to be assessed separately for its share of such expenses in proportion (unless otherwise provided) to its owner's fractional interest in the common areas;

(2) For the subordination of the liens securing such assessments to other liens either generally or specifically described.

(n) Provisions for the conditions upon which partition of the project may be had pursuant to this act. Such right to partition may be conditioned upon failure of the condominium owners to elect to rebuild within a certain period, specified inadequacy of insurance proceeds, specified damage to the building, a decision of an arbitrator, or upon any other condition.

(o) Provisions for restrictions upon the severability of the component interests in the property which comprise a condominium. Such restrictions shall not be deemed conditions repugnant to the interest created nor unlawful restraints on alienation.

(p) Such document, agreement or writing pertinent to the project or its financing as may be attached to, incorporated in or made an exhibit to the declaration and/or any ~~by-laws~~ bylaws.

(q) Such other provisions not inconsistent with this act as the owner or owners may deem desirable in order to promote, facilitate or preserve the property or the project or the use, development or administration thereof.

(3) Subpart (2) of this section shall not be construed as a limitation upon permissible contents and provisions of a declaration.

Approved March 11, 2002.

CHAPTER 79
(H.B. No. 549)

AN ACT

RELATING TO TAX INFORMATION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077C, IDAHO CODE, TO PROVIDE FOR AGREEMENT FOR EXCHANGE OF INFORMATION BETWEEN THE TAX COMMISSION AND THE DEPARTMENT OF FISH AND GAME AND SPECIFYING THE INFORMATION WHICH MAY BE PROVIDED BY THE TAX COMMISSION.

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 63-3077C, Idaho Code, and to read as follows:

63-3077C. AGREEMENT FOR EXCHANGE OF INFORMATION WITH DEPARTMENT OF FISH AND GAME. The state tax commission and the department of fish and game may enter into a written agreement for exchange of information relating to an individual's place of residence or domicile. Such information shall be confidential to the recipient and may be used by the department of fish and game only for purposes of determining whether a person who has purchased a resident fish and game license and to whom the information relates is entitled to purchase a resident fish and game license, or by the state tax commission for determining if the individual is complying with laws relating to taxation. No such information shall be public information unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the state tax commission shall be limited to the following:

(1) Identification of an individual.
(2) An individual's home address.
(3) An individual's residency status.

Approved March 11, 2002.

CHAPTER 80
(H.B. No. 393)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1407, IDAHO CODE, TO INCREASE THE MAXIMUM FEES THAT MAY BE IMPOSED FOR LICENSES FOR PRACTICAL NURSING; AMENDING SECTION 54-1408, IDAHO CODE, TO INCREASE THE MAXIMUM FEES THAT MAY BE IMPOSED FOR LICENSES FOR PROFESSIONAL NURSING; AMENDING SECTION 54-1409, IDAHO CODE, TO INCREASE THE MAXIMUM FEES THAT MAY BE IMPOSED FOR LICENSES FOR ADVANCED PRACTICE PROFESSIONAL NURSING; AMENDING SECTION 54-1410, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 14, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1410, IDAHO CODE, TO PROVIDE FOR NURSE EMERITUS LICENSES; AMENDING SECTION 54-1411, IDAHO CODE, TO INCREASE THE MAXIMUM FEES FOR LICENSE RENEWAL, TO PROVIDE FOR LAPSED LICENSES, TO PROVIDE FOR THE REIN-

STATEMENT OF LICENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1413, IDAHO CODE, TO REVISE THE PROVISIONS AND GROUNDS FOR DISCIPLINARY ACTION, TO PROVIDE FOR SEPARATE OFFENSES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-1414, IDAHO CODE, TO PROHIBIT ABETTING VIOLATIONS OF THE CHAPTER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1407, Idaho Code, be, and the same is hereby amended to read as follows:

54-1407. LICENSE FOR PRACTICAL NURSING. (1) Qualifications. To qualify for a license to practice practical nursing a person must:

(a) Have successfully completed the basic curriculum of an approved eleven (11) month practical nursing education program or its equivalent; and

(b) Pass an examination adopted and used by the board to measure knowledge and judgment essential for safe practice of practical nursing or have a practical nursing license in good standing, without restriction or limitation, issued upon successful similar examination, approved by the board, conducted in another state, territory or foreign country; and

(c) Be of sufficiently sound physical and mental health as will not impair or interfere with the ability to practice nursing.

(2) Fees. A qualified applicant shall be entitled to a license to practice practical nursing upon payment of a license fee to the board in an amount designated by the board not ~~less than forty dollars ($40.00) nor more than eighty five~~ to exceed one hundred fifty dollars (~~$85.0~~150).

SECTION 2. That Section 54-1408, Idaho Code, be, and the same is hereby amended to read as follows:

54-1408. LICENSE FOR PROFESSIONAL NURSING. (1) Qualifications. To qualify for a license to practice professional nursing, a person must:

(a) Have successfully completed the basic curriculum of an approved professional nursing education program; and

(b) Pass an examination adopted and used by the board to measure knowledge and judgment essential for safe practice of professional nursing or have a professional or registered nurse license in good standing, without restriction or limitation, issued upon successful similar examination, approved by the board, conducted in another state, territory or foreign country; and

(c) Be of sufficiently sound physical and mental health as will not impair or interfere with the ability to practice nursing.

(2) Fees. A qualified applicant shall be entitled to a license to practice professional nursing upon payment of a license fee to the board in an amount designated by the board not ~~less than forty five dollars ($45.00) nor more than ninety~~ to exceed two hundred dollars ($~~90.~~200).

SECTION 3. That Section 54-1409, Idaho Code, be, and the same is hereby amended to read as follows:

54-1409. LICENSE FOR ADVANCED PRACTICE PROFESSIONAL NURSING. (1) Qualifications. To qualify for a license to practice advanced practice professional nursing, a person must:

(a) Be currently licensed as a professional nurse in Idaho; and

(b) Have successfully completed an approved advanced practice professional nursing education program that meets the board requirements for the category of advanced nursing practice for which the applicant is seeking licensure; and

(c) Have passed a qualifying examination recognized by the board and have current initial certification or current recertification from a national group recognized by the board; and

(d) Be of sufficiently sound physical and mental health as will not impair or interfere with the ability to practice nursing.

(2) Fees. A qualified applicant shall be entitled to a license to practice advanced practice professional nursing upon payment of a license fee to the board in an amount designated by the board not ~~less than forty-five dollars ($45.00) nor more than ninety~~ to exceed two hundred fifty dollars ($~~90.00~~250).

SECTION 4. That Section 54-1410, Idaho Code, be, and the same is hereby amended to read as follows:

54-1410A. TEMPORARY LICENSE. (1) The board may issue temporary licenses to:

(a) Graduates of approved nursing education programs seeking to qualify for licensure by this ~~act~~ chapter; or

(b) Persons who have not actively engaged in the practice of nursing in any state for more than three (3) years immediately prior to application for licensure.

(2) Temporary licenses shall be issued upon such terms and conditions as the board may determine necessary to insure safe and qualified performance of nursing functions. The board shall define the nature, the scope and period of practice permissible under the temporary license.

SECTION 5. That Chapter 14, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1410, Idaho Code, and to read as follows:

54-1410. NURSE EMERITUS LICENSE. (1) Any licensee in good standing, who desires to retire for any length of time from the practice of nursing in this state, shall submit a request in writing, surrender the current license, and pay the required fee; thereafter the current license shall be placed on inactive status and an emeritus status license issued.

(2) An emeritus status license shall be renewed biennially following submission of a renewal application and fee.

(3) Fees are nonrefundable and cannot be prorated.

(4) An emeritus status license does not entitle the holder to practice nursing in the state of Idaho, except that:

(a) A registered nurse with an emeritus status license may use the title "registered nurse," or the abbreviation "RN"; and

(b) A practical nurse with an emeritus status license may use the title "licensed practical nurse," or the abbreviation "LPN"; and

(c) An advanced practice professional nurse with an emeritus status license may use an appropriate title or designation as set forth in section 54-1402(1), Idaho Code.

(5) The board may reinstate a license with emeritus status to a license with active status upon payment of the required reinstatement fee, submission of a satisfactory reinstatement application and proof of current competency to practice.

(6) If the emeritus status license is allowed to lapse, the licensee shall not hold himself out by the designation "RN" or "LPN," or by any other title or designation.

(7) When disciplinary proceedings have been initiated against a licensee with emeritus status, the license shall not be reinstated until the proceedings have been completed.

SECTION 6. That Section 54-1411, Idaho Code, be, and the same is hereby amended to read as follows:

54-1411. RENEWAL AND REINSTATEMENT OF LICENSE. (1) Renewal. Each license issued pursuant to this ~~act~~ chapter shall be valid from the date of its issue until the first renewal date thereafter.

(a) No license shall be valid unless renewed each and every two (2) years on the renewal dates fixed by the board.

(b) The board may impose a renewal fee in an amount not ~~less--than twenty-five--dollars-($25.00)-nor-more-than-fifty~~ to exceed one hundred dollars ($~~50.~~100).

(c) A license that is not timely renewed is a lapsed license.

(2) Reinstatement. A person whose license has lapsed, or who holds an emeritus status license in good standing, or whose license has been revoked, suspended, limited, conditioned or otherwise sanctioned by the board, may apply for reinstatement of the license to active and unrestricted status. A licensee's ability to apply for reinstatement may be subject to time constraints imposed by board rule or by the terms of a disciplinary order. An applicant for reinstatement must:

(a) Pay a reinstatement fee in an amount not to exceed one hundred dollars ($100).

(b) Submit a completed reinstatement application and provide proof, satisfactory to the board, of the applicant's competency to practice.

(c) Document compliance with the terms and conditions set forth in any order of the board as a condition of reinstatement.

SECTION 7. That Section 54-1413, Idaho Code, be, and the same is hereby amended to read as follows:

54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board shall have the power to ~~deny-any-application-for-or-renewal-of~~ refuse to issue, renew or reinstate a license~~,-to~~ issued pursuant to this chapter, and may revoke, suspend, ~~or-amend-any~~ place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee ~~issued-pursuant-to-this-act-and-to-limit-or-restrict-the-practice-of-any~~ as it deems proper, including assessment of the costs of investigation and discipline against the licensee, upon a determination by the board that the ~~person~~ licensee engaged in conduct constituting any one (1) of the following grounds:

(a) Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing; or

(b) Practiced nursing under a false or assumed name; or

(c) Is convicted of a felony or of any offense involving moral turpitude; or

(d) Is or has been grossly negligent or reckless in performing nursing functions; or

(e) Habitually uses alcoholic beverages or narcotic, hypnotic or hallucinogenic drugs; or

(f) Is physically or mentally unfit to practice nursing; or

(g) Violates the provisions of this ~~act~~ chapter or rules and standards of conduct and practice as may be adopted by the board; or

(h) Otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public, which includes, but is not limited to, failing or refusing to report criminal conduct or other conduct by a licensee that endangers patients; or

(i) Has had a license to practice nursing suspended or revoked in any jurisdiction. A certified copy of the order of suspension or revocation shall be prima facie evidence of such suspension or revocation.

(2) Separate offense. Each day an individual violates any of the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board shall constitute a separate offense.

(3) ~~(a)~~ Proceedings.

(a) The executive director shall conduct such investigations and initiate such proceedings as necessary to insure compliance with this section. The board may accept the voluntary surrender of a license from any nurse under investigation and accordingly enter an order revoking or suspending such license and/or imposing such conditions, limitations, or restrictions on the practice of any such nurse as may be appropriate in the discretion of the board. Otherwise, every person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice. All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code.

(b) Hearings shall be conducted by the board or by persons appointed by the board to conduct hearings and receive evidence. The board and any person duly appointed by the board to conduct hearings shall have all powers as are necessary and incident to orderly and effective receipt of evidence including, but not limited to, the power to administer oaths, and to compel by subpoena attendance of witnesses and production of books, records and things at the hearing or at a deposition taken by a party in accordance with the Idaho rules of civil procedure. Any party shall be entitled to the use of subpoena upon application therefor.

(c) In the event any person fails to comply with a subpoena personally served upon him or refuses to testify to any matter regarding which he may be lawfully interrogated, the board shall petition the district court in the county where such failure or refusal occurred or where such person resides, to enforce such subpoena or compel such testimony. Proceedings before the district court shall be for contempt in the same nature as contempt of court for failure or refusal to comply with an order of the court and the court shall

have the same powers to secure compliance with subpoena and testimony or to impose penalties as in contempt of court proceedings.

(~~3~~4) Probation/Subsequent review. Any order of the board entered under this section may be withheld or suspended for a probationary period to be fixed by the board upon such terms and conditions as may be appropriate in order to regulate, monitor and/or supervise the practice of nursing by the licensee subject to such order for the prescribed probationary period. Any order of the board entered under this section may be withdrawn, reversed, modified or amended upon a showing by the person subject to the order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and competent to practice nursing and that he is not likely to violate this ~~act~~ chapter or rules adopted hereunder in the future. The board may, as a condition to withdrawal, reversal, modification or amendment of the order, require the person to pay all or part of the costs incurred by the board in proceedings upon which the order was entered.

(~~4~~5) Reporting investigative information. Nothing in section 9-340C(8) and (9), Idaho Code, shall be construed as limiting the authority of the board to report current significant investigative information to the coordinated licensure information system for transmission to states that are parties to any multistate agreements or compacts regarding nurse licensure.

SECTION 8. That Section 54-1414, Idaho Code, be, and the same is hereby amended to read as follows:

54-1414. UNLAWFUL CONDUCT -- PENALTIES. (1) It shall be unlawful for any person, corporation, association or other legal entity to:

(a) Practice nursing in this state without a current license unless exempted from licensure by this ~~act~~ chapter; or

(b) Falsify or forge any application for licensure, license, renewal of license or certification required by this ~~act~~ chapter; or

(c) Falsely represent by use of any designation, title, or statement, that he is licensed pursuant to this ~~act~~ chapter; or

(d) Falsely represent, by use of any designation, title or statement, that a school or course is approved pursuant to this ~~act~~ chapter; or

(e) Employ unlicensed persons to practice nursing in this state unless the person is exempt from licensure by this ~~act~~ chapter; or

(f) Aid, abet, assist or encourage any person ~~to violate~~ in violating this ~~act~~ chapter.

(2) Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punishable by fine not to exceed three hundred dollars ($300) or by imprisonment not to exceed six (6) months or both such fine and imprisonment.

Approved March 19, 2002.

CHAPTER 81
(H.B. No. 394)

AN ACT

RELATING TO ACUPUNCTURE; AMENDING SECTION 54-4705, IDAHO CODE, TO PROVIDE THAT THE BOARD MAY ADOPT RULES REQUIRING CONTINUING EDUCATION AS A CONDITION OF CONTINUED LICENSURE; AMENDING SECTION 54-4706, IDAHO CODE, TO REVISE REQUIREMENTS FOR LICENSURE; AND AMENDING SECTION 54-4708, IDAHO CODE, TO REQUIRE THE DIRECT AND IMMEDIATE SUPERVISION OF ACUPUNCTURE TECHNICIANS.

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

SECTION 1. That Section 54-4705, Idaho Code, be, and the same is hereby amended to read as follows:

54-4705. BOARD OF ACUPUNCTURE — POWERS AND DUTIES -- FUNDS. (1) The board shall have the authority to:

(a) Determine the qualifications of persons applying for licensure, certification and acupuncture technician certificates pursuant to this chapter and define, by rule, the appropriate scope of acupuncture services that may be rendered to the public in this state;

(b) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners;

(c) Establish, pursuant to the administrative procedure act, such rules as are necessary for the administration of this chapter, including standards for professional conduct that reflect current practice standards and promote inclusion of innovations and advances in acupuncture;

(d) Conduct investigations and examinations and hold hearings;

(e) Collect fees and other funds as prescribed by this chapter;

(f) Contract, sue and be sued, and pursue other matters lawful in this state;

(g) Provide such other services and perform such other functions as are necessary and desirable to fulfill its purposes;

(h) Adopt rules requiring continuing education as a condition of continued licensure.

(2) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund.

SECTION 2. That Section 54-4706, Idaho Code, be, and the same is hereby amended to read as follows:

54-4706. REQUIREMENTS FOR LICENSURE. A person applying for a license shall, in addition to paying all required fees, submit a written application provided by the board showing to the satisfaction of the board that such person meets the following requirements:

(1) Has ~~successfully--completed-the-requirements-to-be-a-candidate for~~ received certification from NCCAOM, ~~certification,~~ or ~~such~~ has suc-

cessfully completed other similar requirements as have been approved by the board; and

(2) Has successfully completed an acupuncture internship or pre-professional practice program, coordinated program, or such other equivalent experience as may be approved by the board; and

(3) Has passed an examination or other demonstration of proficiency as may be uniformly required by the board for other similarly qualified applicants for licensure.

SECTION 3. That Section 54-4708, Idaho Code, be, and the same is hereby amended to read as follows:

54-4708. ACUPUNCTURE TECHNICIAN CERTIFICATE. (1) A person may apply for an acupuncture technician certificate by, in addition to paying all required fees, submitting a written application provided by the board and showing to the satisfaction of the board that such person meets the following requirements:

(a) Completion of the requirements for clinical technician certificate by the international academy of medical acupuncture, inc., or such other comparable requirements as are approved by the board; and

(b) Passed a clean needle technique course that has been approved by the board; and

(c) Passed an examination or other demonstration of proficiency as may be uniformly required for other similarly qualified applicants for an acupuncture technician certificate.

(2) In approving an acupuncture technician certificate the board shall consider the scope and extent of the applicant's academic and other training and experience in health care and may, for each individual acupuncture technician:

(a) Require the direct and immediate supervision by a person licensed or certified pursuant to this chapter or by a health care practitioner licensed or certified in Idaho or by a health care practitioner otherwise exempt from licensure under this chapter;

(b) Restrict the practice of acupuncture for the acupuncture technician to specified therapies or treatments.

Approved March 19, 2002.

CHAPTER 82
(H.B. No. 395)

AN ACT

RELATING TO THE BOARD OF DENTISTRY; AMENDING SECTION 54-907, IDAHO CODE, TO STRIKE OBSOLETE LANGUAGE AND TO FURTHER GOVERN THE TERM OF OFFICE.

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

SECTION 1. That Section 54-907, Idaho Code, be, and the same is hereby amended to read as follows:

54-907. STATE BOARD OF DENTISTRY ESTABLISHED. There is hereby

established in the department of self-governing agencies a state board of dentistry to be composed of eight (8) members, five (5) of whom shall be dentists, two (2) of whom shall be dental hygienists, and one (1) of whom shall be a consumer person familiar with health care occupations. ~~The--dentist-members-of-the-board-holding-such-position-on-July-1,-1981, shall-remain-in-office-as-members-of-the-board-of-dentistry-until--their respective--terms-as-members-of-the-board-shall-have-expired,-and-thereafter-dentist-members-of-the-board-of-dentistry-shall--be--appointed--by the--governor--in--the--manner-set-forth-herein.~~ Upon appointment by the governor, the term of office of a ~~dentist~~ member of the board shall commence on the first Monday of February following his appointment and shall continue for five (5) years, or until his successor has been named, whichever is later. A vacancy in membership of the board shall occur whenever the regular term of a member expires or when a member dies, resigns or is removed from office by the governor. Appointments to fill a vacancy occurring for some reason other than expiration of term of office shall be made for the unexpired term which is being filled. The governor may remove any member of the board from membership on the board who is found by the governor to be mentally or physically incapable of acting, or to be neglecting or refusing to act, or who ceases to have the qualifications of a member or who has failed to attend, without reasonable cause, two (2) successive meetings of the board.

~~The--dental--hygienists--and--consumer--member-of-the-board-shall-be appointed-by-the-governor-in-the--manner--provided--in--section--54-908, Idaho--Code.-Except-as-provided-herein,-the-term-of-office-of-the-dental hygienists-and-consumer-member-holding-such-position-on--July--1,--1991, and--regularly--appointed-thereafter,-shall-be-five-(5)-years-commencing on-the-first-Monday-of-February-following-appointment.~~

Approved March 19, 2002.

CHAPTER 83
(H.B. No. 403)

AN ACT

RELATING TO THE IDAHO CERTIFIED SHORTHAND REPORTERS ACT; AMENDING SECTION 54-3109, IDAHO CODE, TO REVISE THE QUALIFICATIONS FOR ISSUANCE OF A TEMPORARY CERTIFIED SHORTHAND REPORTER CERTIFICATE.

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

SECTION 1. That Section 54-3109, Idaho Code, be, and the same is hereby amended to read as follows:

54-3109. QUALIFICATIONS FOR TEMPORARY CERTIFICATION — RENEWAL. ~~(a) Any~~ (1) A temporary certified shorthand reporter certificate may be issued to an applicant who ~~is-a-citizen-of-the-United--States~~ pays the fees required by the provisions of this chapter and who:

(a) Is of good moral character~~,-having~~; and

(b) Has graduated from an accredited high school or ~~having-had~~ has an equivalent education~~,-shall-be-entitled-to-a-temporary--certified shorthand-reporter-certificate-upon-proof-that-he-has-been~~; and

(c) Is currently licensed in good standing in another state as a certified shorthand reporter, or its equivalent, or has otherwise demonstrated his proficiency by a certificate from an agency of another state, ~~. The~~ or has graduated from a national shorthand reporter association (NSRA) approved school; and

(d) Meets the experience qualifications that the board ~~shall~~ may establish by rule. ~~the criteria for determining the necessary experience qualifications under this paragraph.~~

(2) The application shall be upon such form as prescribed by the board and the board may in its discretion make additional investigation and inquiry, or require further information from the applicant, as it shall deem necessary in order to make a determination of the qualifications of the applicant. ~~Upon fulfillment of these qualifications the board shall issue a temporary certified shorthand reporter certificate upon payment of the fees required by this act.~~

(~~b~~3) All temporary certified shorthand reporter certificates shall be issued for a period of one (1) year and may be renewable for a single additional period of one (1) year upon the payment of the fees prescribed in section 54-3110, Idaho Code, and upon a showing of just cause.

Approved March 19, 2002.

CHAPTER 84
(H.B. No. 404)

AN ACT

RELATING TO THE PEACE OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING SECTION 19-5109, IDAHO CODE, TO PROVIDE THAT THE COUNCIL MAY IMPLEMENT MINIMUM BASIC TRAINING AND CERTIFICATION STANDARDS FOR JUVENILE PROBATION OFFICERS.

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

SECTION 1. 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. One (1) component of minimum basic training shall be a course in the investigation of and collection of evidence in cases involving an allegation of sexual assault or battery.

(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 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 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 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 or deputy serving civil process, the deputy director 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 Idaho state police, 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 basic training and certification standards for juvenile detention officers and for juvenile probation officers.

Approved March 19, 2002.

CHAPTER 85
(H.B. No. 406)

AN ACT

RELATING TO THE SOCIAL WORK LICENSING ACT; AMENDING SECTION 54-3202, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 54-3203, IDAHO CODE, TO REVISE THE COMPOSITION OF THE BOARD AND TO REVISE THE TERMS, QUALIFICATIONS AND CHAIRMANSHIP OF THE BOARD; AMENDING SECTION 54-3204, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO REVISE THE POWERS AND DUTIES OF THE BOARD; AMENDING SECTION 54-3207, IDAHO CODE, TO REMOVE LANGUAGE RESTRICTING THE PRACTICE OF PRIVATE OR INDEPENDENT PRACTICE SOCIAL WORK TO CERTAIN PERSONS AND TO DEFINE TERMS; AMENDING SECTION 54-3208, IDAHO CODE, TO REMOVE LANGUAGE PROVIDING FOR EXEMPTIONS FROM EXAMINATION REQUIREMENTS AND TO SET FORTH

QUALIFICATIONS FOR APPLICANTS FOR ENDORSEMENT; AMENDING SECTION 54-3209, IDAHO CODE, TO PROVIDE THAT LICENSE FEES SHALL BE PAID TO THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING SECTION 54-3210, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3211, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT MAY REFUSE TO ISSUE LICENSES FOR UNPROFESSIONAL CONDUCT, TO FURTHER DEFINE "UNPROFESSIONAL CONDUCT" AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3212, IDAHO CODE, TO PROVIDE THAT THE BOARD SHALL HAVE THE POWER TO REFUSE TO ISSUE OR RENEW CERTAIN LICENSES, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3213, IDAHO CODE, TO EXEMPT CERTAIN COMMUNICATIONS FROM NONDISCLOSURE REQUIREMENTS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3214, IDAHO CODE, TO REVISE REQUIREMENTS FOR LICENSURE AND TO FURTHER RESTRICT THE USE OF TITLES AND DESIGNATIONS; AND AMENDING SECTION 54-3215, IDAHO CODE, TO REVISE EXEMPTIONS.

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

SECTION 1. That Section 54-3202, Idaho Code, be, and the same is hereby amended to read as follows:

54-3202. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning.

(1) "Board" means the state board of social work examiners hereinafter provided in this chapter.

(2) "Social work" is defined as the professional activity of helping individuals, groups, ~~or~~ families and communities enhance or restore their capacity for social functioning and creating societal conditions favorable to this goal. Social work practice consists of the professional application of social work values, principles, and techniques. The practice of social work requires knowledge of human development and behavior of social, economic and cultural institutions and of the interaction of all these factors.

(3) "Clinical social worker" means an individual who has a master's degree or doctorate in social work and two (2) years of postgraduate supervised clinical experience approved by the board and who is licensed under this chapter and may be designated as a licensed clinical social worker (LCSW).

(4) "~~Certified~~Masters social worker" means an individual who has a doctorate or master's degree in social work from a college or university approved by ~~the board~~ and is licensed under this chapter and may be designated as a licensed masters social worker (LMSW).

(~~4~~5) "Social worker" means an individual who has a baccalaureate degree in social work or related fields from a college or university approved by the board and is licensed under this chapter and may be designated as a licensed social worker (LSW).

SECTION 2. That Section 54-3203, Idaho Code, be, and the same is hereby amended to read as follows:

54-3203. STATE BOARD OF SOCIAL WORK EXAMINERS — CREATED — APPOINTMENTS — TERMS. (1) A state board of social work examiners is

hereby created and made a part of the department of self-governing agencies. It shall be the duty of the board to administer the provisions of this ~~act~~ chapter pursuant to the provisions of chapters 26 and 52, title 67, Idaho Code. The board shall consist of five (5) members, three (3) of which shall be ~~certified~~ masters social workers, and two (2) of which shall be social workers. Board members shall be appointed by the governor after reviewing and considering a list of three (3) nominees for each position to be filled, submitted to him by the ~~executive--board~~ joint committee of the Idaho chapter of the National Association of Social Workers and the Idaho Society for Clinical Social Work. ~~The board shall be appointed within thirty (30) days after the effective--date--of this--act--for--terms--beginning--on-the-effective-date-of-this-act;-and shall-serve-the-following-terms-commencing--upon--appointment:--one--(1) shall-be-appointed-for-a-term-of-one-(1)-year;-one-(1)-for-a-term-of-two (2)--years;-one-(1)-for-a-term-of-three-(3)-years;-one-(1)-for-a-term-of four-(4)-years;-and-one-(1)-for-a-term-of--five--(5)--years.--Thereafter a~~All terms shall be for a period of five (5) years. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired term after reviewing and considering a list of three (3) nominees supplied by the ~~executive-board~~ joint committee of the Idaho chapter of the National Association of Social Workers and the Idaho Society for Clinical Social Work.

(2) ~~All--members--of--the--board--shall--be--citizens-of-the-United States;-residents-of-the-state-of--Idaho;--and--shall--be--eligible--for licensing--as--provided-by-this-act~~ Each social work member of the board shall:

(a) Be a resident of this state;

(b) Be currently licensed and in good standing to engage in the practice of social work in this state;

(c) At the time of appointment, have been actively engaged in the practice of social work for at least one (1) out of the last five (5) years; and

(d) Have at least three (3) years of experience in the practice of social work.

(3) ~~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-a-majority-vote-of-the-members-of-the-board,-a--chairman who--shall-preside-at-meetings-of-the-board~~ Each fiscal year, the chairmanship will rotate to the person who is in the fourth year of their five (5) year term. The chairman shall preside at all meetings of the board. If this person is unable to serve, an election by a majority vote of the board shall determine the person who will serve as chair for that fiscal year. 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.

(4) Each member of the board shall be compensated as provided by section 59-509(b), Idaho Code.

SECTION 3. That Section 54-3204, Idaho Code, be, and the same is hereby amended to read as follows:

54-3204. BOARD -- POWERS AND DUTIES. The board shall have the following powers and duties:

(1) Adopt and amend rules to administer and carry out the provisions of this ~~act~~ chapter and for the conduct of its affairs, provided that such rules shall be promulgated in accordance with the provisions of chapters 26 and 52, title 67, Idaho Code;

(2) ~~Annually--publish~~ Maintain a list of the names and addresses of all persons licensed under this act;

(3) At its discretion, contract with the bureau of occupational licenses for ~~such--clerical--and-administrative-help-as~~ those services deemed necessary for the proper administration of this ~~act~~ chapter;

(4) To prescribe by rule the minimum amount and kind of continuing education to be required of each social worker seeking to renew a license in the state of Idaho;

(5) To take such action as may be necessary to enforce the provisions of this chapter and to regulate the practice of social work.

SECTION 4. That Section 54-3207, Idaho Code, be, and the same is hereby amended to read as follows:

54-3207. PRIVATE ~~AND~~ OR INDEPENDENT PRACTICE OF SOCIAL WORK. ~~On-and after-July-1,-1976,-no-person-shall-engage-in-the-private--and--independent--practice--of-social-work-unless-he-is-licensed-under-this-act-as-a certified-social-worker-and-has-had-two-(2)-years-of-postgraduate--experience--under--appropriate--supervision--as--determined--by-the-board-in review-of-the-applicant's-qualification~~ (1) The private practice of social work is defined as that independent practice in which an individual is responsible for the contractual conditions of payment with clients, agencies and institutions.

(2) The independent practice of social work is defined as that practice in which an individual who, wholly or in part, practices social work autonomously with total responsibility for such independent practice.

SECTION 5. That Section 54-3208, Idaho Code, be, and the same is hereby amended to read as follows:

54-3208. ~~EXEMPTIONS--FROM-EXAMINATION-REQUIREMENTS~~ ENDORSEMENT. ~~(1) Any-person-who-is,-or-is-eligible-to-be,-a-member-of-the-academy-of-certified-social-workers-of-the--National--Association--of--Social--Workers shall--be--considered--by--the--board--as-meeting-the-requirements-for-a licensed-certified-social-worker.--This--provision--shall--be--effective until-one-(1)-year-after-the-effective-date-of-this-act.-Thereafter,-all applicants--for--a--license-must-meet-the-licensing-requirements-of-this act.~~

~~(2)--An-applicant-shall-be-exempted-from--the--requirement--for--any examination--provided--for--herein--and-academic-qualifications-required herein-if-he-satisfies-the-board--that--he--is--and--has--been--actually engaged--for--at--least--two-(2)-years-in-the-practice-of-social-work-or equivalent-training-and-has-acquired-knowledge-equivalent-to-what--would be-required-to-pass-the-board's-examination.-Such-application-for-exemption--and--licensing--must-be-made-within-two-(2)-years-of-the-effective date-of-this-act,-and-during-those-two-(2)-years-any-person-may-practice social-work-under-the-supervision-of-a-licensed-social-worker.~~

~~(3)~~ An applicant ~~shall-be-exempted-totally-from-the-requirement-for any-examination-provided-herein-if:~~

~~(a)--He satisfied the board that he is licensed or registered--under the--laws--of~~ for endorsement shall hold a current unrestricted license in another state or territory ~~that imposes substantially the same requirements as provided by this act; or~~
~~(b)--He has taken and passed an--examination--similar--to--that--for which--exemption is sought~~ and shall meet those requirements as provided by board rule.

SECTION 6. That Section 54-3209, Idaho Code, be, and the same is hereby amended to read as follows:

54-3209. FEES -- LICENSING -- DURATION OF LICENSES. Each person licensed to practice social work shall pay to the ~~treasurer of the state of Idaho~~ bureau of occupational licenses a license fee, not to exceed seventy-five dollars ($75.00) as determined by the board, on July 1 of each year for the following fiscal year. Licenses shall expire on the last day of the month of June following their issuance and shall become invalid after that date. Renewal may be effected in accordance with the requirements of section 67-2614, Idaho Code.

SECTION 7. That Section 54-3210, Idaho Code, be, and the same is hereby amended to read as follows:

54-3210. CODE OF ~~ETHICS~~ PROFESSIONAL CONDUCT. The board shall prepare and adopt a code of ~~ethics~~ professional conduct and may revise and amend such code from time to time. Preparation, revision, amendment and distribution of said code of ~~ethics~~ professional conduct shall be pursuant to the provisions of chapters 26 and 52, title 67, Idaho Code.

SECTION 8. That Section 54-3211, Idaho Code, be, and the same is hereby amended to read as follows:

54-3211. REFUSAL TO ISSUE, REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE -- UNPROFESSIONAL CONDUCT. The board may refuse to issue, refuse to renew, may suspend, or may revoke any license issued under this ~~act~~ chapter, or take other disciplinary action, upon proof, after a hearing, that the person has engaged in "unprofessional conduct." The words "unprofessional conduct" as relating to persons licensed under this ~~act~~ chapter are defined to include but are not limited to:

(1) Conviction of a felony, or of any offense involving moral turpitude.

(2) Habitual drunkenness or addiction to habit-forming drugs, either of which impair the ability to perform his work without danger to himself or the public he serves.

(3) ~~Conviction of f~~Fraud or deceit in connection with services rendered as a ~~certified--social--worker or~~ social worker, masters social worker or clinical social worker or in establishing qualifications for licensure under this ~~act~~ chapter.

(4) Aiding or abetting any person not licensed under this ~~act or a person representing himself as--licensed~~ chapter in the practice of social work in the state of Idaho.

(5) Failing to be licensed or continuing to represent himself as licensed after the expiration of his license.

(6) Being found guilty of unprofessional conduct by the rules established by the board.

(7) Failing to comply with any of the provisions of this chapter.

SECTION 9. That Section 54-3212, Idaho Code, be, and the same is hereby amended to read as follows:

54-3212. REVOCATION OR SUSPENSION OF LICENSES -- HEARINGS -- TAKING TESTIMONY -- APPEAL. The board shall have the power to refuse to issue, refuse to renew, revoke or suspend any license if the same was obtained through error or fraud, or if the holder thereof is shown to be incompetent, or has ~~wilfully~~ willfully violated any of the rules ~~or regulations~~ prescribed by the board, or as prescribed by this ~~act~~ chapter, provided, before any license shall be revoked or suspended, the holder thereof shall have written notice enumerating the charges against him and a hearing by an officer, appointed by the board or the chief of the bureau of occupational licenses, shall be held after notice has been served on the licensee. Provisions of chapter 52, title 67, Idaho Code, shall apply to all cases of revocation or suspension of licenses.

The chief of the bureau of occupational licenses shall have the power to appoint, by an order in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses, and the decision of the board shall be based on examination of the testimony taken and the records produced. Any person whose license has been revoked may, after the expiration of two (2) years from the date of such revocation, but not before, apply for a new license.

SECTION 10. That Section 54-3213, Idaho Code, be, and the same is hereby amended to read as follows:

54-3213. PRIVILEGED COMMUNICATIONS. No person licensed under the provisions of this ~~act~~ chapter shall disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services in his professional capacity to those persons, except:

(1) With the written consent of that person or, in the case of death or disability, of his own personal representative, other person authorized to sue, or the beneficiary of an insurance policy on his life, health or physical condition;

(2) That a person licensed under the provisions of this ~~act~~ chapter shall not be required to treat as confidential communication that reveals the contemplation or execution of a crime or harmful act;

(3) When the person is a minor under the laws of this state, and the information acquired by the licensee indicates that the minor was the victim or subject of a crime, the licensee may testify fully in relation thereto upon any examination, trial, or other proceeding in which the commission of such a crime is the subject of the inquiry;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) Communications between any member of an evaluation committee and a respondent as prescribed by section 66-406(9), Idaho Code.

SECTION 11. That Section 54-3214, Idaho Code, be, and the same is hereby amended to read as follows:

54-3214. LICENSE REQUIRED -- REPRESENTATION TO PUBLIC. (1) No person may engage in the practice of social work unless he is licensed under this ~~act~~ chapter, or is a student under the supervision of a person who is licensed under this ~~act, or is a noncompensated volunteer providing services related to social work practice and is under the supervision of a licensed social worker~~ chapter.

(2) ~~On and after the effective date of this act, n~~No person shall be represented as a social worker by the use of titles "social worker," "~~certified~~masters social worker," "clinical social worker," "social caseworker," "social service worker," "social service director" or any other title or similar designation that includes such words, or by adding the letters "LCSW," "SW," "RLSW," "SSW" or "LMSW~~A~~" unless licensed under the provisions of this ~~act~~ chapter.

(3) Nothing within this chapter shall be construed to prevent any person from doing work within the standards and ethics of their respective professions or calling provided they do not hold themselves out to the public by title or description of service as being engaged in social work practice.

SECTION 12. That Section 54-3215, Idaho Code, be, and the same is hereby amended to read as follows:

54-3215. EXEMPTIONS. ~~Nothing within this act shall be construed to prevent any person from doing work within the standards and ethics of their respective professions or calling provided they do not hold themselves out to the public by title or description of service as being engaged in social work practice.~~ Students enrolled in a recognized program ~~of social work~~ leading to a degree in social work may practice only under the direct supervision of a ~~certified social worker or~~ social worker ~~licensed under this act~~ of the licensure status necessary to provide the appropriate level of supervision as provided by board rule. This ~~act~~ chapter shall not apply to any employee of any facility licensed under section 39-1301(b), Idaho Code, or section 39-1301(c), Idaho Code, who is designated in writing to be responsible for that facility's social services program and who receives regular consultation from a qualified social worker.

Approved March 19, 2002.

CHAPTER 86
(H.B. No. 409)

AN ACT

RELATING TO FIRE SAFETY; AMENDING SECTION 18-3321, IDAHO CODE, TO PROVIDE REFERENCES TO THE INTERNATIONAL FIRE CODE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 22-3426, 39-1109 AND 39-2605, IDAHO CODE, TO PROVIDE REFERENCES TO THE INTERNATIONAL FIRE CODE; AMENDING SECTIONS 41-253 AND 41-254, IDAHO CODE, TO PROVIDE REFERENCES TO THE LATEST EDITION OF THE INTERNATIONAL FIRE CODE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-256, IDAHO CODE, TO PROVIDE REFER-

ENCES TO THE INTERNATIONAL FIRE CODE; AMENDING SECTION 41-266, IDAHO CODE, TO PROVIDE A REFERENCE TO THE LATEST EDITION OF THE INTERNATIONAL FIRE CODE; AMENDING SECTIONS 41-4903 AND 41-4911, IDAHO CODE, TO PROVIDE REFERENCES TO THE INTERNATIONAL FIRE CODE; AMENDING SECTION 55-2014, IDAHO CODE, TO PROVIDE REFERENCES TO THE INTERNATIONAL FIRE CODE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 55-2714, IDAHO CODE, TO PROVIDE REFERENCES TO THE INTERNATIONAL FIRE CODE.

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

SECTION 1. That Section 18-3321, Idaho Code, be, and the same is hereby amended to read as follows:

18-3321. PERSONS EXEMPT. Unless the intent to injure the person or property of another has been established, the provisions in sections 18-3319, Idaho Code, shall not apply to:

(1) Any public safety officer or member of the armed forces of the United States or national guard while acting in his official capacity;

(2) Any person possessing a valid permit issued under the provisions of ~~Idaho uniform~~ the international fire code, sections 41-253 and 41-254, Idaho Code, or any employee of such permittee acting within the scope of his employment;

(3) Any person possessing a valid license as an importer, wholesaler, or display operator under the provisions of the Idaho fireworks act, sections 39-2602, 39-2606, 39-2607, 39-2608, 39-2609, 39-2610, 39-2611 and 39-2612, Idaho Code;

(4) A device which falls within the definition of a bomb or destructive device when used on property owned or otherwise in the control of the person using the device;

(5) Those licensed or permitted by the federal government to use or possess a bomb or destructive device.

(6) Those persons who possess a destructive device properly registered and taxed under the provisions of the national firearms act, as amended, as to possession of destructive devices properly registered to such persons.

SECTION 2. That Section 22-3426, Idaho Code, be, and the same is hereby amended to read as follows:

22-3426. UNIFORMITY OF STATE PESTICIDE RULE. Notwithstanding any other provision of law to the contrary, no city, county, taxing district or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, resolution or statute regarding pesticide sale, use, or application including without limitation: registration, notification of use, advertising and marketing, distribution, application methods, applicator training and certification, storage, transportation, disposal, disclosure of confidential information or product composition. Nothing contained in this section shall prohibit or limit fire prevention personnel or fire extinguishing personnel of a city, county or fire protection district from conducting inspections pursuant to or enforcing the ~~Uniform~~ International Fire Code.

SECTION 3. That Section 39-1109, Idaho Code, be, and the same is hereby amended to read as follows:

39-1109. FIRE SAFETY STANDARDS. (1) Day care centers shall comply with the following fire safety standards in the area of the day care center in which day care is provided: (a) adequate fire and smoke alarms; (b) a functional telephone; (c) adequate fire extinguishers or other suitable arrangements for extinguishing fires; and (d) adequate exits. Separate standards in these categories shall also be developed for group day care facilities.

(2) No fire standards developed pursuant to this chapter shall be more stringent than the standards contained in the ~~Uniform~~ International Fire Code, without supplementation by any other standard or code.

(3) In addition to the fire safety standards identified in subsection (1) of this section, fire safety standards may be established to govern the maximum allowable ratio of children to staff subject to the following restrictions:

(a) In no event shall the child-staff ratio require more than one (1) staff member to six (6) children for all children age eighteen (18) months or less, more than one (1) staff member to twelve (12) children for all children above age eighteen (18) months but less than five (5) years; and more than one (1) staff member to eighteen (18) children for all children whose age is five (5) years or more;

(b) No factors other than fire safety may be considered in establishing child-staff ratios;

(c) All adults on the premises shall be counted as staff for purposes of computing a child-staff ratio; and

(d) Each child shall count as one (1) child for purposes of computing a child-staff ratio.

SECTION 4. That Section 39-2605, Idaho Code, be, and the same is hereby amended to read as follows:

39-2605. PERMIT REQUIRED FOR PUBLIC DISPLAY OR OTHER EVENT USING FIREWORKS. (1) The authority having jurisdiction may, at its discretion, issue a permit for public display or other events in the following circumstances:

(a) After determining that the public display will be supervised by a qualified person and will not constitute an unreasonable hazard to persons or property. Appropriate national fire protection association or ~~uniform~~ international fire code provisions may be used as guidance for this determination.

(b) After determining that sales and use of fireworks outside the normal sales period provided in section 39-2606, Idaho Code, or proposing the use of fireworks in addition to nonaerial common fireworks will not constitute an unreasonable hazard to persons or property.

(2) An application for a permit for public display or other event shall be on a form approved by, and contain the information reasonably requested by, the authority having jurisdiction.

(3) The permit shall be nontransferable, shall list the specific date or dates upon which the display or event shall occur and the types of fireworks and uses that will be allowed.

(4) A bond or valid certificate of public liability and property-

casualty insurance providing coverage of up to one million dollars ($1,000,000) for personal injury and property damage may be required at the time of application for public display of special fireworks.

(5) The authority having jurisdiction may assess a fee for issuing a permit for public display under this section which shall not exceed one hundred twenty-five dollars ($125). There shall be no fee for the issuance of a permit for any event other than a public display event.

(6) Alteration of fireworks may be performed by a person in possession of a valid public display permit.

SECTION 5. That Section 41-253, Idaho Code, be, and the same is hereby amended to read as follows:

41-253. STATEMENT OF PURPOSE -- ADOPTION OF ~~UNIFORM~~ INTERNATIONAL FIRE CODE. (1) The purpose of ~~this act~~ sections 41-253 through 41-269, Idaho Code, is to protect human life from fire, and to prevent fires. ~~This act is~~ These sections are intended to prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises, and there is hereby adopted the "~~Uniform~~International Fire Code~~"~~," ~~1979~~ 2000 edition, ~~with the 1981 supplement,~~ with appendices thereto, published by the ~~Western Fire Chiefs Association and the International Conference of Building Officials~~ International Code Council, Inc. and such later editions as may be so published and adopted by the state fire marshal, as the minimum standards for the protection of life and property from fire and explosions in the state of Idaho.

(2) For the purposes of ~~this act~~ sections 41-253 through 41-269, Idaho Code, the "~~uniform~~International ~~F~~Fire ~~C~~Code" shall mean the publications as adopted under subsection (1) of this section.

SECTION 6. That Section 41-254, Idaho Code, be, and the same is hereby amended to read as follows:

41-254. POWERS AND DUTIES OF STATE FIRE MARSHAL -- ~~UNIFORM~~ INTERNATIONAL FIRE CODE, ENFORCEMENT AND REGULATIONS -- REPORTS. The state fire marshal shall be appointed by the director of the department of insurance, with the approval of the governor and shall serve at the pleasure of the director. The state fire marshal shall have the following powers and duties:

1. To enforce the ~~uniform~~ international fire code.

2. To prescribe regulations in addition to the ~~uniform~~ international fire code as adopted, which may be deemed necessary for the prevention of fires and protection of life and property, and such regulations are to be enforced by the state fire marshal.

3. To make interpretations and rules of the intent of the various provisions of the ~~uniform~~ international fire code as adopted.

4. To adopt, rescind, modify or amend rules and regulations for the exercise of functional powers and duties.

5. To transmit to the governor and legislature, on or before the 15th day of July of every year, a full report of proceedings under ~~this act~~ sections 41-253 through 41-269, Idaho Code, and such statistics as

he may wish to include therein unless some other time for reporting is fixed by law, and such report shall be available to the public.

6. To make recommendations for amendments to the ~~uniform~~ international fire code to be submitted to the promulgating authority for its consideration.

7. To have exclusive jurisdiction over single service integrated fire sprinkler systems. A "single service integrated fire sprinkler system" is defined as an integrated system of underground and overhead piping, valves and sprinklers used exclusively for fire protection purposes and designed in accordance with fire protection engineering standards, including the ~~uniform~~ international fire code, beginning with the first connection to a public water system regardless of the existence or location of a back flow prevention device.

8. No person shall be eligible to serve as state fire marshal unless he:

(a) Has had at least twelve (12) years' full-time paid experience with a state, city or county fire protection agency whose primary function is fire prevention and structural fire safety, including at least five (5) years' experience in an administrative capacity as the chief agency officer; or

(b) Holds a four (4) year college degree in one of the physical sciences and has had at least five (5) years' full-time experience in fire protection and structural fire safety with a fire protection agency; or

(c) Is a member of the American society of fire protection engineers.

SECTION 7. That Section 41-256, Idaho Code, be, and the same is hereby amended to read as follows:

41-256. ASSISTANTS TO STATE FIRE MARSHAL. The chief of the fire department, or his deputy, of every city or county, or fire protection district organized under state law in which a fire department is established, and in areas where no organized fire department exists the county sheriff, or his deputy, shall be assistants to the state fire marshal in carrying out the provisions of the ~~uniform~~ international fire code and such other regulations as set forth by the fire marshal.

SECTION 8. That Section 41-266, Idaho Code, be, and the same is hereby amended to read as follows:

41-266. ADMISSION OF ~~UNIFORM~~ INTERNATIONAL FIRE CODE IN EVIDENCE. A copy of the ~~uniform~~ international fire code, ~~1979~~ 2000 edition, ~~with 1981--supplement,~~ or later editions and supplements adopted by the state of Idaho, shall be received in any court in this state as conclusive evidence of the contents of said code.

SECTION 9. That Section 41-4903, Idaho Code, be, and the same is hereby amended to read as follows:

41-4903. DEFINITIONS. For the purposes of this chapter:

(1) "~~Above-ground~~Aboveground storage tank" means any one (1) or a combination of tanks, including pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the vol-

ume of which, including the volume of pipes connected thereto, is less than ten percent (10%) beneath the surface of the ground. This term does not include a heating tank, farm tank or residential tank or any tank with a capacity of one hundred ten (110) gallons or less.

(2) "Accidental release" means any sudden or nonsudden release of petroleum from a storage tank that results in a need for corrective action or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(3) "Administrator" means a person, other than the trustee, employed by the trustee to administer the Idaho petroleum clean water trust fund.

(4) "Application fee" means the amount paid or payable by an owner or operator applying for a contract of insurance with the trust fund to offset the costs of issuing contracts of insurance and other costs of administering this fund.

(5) "Board" means the board of directors of the state insurance fund as established by section 72-901, Idaho Code.

(6) "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence defined in subsection (19) of this section.

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

(8) "Commission" means the state tax commission of the state of Idaho.

(9) "Corrective action" means those actions as are reasonably necessary to satisfy applicable federal and state standards in the event of a release into the environment from a petroleum storage tank. Corrective action includes initial corrective action response or actions consistent with a remedial action to clean up contaminated soil and ground water or address residual effects after initial corrective action is taken, as well as actions necessary to monitor, assess and evaluate a release. Corrective action also includes the cost of removing a tank which is releasing or has been releasing petroleum products and the release cannot be corrected without removing the tank; but corrective action does not include the cost of replacing this tank with another tank.

(10) "Department" means the department of insurance of the state of Idaho.

(11) "Director" means the director of the department of insurance.

(12) "Farm tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(13) "Free product" means petroleum or petroleum products in the nonaqueous phase, (e.g., liquid not dissolved in water).

(14) "Fund" or "trust fund" means the Idaho petroleum clean water trust fund.

(15) "Heating tank" means any tank with a capacity of more than one hundred ten (110) gallons situated above ground or underground which is used for storing heating oil for consumptive use on the premises where stored.

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

(17) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code. If a person subject to the fee imposed by section 41-4908(6), Idaho Code, is not required to obtain a distributor's license under the provisions of chapter 24, title 63, Idaho Code, such person shall apply to the commission for a limited license for the purpose of complying with the requirements of this chapter. Such a limited license shall not be valid for any other purpose. No bond shall be required for a limited license. A holder of a limited license is a "licensed distributor" for the purposes of filing reports, paying fees and other actions necessary to the proper administration and enforcement of this chapter.

(18) "Manager" means the duly appointed manager of the state insurance fund of the state of Idaho.

(19) "Noncommercial purposes" means not for resale, with respect to motor fuels.

(20) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which resulted in a release into the environment of petroleum products from a petroleum storage tank.

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

(22) "Owner" means the owner of a petroleum storage tank, except that "owner" does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect the owner's security interest in the tank.

(23) "Person" means any corporation, association, partnership, one (1) or more individuals, or any governmental unit, or agency thereof, other than federal or state agencies.

(24) "Petroleum" and/or "petroleum products" mean crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure (i.e., at sixty (60) degrees fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). The term includes motor gasoline, gasohol, other alcohol blended fuels, diesel fuel, heating oil and aviation fuel.

(25) "Property damage" means injury or destruction to tangible property caused by an occurrence.

(26) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into ground water, surface water, or surface or subsurface soils.

(27) "Residential tank" means any tank with a capacity of more than one hundred ten (110) gallons but less than one thousand one hundred (1,100) gallons situated above ground or underground which is used for storing motor fuel for noncommercial purposes and which is located on property used primarily for dwelling purposes.

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

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

(30) "Tank" means a stationary device designed to contain an accumulation of petroleum or petroleum products and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

(31) "Trustee" means the trustee of the Idaho petroleum clean water trust fund, who for the purposes of this chapter shall be the manager of the state insurance fund of the state of Idaho.

(32) "Underground storage tank" means any one (1) or combination of tanks, including underground pipes connected thereto, that is used to contain an accumulation of petroleum or petroleum products, and the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. This term does not include any:

(a) Farm or residential tank of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes;

(b) Tank used solely for storing heating oil for consumptive use on the premises where stored;

(c) Septic tank;

(d) Pipeline facility including gathering lines regulated under:

(i) The natural gas pipeline safety act of 1968 (49 U.S.C. app. 1671, et seq.); or

(ii) The hazardous liquid pipeline safety act of 1979 (49 U.S.C. app. 2001, et seq.); or

(iii) State laws comparable to the provisions of the law referred to in paragraph (d)(i) or (d)(ii) of this subsection as an intrastate pipeline facility;

(e) Surface impoundment, pit, pond or lagoon;

(f) Storm water or wastewater collection system;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

(i) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor;

(j) Tanks with a capacity of one hundred ten (110) gallons or less.

The term "underground storage tank" does not include any pipes connected to any tank which is described in paragraphs (a) through (i) of this definition.

(33) "Underground storage tank regulations" means regulations for petroleum storage tanks promulgated by the United States environmental protection agency (EPA) pursuant to subtitle I of the solid waste disposal act, as amended by the resource conservation and recovery act, regulations promulgated by the state of Idaho as part of a state program for underground storage tank regulation under subtitle I, or other regulations affecting underground storage tank operations and management, including the ~~uniform~~ international fire code adopted by the state of Idaho.

SECTION 10. That Section 41-4911, Idaho Code, be, and the same is hereby amended to read as follows:

41-4911. STORAGE TANKS ELIGIBLE FOR INSURANCE. (1) Eligible storage tanks are those tanks that meet all of the following criteria:

(a) Appropriate fees required in section 41-4908, Idaho Code, or section 41-4910A, Idaho Code, have been paid;

(b) The tank, if an underground storage tank, is in compliance with applicable federal and state underground storage tank rules and regulations;

(c) The tank is used only for storage of petroleum products;

(d) The tank, if an underground storage tank, passes a tank tightness test;

(e) The tank, if an aboveground storage tank, is in compliance with state and federal rules and regulations including the ~~uniform~~ international fire code. If an aboveground tank is exempt from state or federal rules and regulations and/or the ~~uniform~~ international fire code by virtue of its being installed prior to the effective date of such rules and regulations or the ~~uniform~~ international fire code, such tank is not eligible unless it passes a tank tightness test;

(f) The tank, if a farm tank or residential tank, is in compliance with any applicable state or federal rules and regulations;

(g) Any contamination caused by or released by or from the tank has been cleaned up, or a plan for cleanup or removal approved by the Idaho department of environmental quality, is being implemented; provided, however, that the trust fund shall not pay for any costs associated with prior contamination.

(2) Any tank which is a part of a refiner's terminal or a tank directly supplied by a pipeline shall not be eligible.

SECTION 11. That Section 55-2014, Idaho Code, be, and the same is hereby amended to read as follows:

55-2014. TENANT ACTION FOR DAMAGES -- SPECIFIC PERFORMANCE. (1) A tenant of a mobile home park may file an action against a landlord for damages and specific performance for:

(a) Failure to maintain in good working order, to the terminal point of service, electrical, water or sewer services supplied by the landlord;

(b) Maintaining the premises in a manner hazardous to the health or safety of the tenant, including, but not limited to, a continuing violation of any of the following:

(i) Any rule adopted by the department of environmental quality governing public drinking water systems;

(ii) Any rule adopted by the department of environmental quality governing hazardous waste;

(iii) Any rule adopted by the public health district in which the mobile home park is located governing ~~waste-water~~ wastewater and on-site sewage treatment systems;

(iv) Any provision of the ~~uniform~~ international fire code, as amended by the provisions of any fire code adopted by the county or municipality in which the mobile home park is located;

(v) Any provision of the uniform building code, as amended by the provisions of any building code adopted by the county or municipality in which the mobile home park is located.

Nothing contained in the provisions of this subsection is intended

to extend the application of any such rule or code provision to a previously existing condition which, as of July 1, 1993, was exempt from the enforcement of such rule or code provision.

(c) Failure to return a security deposit as and when required by law;

(d) Breach of any term or provision of the lease or rental agreement materially affecting the health and safety of the tenant, whether explicitly or implicitly a part thereof.

(2) Upon filing the complaint, a summons must be issued, served and returned as in other actions; provided however, that in an action exclusively for specific performance, at the time of issuance of the summons, the court shall schedule a trial within twelve (12) days from the filing of the complaint, and the service of the summons, complaint and trial setting on the defendant shall be not less than five (5) days before the day of trial appointed by the court. If the plaintiff brings an action for damages under this section, or combines this action for damages with an action for specific performance, the early trial provision shall not be applicable, and a summons must be issued returnable as in other cases upon filing the complaint.

(3) In an action under this section, the plaintiff, in his complaint, must set forth the facts on which he seeks to recover, describe the premises, and set forth any circumstances which may have accompanied the failure or breach by the landlord.

(4) If, upon the trial, the verdict of the jury, or, if the case be tried without a jury, the finding of the court, be in favor of the plaintiff against the defendant, judgment shall be entered for such special damages as may be proven. General damages may be awarded but shall not exceed five hundred dollars ($500). Judgment may also be entered requiring specific performance for any breach of agreement shown by the evidence, and for costs and disbursements.

(5) Before a tenant shall have standing to file an action under this section, he must give his landlord three (3) days' written notice, listing each failure or breach upon which his action will be premised and written demand requiring performance or cure. If, within three (3) days after service of the notice, any listed failure or breach has not been performed or cured by the landlord, the tenant may proceed to commence an action for damages and specific performance.

(6) The notice required in subsection (5) of this section shall be served either:

(a) By delivering a copy to the landlord or his agent personally; or

(b) If the landlord or his agent is absent from his usual place of business, by leaving a copy with an employee at the usual place of business of the landlord or his agent; or

(c) By sending a copy of the notice to the landlord or his agent by certified mail, return receipt requested.

SECTION 12. That Section 55-2714, Idaho Code, be, and the same is hereby amended to read as follows:

55-2714. TENANT ACTION FOR DAMAGES -- SPECIFIC PERFORMANCE. (1) A tenant of a floating home marina may file an action against a landlord for damages and specific performance for:

(a) Failure to maintain in good working order, to the terminal

point of service, electrical, water or sewer services supplied by the landlord;

(b) Maintaining those portions of the premises open to use by the tenant in a manner hazardous to the health or safety of the tenant including, but not limited to, a continuing violation of any of the following:

(i) Any rule adopted by the department of environmental quality governing public drinking water systems;

(ii) Any rule adopted by the department of environmental quality governing hazardous waste;

(iii) Any rule adopted by the public health district in which the floating home marina is located governing wastewater and on-site sewage treatment systems;

(iv) Any provisions of the ~~uniform~~ international fire code, as amended by the provisions of a fire code adopted by the county or municipality in which the floating home marina is located;

(v) Any provisions of the uniform building code, as amended by the provisions of any building code adopted by the state, county or municipality in which the floating home marina is located.

(c) Material breach of any specific term of a rental agreement.

(2) Upon filing the complaint, a summons must be issued, served and returned as in other actions. Provided however, that in an action exclusively for specific performance, at the time of issuance of the summons, the court shall schedule a trial within twelve (12) days from the filing of the complaint, and the service of the summons, complaint and trial setting on the defendant shall be not less than five (5) days before the day of trial appointed by the court. If the plaintiff brings an action for damages with an action for specific performance, the early trial provision shall not be applicable, and a summons must be issued returnable as in other cases upon filing the complaint.

(3) In an action under this section, the plaintiff, in his complaint, must set forth facts on which he seeks to recover, describe the premises, and set forth any circumstances which may have accompanied the failure or breach by the landlord.

(4) If upon the trial, the verdict of the jury, or, if the case be tried without a jury, the finding of the court, be in favor of the plaintiff against the defendant, judgment shall be entered for such special damages as may be proven. General damages may be awarded but shall not exceed five hundred dollars ($500). Judgment may also be entered requiring specific performance for any breach of agreement shown by the evidence and for costs and disbursements.

(5) Before a tenant shall have standing to file an action under this section, he must give his landlord three (3) days' written notice, listing each failure or breach upon which his action will be premised and written demand requiring performance or cure. If, within three (3) days after service of the notice, any listed failure or breach has not been performed or cured by the landlord, or in the event of damage to the premises or other default not capable of cure within three (3) days and the landlord has not provided written assurance to the tenant that a cure will be effected within a reasonable time, the tenant may proceed to commence an action for damages and specific performance.

(6) The notice required in subsection (5) of this section shall be served either:

(a) By delivering a copy to the landlord or his agent personally; or

(b) By leaving a copy with an employee at the usual place of business of the landlord or his agent if the landlord or his agent is absent from his usual place of business; or

(c) By sending a copy of the notice to the landlord or his agent by certified mail, return receipt requested.

(7) Nothing in this section shall bar either the landlord or the tenant from bringing such civil action for relief to which said party is otherwise entitled.

Approved March 19, 2002.

CHAPTER 87
(H.B. No. 446)

AN ACT

RELATING TO THE INSPECTION AND SUPPRESSION OF DISEASES IN ANIMALS; AMENDING SECTION 25-210, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF ANIMAL INDUSTRIES HAS CERTAIN AUTHORITY, TO STRIKE UNNECESSARY LANGUAGE, TO REVISE AUTHORITY GRANTED TO THE ADMINISTRATOR, TO PROVIDE FOR THE IMPLEMENTATION OF THE CHAPTER, TO AUTHORIZE VETERINARIANS TO TAKE CERTAIN ACTION, TO AUTHORIZE CERTAIN PERSONS TO ENTER ANY MEANS OF CONVEYANCE WHERE ANIMALS ARE KEPT, TO REQUIRE CERTAIN LAW ENFORCEMENT PERSONNEL TO PROVIDE ASSISTANCE TO VETERINARIANS, INSPECTORS OR AGENTS IN CARRYING OUT THE PURPOSES OF THE CHAPTER, TO REQUIRE THAT DESIGNATED TYPES OF ANIMALS HANDLED BY THE DEPARTMENT OF FISH AND GAME BE TESTED FOR CERTAIN DISEASES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-212, IDAHO CODE, TO CLARIFY THE PRESENCE OF DISEASE THAT MAY CONSTITUTE AN EMERGENCY, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO PROMULGATE RULES WHICH REGULATE DISEASE, TO REQUIRE ALL PERSONS PRACTICING VETERINARY MEDICINE IN IDAHO TO REPORT CERTAIN DISEASES TO THE DIVISION OF ANIMAL INDUSTRIES, TO PROVIDE FOR REIMBURSEMENT TO OWNERS FOR ANY ANIMAL ORDERED SLAUGHTERED OR DESTROYED BY DIRECTION OF THE DIVISION, TO PROVIDE FOR REIMBURSEMENT TO OWNERS FOR PROPERTY DESTROYED AND FOR LABOR EMPLOYED IN DISPOSAL OF ANIMALS BY ANY MEANS AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

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

25-210. POWERS OF VETERINARIANS AND INSPECTORS. (1) In order to prevent the introduction or dissemination of disease among the animals of this state, the administrator of the division shall be authorized and directed to:

(a) Qquarantine any portion of this state and it shall be unlawful to move animals from or into such quarantined area except in accordance with the rules ~~and regulations~~ of the division; ~~and~~

(b) Prohibit or restrict entry of animals into the state that may

be exposed to, infected with or may otherwise harbor or be contaminated with any contagious, infectious or communicable disease or agent;

(c) Prohibit or restrict entry of vehicles, other means of conveyance or any other item into the state which may harbor or be contaminated with any contagious, infectious or communicable disease or agent;

(d) Prohibit or restrict movement of vehicles, other means of conveyance, or any other item, that may harbor or be contaminated with any contagious, infectious or communicable disease or agent, out of any quarantined area or into any quarantined area;

(e) Authorize and empower state veterinarians, livestock inspectors and the inspectors or agents of the United States department of agriculture/animal and plant health inspection service/veterinary services under the joint supervision of the state division and chief of the United States department of agriculture/animal and plant health inspection service/veterinary services ~~shall be authorized and empowered~~ to inspect, quarantine, treat, test, vaccinate, and condemn, appraise, slaughter and dispose of any animals affected or infected with any contagious, infectious or communicable disease, or infected with the disease of epithelioma of the eye, commonly known as "cancer eye," or that have been exposed to any such disease~~, and~~;

(f) Order the preventive slaughter or destruction of disease susceptible animals that have not been exposed to create an area or areas that are free of all susceptible animals in order to stop spread of a highly contagious disease in the state;

(g) Establish biosecurity procedures and restrict human access to quarantined areas and infected and exposed premises in order to prevent dissemination of disease;

(h) Qquarantine, clean and disinfect all premises where ~~such~~ infected or exposed animals have been kept~~, and for this~~.

(2) In order to carry out the purpose ~~the said~~ of this chapter, state and federal veterinarians, inspectors, or agents~~, state and federal,~~ are hereby authorized and empowered to enter any field, feed yard, barn, stable, railroad car, ~~stock yards~~ stockyards, truck, airplane, other means of conveyance, or other premises in this state where animals are kept. Said veterinarians, inspectors or agents, state and federal, shall be empowered to call on sheriffs, constables and peace officers to assist them in the discharge of their duties and in carrying out the provisions of this chapter and of said Acts of Congress approved May 29, 1884, and the Act of March 3, 1905. Such sheriffs, constables, and other peace officers shall give such assistance as may be requested by said veterinarians, inspectors or agents in carrying out the provisions of this chapter and said Acts of Congress. The word animal or animals used in this ~~section~~ chapter shall include any vertebrate member of the animal kingdom, except man; and the word disease shall include diseases of these animals.

(3) Any deer, elk, moose, bighorn sheep or bison handled, imported or transported by the department of fish and game shall be tested for the presence of certain communicable diseases that can be transmitted to domestic livestock. Those communicable diseases to be tested for shall be arrived at by mutual agreement between the department of fish and game and the department of agriculture.

SECTION 2. That Section 25-212, Idaho Code, be, and the same is hereby amended to read as follows:

25-212. REPORTABLE DISEASES WHICH CONSTITUTE AN EMERGENCY -- RULES -- DUTY OF VETERINARIANS AND OWNERS OF LIVESTOCK AND OTHER ANIMALS -- INDEMNITY. The director is authorized to declare any disease, parasite or agent which: (1) has been identified by the United States department of agriculture/animal and plant health inspection service/veterinary services (USDA/APHIS/VS) as a "communicable foreign disease not known to exist in the United States"; or (2) which is not naturally occurring in or has been eradicated from Idaho and which, if introduced into Idaho, would have a devastating impact on the livestock or other animals of the state, a disease which constitutes an emergency. The presence of such disease in any state in the United States, any country contiguous to the United States, or any country from which the state of Idaho receives animals or animal products may constitute an emergency. The director is also authorized to promulgate rules which list and regulate diseases, parasites and other agents which, if introduced into the state, would result in devastation of the livestock or other animals within the state and which diseases therefore constitute an emergency. It is hereby made the duty of all persons practicing veterinary medicine in this state to report to the division immediately, by telephone or facsimile, any and all cases of exposure to or infection of foot and mouth disease, bovine spongiform encephalopathy, chronic wasting disease, other transmissible spongiform encephalopathies, brucellosis, tuberculosis, or any foreign, exotic or emerging disease, or such other disease or diseases as may be declared to constitute an emergency by state or national authorities that they may find existing among animals of the state. Every owner of livestock or other animals and every breeder or dealer in livestock or other animals and everyone bringing livestock or other animals into this state upon observing the appearance of, or symptoms of any disease or diseases, or who has knowledge of exposure of the livestock or other animals to diseases as herein set forth among the livestock or other animals owned by him or under his care, shall give immediate notice by telephone or facsimile to the division of the facts discovered by him as aforesaid, and any owner of livestock or other animals who shall fail to make report as herein provided shall forfeit all claims for indemnity for animals condemned and slaughtered or destroyed on account of any disease or diseases as herein provided for in accordance with the provisions made and promulgated by the division. In the event the director determines that animals in the state have been exposed to or are infected with a disease which constitutes an emergency or in the event of an outbreak of any disease or diseases as herein provided among any of the animals of this state the state board of examiners is authorized and empowered, upon the recommendation of the division, to reimburse the owner by cash payment or to issue or cause to be issued certificates of indebtedness having interest at such rate as shall be set by the said state board of examiners, for the purpose of reimbursing the owner of any affected or exposed animal, any animal ordered slaughtered or destroyed, or animals which have been condemned, appraised and slaughtered or destroyed by direction of the division, and for property destroyed and for labor employed in digging trenches, or disposing of animals by any other means and for cleaning and disinfecting premises where such infected or exposed animal or animals have been kept; pro-

vided, that the state shall only pay the difference between appraised price less federal indemnity and salvage value for any animals condemned and slaughtered or destroyed under this section and the actual costs for burial or disposal of animal carcasses and for cleaning and disinfection of premises where infected or exposed animals have been kept. In the event federal indemnity is unavailable, the state shall only pay the difference between appraised price and salvage value. Appraisals shall be performed by a team comprised of an animal health representative, the owner and a person with experience in marketing the species of the animal condemned. The director may grant a hearing to any person, under such rules as the department may prescribe which are in compliance with chapter 52, title 67, Idaho Code, when the appraisal price is in dispute. An appeal may be taken from the decision of the director under the provisions of chapter 52, title 67, Idaho Code.

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

Approved March 19, 2002.

CHAPTER 88
(H.B. No. 447)

AN ACT

RELATING TO ORGANIC FOOD PRODUCTS; AMENDING SECTION 22-1104, IDAHO CODE, TO INCREASE THE MAXIMUM CIVIL PENALTY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 22-1107, IDAHO CODE, TO PROVIDE THAT THE ORGANIC FOOD ADVISORY COUNCIL SHALL MEET AT THE CALL OF THE CHAIRMAN OR THE DIRECTOR.

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

SECTION 1. That Section 22-1104, Idaho Code, be, and the same is hereby amended to read as follows:

22-1104. VIOLATION OF RULES -- CIVIL PENALTY. Any person violating a rule promulgated by the director to implement provisions of this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than ~~three~~ ten thousand dollars ($~~3~~10,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code. If the department is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under this section may, within twenty-eight (28) days of the final agency action making the assessment, seek judicial review of the assessment in accordance with the provisions of chapter 52, title 67, Idaho Code.

Moneys collected for violation of a rule or regulation shall be deposited in the state treasury and credited to the organic food products administration account of the department.

SECTION 2. That Section 22-1107, Idaho Code, be, and the same is hereby amended to read as follows:

22-1107. ORGANIC FOOD ADVISORY COUNCIL. (1) There is hereby created in the department of agriculture, the organic food advisory council which shall consist of seven (7) members who shall be appointed by the director. Organizations representing Idaho's organic food products industry shall nominate to the director one (1) member and one (1) alternate for each vacancy on the advisory council to represent the following categories of organic food products:

(a) Cereals, grains and legumes;
(b) Dairy and livestock;
(c) Forage and feed;
(d) Herbs; and
(e) Vegetables and row crops.

At least one (1) member shall be a purchaser, vendor or consumer of organic food products, and one (1) member shall represent conventional agriculture. Three (3) members of the council shall be originally appointed for a term of two (2) years and four (4) members of the council shall be appointed for a term of three (3) years. Thereafter all terms shall be for a period of three (3) years. If a vacancy occurs, the director may appoint a replacement for the remainder of the term.

(2) The organic food advisory council shall advise the director on matters relating to administration of the provisions of this chapter. A majority of the members of the council shall represent a quorum. The council shall meet ~~no less frequently than quarterly~~ at the call of the chairman or the director.

(3) Members of the council shall be compensated as provided in section 59-509(b), Idaho Code.

Approved March 19, 2002.

CHAPTER 89
(H.B. No. 448)

AN ACT

RELATING TO AGRICULTURE AND HORTICULTURE; REPEALING CHAPTERS 10, 19, 20, 21 AND 44, TITLE 22, IDAHO CODE; AND AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 20, TITLE 22, IDAHO CODE, TO PROVIDE A TITLE, TO PROVIDE FOR THE ADMINISTRATION OF THE CHAPTER BY THE IDAHO STATE DEPARTMENT OF AGRICULTURE, TO PROVIDE A STATEMENT OF PURPOSE, TO AUTHORIZE THE DEPARTMENT TO ASSUME CERTAIN DUTIES, TO DEFINE TERMS, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO PROMULGATE CERTAIN RULES AND TO PROVIDE FOR THE COLLECTION AND DEPOSIT OF FEES AND PENALTIES, TO AUTHORIZE THE DIRECTOR TO CONDUCT INSPECTIONS AND TO ENTER UPON CERTAIN LAND, TO PROVIDE A PROCEDURE UPON THE DISCOVERY OF CERTAIN PESTS, TO AUTHORIZE MARKING OF INFESTED OR INFECTED ARTICLES AND TO REQUIRE REPORTING OF THE

DETECTION OF PLANT PESTS, TO PROVIDE FOR HOLD ORDERS OR STOP SALES, TO PROVIDE FOR CONTROL ORDERS, TO PROVIDE FOR THE CONTROL OF NUISANCES AND TO PROVIDE FOR LIENS AND COST RECOVERY, TO PROVIDE FOR COMPENSATION FOR THE LOSS OR DESTRUCTION OF INFESTED OR INFECTED PLANTS, PLANT PRODUCTS OR OTHER ARTICLES, TO PROVIDE FOR QUARANTINES, TO PROVIDE FOR QUARANTINE RULES, TO PROVIDE FOR REGULATED AREAS AND ARTICLES AND TO PROVIDE FOR TEMPORARY RULES, TO PROVIDE FOR REPEAL OF QUARANTINES, TO AUTHORIZE RULEMAKING FOR THE LISTING OF REGULATED NONQUARANTINE PESTS AND RESTRICTION OF CERTAIN PLANT PESTS, TO PROHIBIT THE SHIPMENT, INTRODUCTION OR RELEASE OF CERTAIN PESTS, AGENTS, PLANTS OR ORGANISMS, TO PROVIDE FOR PERMITS, TO PROVIDE FOR EXPORT CERTIFICATION AND COMPLIANCE AGREEMENTS AND TO PROVIDE FOR NONINDIGENOUS PLANT PEST SPECIES, TO PROVIDE FOR CROP MANAGEMENT AREAS, TO AUTHORIZE RESEARCH AND INVESTIGATION OF PLANT PEST PROBLEMS AND CONTROL, TO PROVIDE A PROCEDURE RELATING TO INFESTATIONS OF CERTAIN PESTS, TO PROVIDE FOR PAYMENT OF COSTS RELATING TO PEST CONTROL, TO PROVIDE FOR DEFICIENCY WARRANTS AND TO AUTHORIZE THE DIRECTOR TO COOPERATE WITH OTHER LANDOWNERS IN PEST CONTROL PROJECTS, TO PROVIDE PENALTIES FOR VIOLATIONS, TO PROVIDE FOR COOPERATION WITH OTHER JURISDICTIONS, TO PROVIDE FOR SEVERABILITY AND TO CLARIFY THE EFFECT OF THE CHAPTER ON CERTAIN EXISTING LIABILITY.

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

SECTION 1. That Chapters 10, 19, 20, 21 and 44, Title 22, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Title 22, Idaho Code, be, and the same is hereby amended, by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 20, Title 22, Idaho Code, and to read as follows:

CHAPTER 20
IDAHO PLANT PEST ACT OF 2002

22-2001. TITLE. This chapter shall be known as the "Idaho Plant Pest Act of 2002."

22-2002. ADMINISTRATION. This chapter shall be administered by the Idaho state department of agriculture.

22-2003. STATEMENT OF PURPOSE. The purpose of this chapter is to prevent the introduction and subsequent dissemination of plant pests into Idaho through the movement of nursery stock and other plants and plant products. This chapter provides for the regulation of plant material and plant pests moving into Idaho and establishes provisions under which such plant material and products may legally enter the state. This chapter also establishes provisions for the establishment of interstate and intrastate quarantines to restrict the movement of nursery stock, plant pests and plant products.

22-2004. DUTIES OF THE DEPARTMENT. The department may control and prevent, by such means as shall be prescribed and provided by law, rule, or by order of the department, all contagious, infectious and plant pests destructive to the state's agricultural, forestry or horticultural

interests or to the state's general environmental quality.

22-2005. DEFINITIONS. When used in this chapter:

(1) "Acceptable level" means the probable level of harm that is so low that the imposition of phytosanitary requirements is not required; or the probable level of harm that the trade partners agree to achieve through or by the imposition of pest risk mitigation measures or strategies and accept for continued trade when confirmed by phytosanitary certification of specified host commodities.

(2) "Agent" means any person who on behalf of any other person receives on consignment, contracts for, or solicits for sale on commission, any plant product from a producer of such product, or who negotiates the consignment or purchase of any plant product on behalf of any other person.

(3) "Agricultural commodities" means plant products including any horticultural product.

(4) "Agriculture" means the production of plants.

(5) "Appliance" means any box, tray, container, ladder, tent vehicle, implement or other article which is, or may be, used in connection with the growing, harvesting, handling or transportation of any agricultural commodity.

(6) "Area" means any political division or subdivision or any officially defined area including adjacent parts of contiguous political divisions or subdivisions. Political divisions include nations and states or provinces within nations and states. Political subdivisions include counties, parishes and cities or municipalities. Officially defined areas also may include any other clearly defined and identifiable area including a specific property or facility.

(7) "Certificate" means a document authorized or prepared by a duly authorized federal or state regulatory official that affirms, declares or verifies that an article, nursery stock, plant product, shipment or any other officially regulated article meets phytosanitary, quarantine, nursery inspection, pest freedom, plant registration or certification, or other set of legal requirements. Such documents are known by their purpose of issuance: phytosanitary certificate, for the purpose of verifying compliance with phytosanitary or quarantine requirements; nursery stock certificate, for the purpose of verifying compliance with nursery inspection and pest freedom standards; registration or certification tags and seals, for the purpose of verifying compliance with registration or certification requirements.

(8) "Certification" means the official act of affirming, declaring or verifying compliance with phytosanitary, quarantine, nursery inspection, pest freedom, plant registration or any other set of legal requirements.

(9) "Compliance agreement" means any written agreement between a person and a duly authorized regulatory agency to achieve compliance with any set of requirements being enforced by the agency.

(10) "Control" means abatement, suppression, containment or eradication of a pest population.

(11) "Control order" means a written directive from the director requiring the control of a pest.

(12) "Conveyance" means a method of transportation.

(13) "Crop management area" means that area in which certain specified crop management practices are required.

(14) "Crop seed" means the seed or seedlike fruit of grain, beans, flax, beets, onions or any other crop whether or not it is intended for planting purposes.

(15) "Department" means the Idaho state department of agriculture.

(16) "Director" means the director of the Idaho state department of agriculture or his duly authorized representative.

(17) "Economic impacts" means significant damage or harm in terms of well documented:

(a) Plant or crop destruction or injury;

(b) Increased cultural or pest control costs;

(c) Disruption of existing pest control strategies such as biological control, integrated pest management, sustainable agriculture or forestry, and cropping patterns or loss of a high value crop without replacement by an equally valuable and marketable crop;

(d) Social adversities such as interference with home or urban gardening, human health, worker safety, food safety or jobs; or

(e) Environmental quality including added pesticide use, scenic and watershed damage, destruction of ecosystems and food chain interference.

(18) "Economically unacceptable impact" means that level of adverse economic impact which is identified and defined for plants for planting by a duly authorized federal or state plant protection organization.

(19) "Endangered area" means continent, region, country, state, county, province, municipality or any other delineated political or otherwise lawfully constituted geographic area which has been officially identified for protection from injurious pests not already present.

(20) "Eradication" means elimination of a pest based on absence determined by a negative, mutually agreed upon verification survey for the target pest.

(21) "Farm product" includes, but is not limited to, every agricultural, horticultural, viticultural, apicultural, floricultural and vegetable product, including honey bees.

(22) "Free from" means that either a valid detection survey has been performed or there is no published record showing that a specific pest is present; or that the article, nursery stock, plant, plant product or any other regulated article has been visually inspected or tested in accordance with specified requirements and that no live life stage of the regulated pest(s) was found.

(23) "Grain" means any crop seed intended for human or animal consumption.

(24) "Hold order or stop sale" means any written directive issued by the director to a person who owns or controls any appliance, article, nursery stock, plant, plant product or any other article that has been determined to be, or likely to be, infested with regulated pest(s) or otherwise not in compliance with this chapter or rules promulgated hereunder, prohibiting movement from one location to another, except as otherwise prescribed in the directive.

(25) "Host" means any appliance, article, commodity, nursery stock, plant, plant product or any other item which may or may not be capable of transporting a pest from one place to another.

(26) "Infected" means a plant that has been determined by the department to be contaminated with an infectious, transmissible, or contagious plant pest, or so exposed to the aforementioned that contamination can reasonably be expected to exist. This includes disease condi-

tions, regardless of their mode of transmission, or any disorder of plants which manifest symptoms which, after investigation, are determined by a federal or state plant protection organization to be characteristic of an infectious, transmissible or contagious disease.

(27) "Infested" means a plant that has been determined by the department to be contaminated by a plant pest, or so exposed to the aforementioned that contamination can reasonably be expected to exist.

(28) "Investigator" means any person duly authorized by the director to perform any required regulatory activity.

(29) "Limited distribution" means a pest known to occur in the state, but with a limited distribution to a single small geographic area or a few small geographic areas which are widely separated within the state.

(30) "Management area" means that area in which certain specified crop management practices are required.

(31) "Mark" means, for purposes of identification or separation, the department may affix a conspicuous official indicator to, on, around or near, plants or plant material known, or suspected to be, infected or infested with a plant pest. This includes, but is not limited to: paint, markers, tags, seals, stickers, tape, signs or placards.

(32) "Move" means to ship, offer for shipment, receive for transport, carry or, in any manner whatsoever, relocate a regulated article from one place to another.

(33) "Nursery stock" means all plants or any part thereof, such as aquatic or herbaceous plants, bulbs, sod, buds, corms, culms, roots, scions, grafts, cuttings, fruit pits, seeds of fruits, forest and ornamental trees and shrubs, berry plants, and all trees, shrubs, vines, and plants collected in the wild that are grown or kept for propagation or sale. The term does not include field and forage crops, seeds of grasses, cereal grains, vegetable crops and flower crops, bulbs and tubers of vegetable crops, vegetable crops, vegetables or fruit used for food or feed, cut trees or cut flowers unless stems or other portions thereof are intended for propagation.

(34) "Official" means authorized, implemented and directed, or performed by a government plant protection organization.

(35) "Officially controlled" means the conduct, by an official government plant protection organization, of eradication or intensive suppression activity including various treatments, quarantine and other measures with the goal of eliminating an isolated infestation or prevention of further spread within the endangered area. It does not include private general agricultural, urban forestry or home garden pest control measures conducted by persons against pests permanently established in an endangered area.

(36) "Owner" means the person, with the legal right of possession, proprietorship of, or responsibility for the property or place where any of the regulated articles as defined in this chapter are to be found, or the person who is in possession of, in proprietorship of, or has responsibility for the regulated articles.

(37) "Pathway" means any natural or artificial means or avenue that allows for the movement of a pest from one area to another.

(38) "Permit" means any official document that allows the movement of any regulated article from one location to another in accordance with specified conditions or requirements and for a specified purpose.

(39) "Person" means, but is not limited to, any individual, partner-

ship, corporation, company, firm, society, association, organization, government agency or any other entity.

(40) "Pest" means any insect, snail, rodent, nematode, fungus, virus, bacterium, microorganism, mycoplasma-like organism, weed, plant, or parasitic higher plant and any other pest as defined by rule or any of the following that is known to cause damage or harm to agriculture or the environment:

(a) Any infectious, transmissible or contagious disease of any plant; or any disorder of any plant which manifests symptoms or behavior which, after investigation and hearing, is found and determined by a duly constituted federal, state or local plant protection organization, to be characteristic of an infectious, transmissible or contagious disease;

(b) Any form of invertebrate animal life;

(c) Any form of plant life.

(41) "Pest-free area" means an area kept free from a specific pest.

(42) "Pest risk analysis" means characterizing the nature of pest hazard or harm; identifying the degree of probability or likelihood of harm; analyzing the degree to which risk mitigation measures or strategies can reduce the probability of harm to an acceptable level; and recommending pest risk mitigation measures or strategies.

(43) "Phytosanitary" means plant health.

(44) "Phytosanitary measures" means any growing season or postharvest treatment or any other method (tactic) or strategy (combination of methods or tactics) specified in a quarantine to reduce pest risk to an acceptable level.

(45) "Plant" means any part of a plant, tree, aquatic plant, plant product, plant material, shrub, vine, fruit, rhizome, sod, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft or fruit pit, also including:

(a) Agricultural commodities;

(b) Noncultivated or feral plants gathered from the environment;

(c) Plants produced by tissue culture, cloning or from stem cell cultures or other prepared media culture.

(46) "Plants for planting" means any part of a plant that is intended to be planted.

(47) "Preclearance" means an agreement between quarantine officials of exporting and importing states or countries to pass plants through quarantine by allowing the exporting state or country to inspect the plants preshipment, rather than the importing state or country inspecting the shipment upon arrival.

(48) "Public nuisance" means any premises, plant, appliance, conveyance or article which is infected or infested with any plant pest that may cause significant damage or harm, or premises where any plant pest is found.

(49) "Quarantine" means a restriction imposed by a duly authorized plant regulatory agency whereby the production, movement or existence of plants, or any other article or material, or the normal activity of persons, is brought under regulation, in order that the introduction or spread of a pest may be prevented or limited, or in order that a pest already introduced may be controlled or eradicated, thereby reducing or avoiding losses that would otherwise occur through damage done by the pest or through continuing cost of control measures.

(50) "Quarantine pest" means a pest of economically unacceptable

impact to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.

(51) "Registration" means the official recording of a growing location, person, plant, sales location or any other item or place as one that has met specified requirements and therefore eligible for a particular activity, operation or purpose.

(52) "Regulated article" means any item the movement of which is governed by a quarantine or any other rule.

(53) "Regulated nonquarantine pest" means a nonquarantine pest whose presence affects the intended use of plants with an economically unacceptable impact.

(54) "Regulated pest" means quarantine pest or regulated nonquarantine pest.

(55) "Regulated or restricted area" means a geographical area in which special restrictions on the management of certain plant materials are imposed.

(56) "Regulatory incident" means the detection of a pest under circumstances which indicate the absence of establishment.

(57) "Restrictive measure" means a phytosanitary measure allowing only specified actions that are subject to certain requirements.

(58) "Shipment" means anything which is, may be, or has been transported from one place to another.

(59) "Significant damage or harm" means that level of economic impact that results in damage, injury or loss that exceeds the cost of control for a particular crop.

(60) "State plant regulatory official" means the employee(s) designated to enforce the provisions of a state's plant pest laws, quarantines and rules.

(61) "State quarantine" means a rule promulgated pursuant to state authority that identifies a pest or pests and imposes requirements for certification of regulated articles as being in compliance with specified restrictions or requirements for pest freedom.

(62) "Suppressive area" means a plant pest infested area where phytosanitary measures are being applied to reduce the plant pest population and thereby limit the spread of the pest.

(63) "Survey" means the systematic search for pests in accordance with mutually agreed upon methods designed to assure confidence in their meaning and accuracy for pest prevention purposes such as control, verification of pest-free areas, identification of possible harm, evaluation of probability of harm, and taking appropriate actions to prevent predicted significant harm. Surveys may be performed for the purposes of detection, delimitation or verification.

(64) "Undesirable plant" means any plant species which is detrimental to the quality of the product of that crop, by competition, cross-pollination, or any other means to the production of the crop for which a crop management area was established.

22-2006. PROMULGATION OF RULES -- COLLECTION AND DEPOSIT OF FEES AND PENALTIES. (1) The director is hereby authorized to promulgate rules:

(a) Necessary for the efficient enforcement of the provisions of this chapter including, but not limited to: setting of quarantine boundaries, requirements for importing and exporting plant materials, planting, testing, sampling, inspection, certification, com-

pliance verification procedures, recordkeeping procedures, and setting of a schedule of fees for services performed by the department in the administration of this chapter.

(b) To implement and carry out the purposes of this chapter to control and prevent the spread of plant pests within the state and from within the state to points outside the state.

(c) To regulate nonquarantine species, exempt species and federally quarantined species.

(2) All revenues from fees and penalties collected as authorized under this chapter shall be deposited to the agricultural department inspection fund created pursuant to section 22-105, Idaho Code.

22-2007. AUTHORITY TO CONDUCT INSPECTIONS -- ENTRY ON LANDS. (1) The director may enter into each county of the state for the purpose of inspecting, examining and determining thereby the healthfulness and general condition of the environmental, horticultural, forestry and agricultural interests.

(2) In order to accomplish the purposes of this chapter, the director may enter upon and inspect any public or private premises, lands, or means of conveyance, or article of any person within this state, for the purpose of inspecting, surveying, treating, controlling or destroying any plant or plant pest.

22-2008. DISCOVERY OF PLANT PESTS -- OFFICIAL MARKING OF INFESTED OR INFECTED ARTICLES -- REPORTING THE DETECTION OF PLANT PESTS. (1) Upon knowledge of the existence of a regulated pest or a pest that may cause significant damage or harm within the state, the department is authorized to conspicuously mark all plants, materials and articles known or suspected to be infected or infested with the pest. The department shall notify the person, owner or the tenant in possession of the premises or area in question of the existence of the pest and of the prescribed control measures. The aforementioned person shall, within the prescribed time limit, implement the conditions of the department's hold order or stop sale or be subject to civil penalties.

(2) The state plant regulatory official shall immediately report the detection of new plant pests within the state to the director and to the U.S. department of agriculture. Other state plant regulatory officials shall be notified as deemed necessary.

22-2009. HOLD ORDER OR STOP SALE. The director may issue hold orders or stop sales to take prompt regulatory action in plant pest emergencies on any plant, article, or commodity entering this state in violation of this chapter or rules promulgated hereunder.

22-2010. CONTROL ORDERS -- CONTROL OF NUISANCES -- LIENS AND COST RECOVERY. (1) If upon any complaint or inspection, there is found any pest injurious to plants, or an imminent potential threat of any pests injurious to any plants, the director shall notify the owner or the person in charge or in possession of such places, fields, plants or other articles. The director shall issue a control order requiring such owner or person to control said injurious pests or to take such steps as may be necessary to remove the imminent potential threat of pests within a reasonable time to be specified. The control order shall be served in person or in writing, or it may be served in the same manner as a sum-

mons in a civil action, on the owner or person owning or in charge or in possession of such infested places, rights-of-way, fields or plants.

(2) If the owner or person in charge of any property on which there are plants or other articles infested with any pest thereof, or any article known to be a host of a pest, after having been issued a control order to control such pests or articles, shall fail, neglect or refuse to do so, then all such property, plants and articles are declared to be a public nuisance and shall be proceeded against as such. When such nuisance shall exist on any property within the state, the department shall cause such nuisance to be controlled at once by disinfecting or destroying the infested articles or host material. The expense of such proceedings shall be paid for by the state pursuant to section 22-2019, Idaho Code, subject to the provisions of subsection (3) of this section.

(3) All sums so paid for carrying out the provisions of this section shall be a legal charge against such property and if not paid within thirty (30) days from the time when demand therefor is first made upon the owner of such property by the department controlling such nuisance, shall be certified by the said department to the tax collector of the county wherein the property is situated and thereafter shall constitute a lien upon such property and such sum shall be added by said tax collector to the general taxes assessed against said property which becomes due the next year thereafter and shall be collected by him in the same manner and with the same penalties as such other taxes. Nothing contained in this section shall be construed to require satisfaction of the obligation imposed hereby in whole or in part from the sale of property or to bar the application of any other or additional remedy otherwise available. Amounts collected under this subsection shall be paid into the state treasury and credited to the general fund.

22-2011. COMPENSATION FOR THE LOSS OR DESTRUCTION OF INFESTED OR INFECTED PLANTS, PLANT PRODUCTS OR OTHER ARTICLES. No damages shall be awarded to the owner for the loss or destruction of infested or infected plants, plant products, or other articles, or any reimbursement made for expenses incurred incident to the application of the prescribed preventive or remedial measures, unless specifically appropriated by the Idaho state legislature. Under the provisions of this chapter the infected or infested plants, plant products or articles are considered to be a public nuisance.

22-2012. QUARANTINES. The director, by and with the approval of the governor, may, after investigations or hearings, establish, maintain and enforce quarantines as the director deems necessary to protect any and all plants against infestation or infection by any plant pest, new to or not heretofore widely prevalent or distributed within or throughout the state of Idaho. Quarantine rules issued under this chapter shall be promulgated in accordance with chapter 52, title 67, Idaho Code.

22-2013. QUARANTINE RULES -- REGULATED AREAS AND ARTICLES -- TEMPORARY RULES. The director may promulgate quarantine rules, whereby the production, movement or existence of plants, or any other article or material, or the normal activity of persons, is brought under rules, in order that the introduction or spread of a plant pest may be prevented or limited, or in order that a plant pest already introduced may be officially controlled, thereby reducing or avoiding an economic impact

that would otherwise occur through damage done by the pest or through continuing cost of control measures.

(1) Federal quarantine. The department may enter into cooperative agreements with the U.S. department of agriculture, and other federal, state, city or county agencies to assist in the enforcement of federal quarantines. The department may establish a quarantine and promulgate a rule against a plant pest or an area not covered by a federal quarantine. The department may seize, destroy or require treatment of products moved from a federally regulated area if they were not moved in accordance with the federal quarantine rules or, if certified, they were found to be infested with the plant pest.

(2) State plant quarantines:

(a) State interior quarantine. The department may establish a quarantine against a plant pest that is not of quarantine significance to other states, to prevent the spread of the plant pest within its borders; or establish a quarantine against a plant pest of regional or national significance when no federal quarantine has been established.

(b) Parallel state interior quarantine. The department may establish a parallel state interior quarantine against a plant pest which is of limited distribution in the state and is the subject of a federal quarantine. The quarantine regulates intrastate movement between quarantined and nonquarantined areas of the state. This quarantine action is required if the federal quarantine is to apply only to the infested portion of the state.

(c) Uniform state quarantine. The department may establish a uniform state quarantine with other infested states which are parallel with respect to their basic quarantine requirements. The regulated area in the uniform state quarantine shall describe the area to be regulated. The quarantine shall include a reference to regulated areas of all the infested states under the uniform state quarantine. When a plant pest of regional or national significance occurs only in limited areas of the state and no federal quarantine is established, a state interior quarantine shall be established.

(d) Standard state exterior quarantine. The department may establish a standard state exterior quarantine if the plant pest is not established in the state but is established in other states and no federal quarantine has been established. The department may require controls at origin or destination as are necessary to provide protection for Idaho industries, the public and the environment.

(3) Regulated areas. The regulated area to be described in quarantine rules may involve the entire state, portion of the state (areas) or a list of locations of infested properties:

(a) Regulated areas may be subdivided into suppressive and generally infested areas where it is desirable to augment control measures being applied in certain areas, and it is believed necessary to control movement into such areas from generally infested areas.

(b) Provisions in the quarantine rules may be made for adding to the regulated area any other area known to be infested, or which is found to be infested after establishment of the quarantine, when so declared by the director.

(c) When an infestation in a certain regulated area has been eliminated through the application of treatments, to the extent that movements of the regulated articles therefrom would no longer pres-

ent a pest risk, the quarantine may be lifted. Provided, a hold order shall be issued to each owner of any remaining infested property in the aforementioned regulated area.

(4) Movement of regulated articles:

(a) Interstate shipments:

(i) Any regulated article that is prohibited interstate movement or is required to be certified, if moved interstate from an area regulated by a state or federal quarantine, shall be refused entry into the state.

(ii) The owner or carrier of regulated articles that are reportedly originating in nonregulated areas of a quarantined state must provide proof of origin of the regulated articles through an invoice, waybill or other shipping document.

(iii) If only a portion of a state is under a state or federal quarantine, the shipment will not be refused nor a certificate required if the article originates from a nonregulated area of the shipping state, unless the article is found to be infested or prohibited.

(b) Intrastate shipments:

(i) Certificates or permits are required for the movement of nonexempted regulated articles when:

1. Moving from a regulated area to any point outside thereof.

2. Moving from a generally infested area into a suppressive area.

3. Moving within a suppressive area where such control over this movement is desirable.

(ii) Certificates or permits should not be required for any regulated article originating outside of a regulated area moving to another nonregulated area, or moving through or reshipped from a regulated area when the point of origin of the article is clearly indicated on a waybill, bill of lading, shipper's invoice or other similar document accompanying the shipment, provided that shipments moving through or being reshipped from a regulated area must be safeguarded against infestation while within the regulated area in a manner satisfactory to an investigator.

(iii) Certificates should not be issued unless provisions of other applicable quarantines have been met and the regulated articles:

1. Originate in a noninfested portion of the regulated area and have not been exposed to infestation while within the regulated area; or

2. Have been examined and found to be free of infestation; or

3. Have been treated in accordance with procedures approved by the director; or

4. Have been grown, produced, manufactured, stored or handled in such a manner that, in the judgment of the investigator, no infestation would be transmitted thereby.

(iv) Limited permits may be issued to allow the movement of regulated articles to a specified destination for limited handling, utilization, or processing, provided the investigator has determined that such movement will not result in the spread

of the pest and requirements of other quarantines have been met.

(v) Control over the movement of regulated articles from infested areas to noninfested areas within a regulated area may be provided for when such control over movement within a regulated area is desired to prevent the spread of plant pests. This provision usually will be applicable only when officially controlled treatments are being applied and would be handled through a direct written notice to the property owner concerned.

(vi) Compliance agreements should be required as a basis for the issuance of certificates or permits in bulk to industry for their issuance, and they are desirable to explain the main provisions of the quarantine for that particular concern.

(5) Temporary rules. The department may promulgate temporary rules pursuant to chapter 52, title 67, Idaho Code, in order to take immediate regulatory action to prevent the introduction or establishment of a plant pest.

22-2014. REPEAL OF QUARANTINES. The director, by and with the approval of the governor, may repeal a quarantine when its purposes have been accomplished, or if the progress of events has clearly proved that the desired end is not possible to attain by the restrictions adopted. The quarantine shall be promptly reconsidered, either with a review or repeal or with intent of substituting other measures. Before any such repeal of a quarantine shall become effective, the same shall be approved by the governor and shall be signed in duplicate by him, and one (1) copy thereof shall be filed in the office of the secretary of state and the other in the office of the director. Quarantine rules issued under this chapter must be repealed in accordance with chapter 52, title 67, Idaho Code.

22-2015. LISTING OF REGULATED NONQUARANTINE PESTS AND RESTRICTIONS BY RULES. The director may promulgate rules listing regulated nonquarantine pests and specify restrictions for specific plant pests with a specified economically unacceptable impact to Idaho agriculture.

22-2016. PROHIBITED ACTIVITY -- PERMITS -- EXPORT CERTIFICATION AND COMPLIANCE AGREEMENTS — NONINDIGENOUS PLANT PEST SPECIES. (1) The shipment, introduction into or release within this state of any plant pest, biocontrol agent, or genetically engineered plant or plant pest, or any other organism which may directly or indirectly affect the plant life of this state as an injurious pest, parasite or predator of other organisms, or any arthropod, is prohibited, except under permit issued by the department, or as exempted by rule.

(2) Permits:

(a) Permits for shipment of plant pests. No person may sell, offer for sale, move, convey, transport, deliver, ship or offer for shipment, any plant pest or biological control agent, without an application and permit to move live plant pests and noxious weeds, PPQ Form 526, supplements thereto, published by the U.S. department of agriculture, animal and plant health inspection service, plant protection and quarantine, or any publication revising or superseding the aforementioned, or its state equivalent. Permits may be issued

only after the director determines that the proposed shipment or use will not create a hazard to the agricultural, forest or horticultural interests of this state or to the state's general environmental quality. The permit shall be affixed conspicuously and on the exterior of each shipping container, box, package, appliance, or accompany each shipping container, box, package or appliance, as the director requires.

(b) Biotechnology permits. The director may enter into cooperative agreements with the U.S. department of agriculture to provide oversight and regulation of genetically engineered plants or any organism that may be a plant pest. This includes reviewing U.S. department of agriculture biotechnology notifications and permits, inspection of facilities conducting agricultural biotechnology and field release sites.

(c) Interstate origin inspection and preclearance permits (compliance agreements). The director may issue permits for interstate origin and preclearance of quarantine articles based on pest risk mitigation tactics or strategies that can be enforced at the point of origin of the shipment. Interstate origin inspection programs can be developed to achieve compliance with quarantine restrictions, regulated nonquarantine pest restrictions and product quality standards.

(3) Export certification and compliance agreements. The director has the authority to enter into compliance agreements for the purpose of certifying articles as pest free for export certification.

(4) A nonindigenous plant pest species known or not known to occur in the state of Idaho may not be granted entry into the state unless issued a written permit by the director. Permits shall contain such conditions and measures as the director may see fit to prevent the species from becoming established or further established within the state.

22-2017. CROP MANAGEMENT AREAS. The legislature recognizes the fact that in order to produce crops that are free from plant pests, and to control such plant pests, it is frequently necessary to apply certain crop management practices over an area which may include several farms, orchards, nurseries or other crop producing entities. Such practices may include, but are not limited to, use of clean seed, destruction of infested or undesirable plants, use of chemicals and prohibiting introduction of host materials. The legislature further recognizes that it is in the public interest that the director be authorized to designate certain areas as crop management areas and to stipulate those practices which shall be followed in the management area insofar as they affect the particular crop.

(1) The director may provide for establishment of a crop management area after presentation of a petition signed by not less than twenty-five (25) registered electors residing within the confines of the proposed crop management area. The petitioners shall give the petition to the county clerk of the county or counties who shall examine the signatures and certify the number of valid signatures of electors residing within the confines of the proposed crop management area and transmit the petition to the director. The director may establish a crop management area within the boundaries specified in the petition. The director may make and enforce rules to maintain the management area. Rules may include, but shall not be limited to:

(a) Specification of the kind and quality of seed or other propagative material which may be planted in the area;
(b) Specification of treatments, chemical or otherwise, which shall be used to control pests or undesirable plants in the area;
(c) Transportation of vegetative material into, within or out of the area;
(d) Disposition of infested crops, undesirable plants or other material which may include destruction of the crops, plants or other material;
(e) Disposition of vegetative material planted in violation of the rules.

(2) Disposition of infested or violative material in a crop management area shall be at the expense of the owner thereof.

22-2018. RESEARCH AND INVESTIGATION OF PLANT PEST PROBLEMS AND CONTROL. As deemed necessary, the director may fund research to prevent the introduction or spread of plant pests causing or having the potential to cause significant damage or harm in the state, and to investigate the feasibility of their control.

22-2019. INFESTATIONS -- PEST CONTROL COSTS -- DEFICIENCY WARRANTS -- COOPERATION WITH OTHER LANDOWNERS. Whenever the director determines that there exists the threat of an infestation of grasshoppers, crickets or other plant pests on state-owned land, private, range or agricultural land, and that the infestation is of such a character as to be a menace to state, private, range or agricultural land, the director may declare the existence of an infestation. Thereupon, the director shall have the power to go upon the state-owned land, private, range or agricultural land within the infested area, and shall cause the pest infestation to be controlled, using such funds as have been appropriated or may hereafter be made available for such purposes. Provided however, that whenever the cost of control of grasshoppers, crickets or other plant pests on state-owned land, private, range or agricultural land exceeds the funds appropriated or otherwise available for that purpose, the state board of examiners may authorize the issuance of deficiency warrants against the general fund account for up to five hundred thousand dollars ($500,000) in any one (1) year for such survey, detection and control. The director in executing the provisions of this chapter insofar as it relates to state-owned land, private, range or agricultural land, shall have the authority to cooperate with federal, state, county, municipal and private landowners in pest control projects; provided, that the state funds shall only be used to pay the state's pro rata share based on acreage of state-owned land, private, range or agricultural land treated. Such moneys as the state shall thus become liable for shall be paid out of appropriations which shall be made by the legislature for that purpose.

22-2020. PENALTIES FOR VIOLATIONS. (1) Any person who violates any provision of this chapter, or of the rules promulgated hereunder for carrying out the provisions of this chapter, or who fails or refuses to comply with any requirements herein specified, or who interferes with the department, its agents or employees, in the execution, or on account of the execution of its or their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than three thousand dollars

($3,000) or be imprisoned in a county jail for not more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand dollars ($10,000) for each offense and shall be liable for reasonable attorney's fees.

(a) Assessment of a civil penalty may be made in conjunction with any other department administrative action.

(b) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act.

(c) If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court.

(d) Any person against whom the department has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred.

(e) All civil penalties collected pursuant to this section shall be remitted to the agricultural department inspection fund.

(3) Nothing in this chapter shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action.

22-2021. COOPERATION WITH OTHER JURISDICTIONS. (1) The department may enter into cooperative agreements with organizations including, but not limited to: persons, civic groups, or governmental agencies, to adopt and execute plans to detect and control areas infested or infected with plant pests. Such cooperative agreements may include provisions of joint funding of any control treatment.

(2) If a plant pest occurs and cannot be adequately controlled by individual person(s), owner(s), tenant(s) or local units of government, the department may conduct the necessary control measures independently or on a cooperative basis with federal or other units of government.

22-2022. SEVERABILITY. If any section, sentence, clause, phrase, or other portion of this chapter is for any reason held to be unconstitutional, the decision shall not affect the validity of the remaining portions thereof.

22-2023. NO EFFECT ON EXISTING LIABILITY. The enactment of this chapter does not terminate or modify any civil or criminal liability relating to plant pests which exists prior to the effective date of this chapter.

Approved March 19, 2002.

CHAPTER 90
(H.B. No. 482)

AN ACT
RELATING TO SALES TAX EXEMPTIONS; AMENDING SECTION 63-36220, IDAHO CODE, TO PROVIDE A SALES TAX EXEMPTION FOR THE FAMILY SERVICES ALLIANCE OF SOUTHEAST IDAHO AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. 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 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, The Children's Home Society of Idaho, American 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, Idaho Community Action Agencies, Idaho Pri-

mary Care Association and community health centers who are members of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs, ~~and~~ Special Olympics Idaho, ~~and~~ the Idaho Women's and Children's Alliance, and the Family Services Alliance of Southeast Idaho, 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, 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.

(k) "Agency of the state of Idaho" 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) of this section do 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.

Approved March 19, 2002.

CHAPTER 91
(H.B. No. 484)

AN ACT

RELATING TO THE SURPLUS INSURANCE LINE LAW; AMENDING SECTION 41-1211, IDAHO CODE, TO PROVIDE FOR SURPLUS LINE BROKERS TO BE LICENSED IN IDAHO AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-1213, IDAHO CODE, TO PROVIDE THAT THE DEFINITION OF BROKER INCLUDES RESIDENT SURPLUS LINE BROKERS AND NONRESIDENT SURPLUS LINE BROKERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-1215, IDAHO CODE, TO PROVIDE THAT THE BROKER SHALL FILE OR CAUSE TO BE FILED AN AFFIDAVIT WITH THE DIRECTOR OF THE DEPARTMENT OF INSURANCE WITHIN THIRTY DAYS AFTER THE INSURANCE POLICY IS RECEIVED BY THE BROKER; AMENDING SECTION 41-1216, IDAHO CODE, TO PROVIDE FOR RULES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-1217, IDAHO CODE, TO PROVIDE THAT A PERSON WHO INDEPENDENTLY PROCURES ITS OWN INSURANCE PURSUANT TO THE SURPLUS LINE LAW SHALL ONLY PURCHASE SURPLUS LINE INSURANCE FROM INSURERS ON THE LIST OF ELIGIBLE INSURERS; AMENDING SECTION 41-1218, IDAHO CODE, TO APPLY PENALTIES TO THE PERSON WHO INDEPENDENTLY PROCURES ITS OWN INSURANCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-1223, IDAHO CODE, TO REVISE REQUIREMENTS FOR LICENSING OF SURPLUS LINE BROKERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-1224, IDAHO CODE, TO REVISE CRITERIA FOR WHICH A SURPLUS LINE BROKER'S LICENSE MAY BE SUSPENDED OR REVOKED; REPEALING SECTION 41-1225, IDAHO CODE; AMENDING SECTION 41-1227, IDAHO CODE, TO REVISE RECORD REQUIREMENTS FOR BROKERS; AMENDING SECTION 41-1228, IDAHO CODE, TO REQUIRE AN ANNUAL REPORT OF

A BROKER; AMENDING SECTION 41-1230, IDAHO CODE, TO PROVIDE PENALTIES FOR BROKERS WHO FAIL TO FILE THE ANNUAL REPORT OR REMIT THE REQUIRED TAX AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 41-1233, IDAHO CODE, TO REVISE REQUIREMENTS FOR REPORTS AND TAX OF INDEPENDENTLY PROCURED COVERAGES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-1211, Idaho Code, be, and the same is hereby amended to read as follows:

41-1211. SURPLUS LINE LAW -- SHORT TITLE -- PURPOSE. (1) Sections 41-1211 through 41-1234, Idaho Code, constitute and may be cited as the "Surplus Line Law."

(2) It is declared that the purposes of the ~~S~~surplus ~~L~~line ~~L~~law are to provide orderly access for the insuring public of Idaho to insurers not authorized to transact insurance in this state, through only qualified, licensed, and supervised surplus line brokers ~~resident~~ licensed in Idaho and under such safeguards for the insured as may be practical, for insurance coverages and to the extent thereof not procurable from authorized insurers; to protect such authorized insurers, which under the laws of Idaho must meet certain standards as to policy forms and rates, from unwarranted competition by unauthorized insurers who, in the absence of this law, would not be subject to similar requirements; and for other purposes as set forth in this law.

SECTION 2. That Section 41-1213, Idaho Code, be, and the same is hereby amended to read as follows:

41-1213. DEFINITIONS. (1) "Broker" as used in this chapter means a surplus line broker duly licensed as such under this chapter, including resident surplus line brokers and nonresident surplus line brokers.

(2) To "export" means to place in an unauthorized insurer under this ~~S~~surplus ~~L~~line ~~L~~law insurance covering a subject of insurance resident, located, or to be performed in Idaho.

SECTION 3. That Section 41-1215, Idaho Code, be, and the same is hereby amended to read as follows:

41-1215. BROKER'S AFFIDAVIT. At the time of procuring any such surplus line insurance the broker shall execute an affidavit, in form as prescribed or accepted by the director, setting forth facts from which it can be determined whether such insurance was eligible for export under section 41-1214, Idaho Code. The broker shall file, or cause to be filed, this affidavit with the director within thirty (30) days after the insurance policy is received by the broker.

SECTION 4. That Section 41-1216, Idaho Code, be, and the same is hereby amended to read as follows:

41-1216. OPEN LINES FOR EXPORT. (1) The director may by order or by rule declare eligible for export generally and without compliance with the provisions of sections 41-1214(2), 41-1214(3) and 41-1215, Idaho Code, any class or classes of insurance coverage or risk ~~for~~ which he

finds, ~~after a hearing of which notice was given to each insurer--authorized--to--transact such class or classes in this state,~~ consistent with the procedural requirements of chapter 52, title 67, Idaho Code, that there is no reasonable or adequate market among authorized insurers either as to acceptance of the risk, contract terms, or premium or premium rate. Any such order shall continue in effect during the existence of the conditions upon which predicated, but subject to earlier termination by the director.

(2) The broker shall file with or as directed by the director a memorandum as to each such coverage placed by him in an unauthorized insurer, in such form and context as the director may reasonably require for the identification of the coverage and determination of the tax payable to the state relative thereto.

(3) The broker, or a licensed Idaho agent of the authorized insurer, may also place with authorized insurers any insurance coverage made eligible for export generally under subsection (1) ~~above,~~ of this section and without regard to rate or form filings which may otherwise be applicable as to the authorized insurer. As to coverages so placed in an authorized insurer the premium tax thereon shall be reported and paid by the insurer as required generally under section 41-402, Idaho Code.

SECTION 5. That Section 41-1217, Idaho Code, be, and the same is hereby amended to read as follows:

41-1217. ELIGIBLE SURPLUS LINES INSURERS. (1) A broker shall not knowingly place surplus lines insurance with an insurer that is unsound financially, or that is ineligible under this section.

(2) The director shall from time to time compile or approve a list of all surplus lines insurers deemed by him to be eligible currently, and shall cause to be sent a copy of such list to each broker at his office last of record with the director. This subsection shall not be deemed to require the director to determine the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the director, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the director has no credible evidence to the contrary. While any such list is in effect the broker shall restrict to the insurers so listed all surplus lines business placed by him and a person who independently procures its own insurance pursuant to this chapter for risks located in Idaho shall only purchase surplus line insurance from insurers so listed.

SECTION 6. That Section 41-1218, Idaho Code, be, and the same is hereby amended to read as follows:

41-1218. ELIGIBLE SURPLUS LINE INSURERS -- PENALTY FOR VIOLATION. (1) For any violation of section 41-1217, Idaho Code, the broker or a person who independently procures its own insurance shall, upon conviction thereof, be guilty of a misdemeanor punishable as provided in section 41-117, Idaho Code~~,~~ (general penalty). If the director finds, after hearing, that the broker has violated such section he shall revoke all licenses held by him under this code, and shall not again license such individual under this code within a period of two (2) years after such revocation became final.

(2) The director may impose an administrative penalty not to exceed fifteen thousand dollars ($15,000), for deposit in the general account of the state of Idaho, upon any person or entity who transacts or who attempts to transact insurance as a surplus lines insurer in violation of any provision of chapter 12, title 41, Idaho Code. Failure of any such person or entity to pay a fine imposed pursuant to the provisions of this section shall authorize the director to seek enforcement of the fine, and any associated costs and attorney fees related to bringing the action, in any district court of this state.

SECTION 7. That Section 41-1223, Idaho Code, be, and the same is hereby amended to read as follows:

41-1223. LICENSING OF SURPLUS LINE BROKERS. (1) Any individual while licensed ~~in this state~~ as a producer licensed for property or casualty insurance who has had at least two (2) years' experience as a ~~licensed agent or broker~~ producer for the lines of insurance for which he is seeking to be licensed as a surplus lines broker, and who is deemed by the director to be competent and trustworthy with respect to the handling of surplus lines, ~~and while maintaining an office at a designated location in this state,~~ may be licensed as a surplus line broker.

(2) Application for the license shall be made to the director on forms as designated and furnished by the director.

(3) The license and continuation fee shall be as set forth by rule pursuant to section 41-401, Idaho Code.

(4) The license and licensee shall be subject to the applicable provisions of chapter 10, title 41, Idaho Code (producers -- licensing).

SECTION 8. That Section 41-1224, Idaho Code, be, and the same is hereby amended to read as follows:

41-1224. SUSPENSION OR REVOCATION OF BROKER'S LICENSE. (1) The director may suspend or revoke any surplus line broker's license:

(a) If the broker fails to file his annual ~~statement~~ report or to remit the tax as required by this law; or

(b) If the broker fails ~~to maintain an office in this state, or~~ to keep the records, or to allow the director to examine his records in this state as required by this law~~, or if he removes his records from the state~~; or

(c) If the broker knowingly places a surplus line coverage in an insurer that is in unsound financial condition in violation of section 41-1217, Idaho Code; or

(d) For any other applicable cause for which a ~~general lines agent's~~ producer's license may be suspended or revoked.

(2) The procedures provided by chapter 10, title 41, Idaho Code, for suspension or revocation of licenses shall apply to suspension or revocation of a surplus line broker's license.

(3) Upon suspending or revoking the broker's surplus line license the director shall also suspend or revoke all other licenses of the same individual under this code.

(4) No broker whose license has been so suspended or revoked shall again be so licensed until any fines or delinquent taxes owing by him have been paid, nor, in case of revocation, until after expiration of

one (1) year from date revocation became final.

SECTION 9. That Section 41-1225, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 41-1227, Idaho Code, be, and the same is hereby amended to read as follows:

41-1227. RECORDS OF BROKER. (1) Each broker shall keep in his office ~~in this state~~ a full and true record of each surplus line coverage procured by him, including a copy of each daily report, if any, a copy of each certificate of insurance issued by him, and such of the following items as may be applicable:

(a) Amount of the insurance;
(b) Gross premium charged;
(c) Return premium paid, if any;
(d) Rate of premium charged upon the several items of property;
(e) Effective date of the contract, and the terms thereof;
(f) Name and address of each insurer on the direct risk and the proportion of the entire risk assumed by such insurer if less than the entire risk;
(g) Name and address of the insured;
(h) Brief general description of the property of risk injured and where located or to be performed; and
(i) Other information as may be required by the director.

(2) The record ~~shall not be removed from this state and~~ shall at all times within five (5) years after issuance of the coverage to which it relates be open to examination in this state by the director.

SECTION 11. That Section 41-1228, Idaho Code, be, and the same is hereby amended to read as follows:

41-1228. ANNUAL ~~STATEMENT~~ REPORT OF BROKER. (1) Each broker shall on or before the first day of March of each year file with the director a verified ~~statement~~ report of all surplus line insurance transacted by him during the preceding calendar year.

(2) The statement shall be on forms as prescribed and furnished by the director and shall show:

(a) Gross amount of each kind of insurance transacted;
(b) Aggregate gross premiums charged;
(c) Aggregate of returned premiums paid to insureds;
(d) Aggregate of net premiums; and
(e) Additional information as required by the director.

SECTION 12. That Section 41-1230, Idaho Code, be, and the same is hereby amended to read as follows:

41-1230. FAILURE TO FILE ~~STATEMENT~~ REPORT OR REMIT TAX -- PENALTY. If any broker fails to file his annual ~~statement~~ report, or fails to remit the tax provided by section 41-1229, ~~herein~~ Idaho Code, prior to the first day of April after the tax is due, he shall be liable for a fine of twenty-five dollars ($25.00) for each day of delinquency commencing with the first day of April. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted

by the director in any court of competent jurisdiction. Any fine collected by the director shall be paid to the state treasurer and credited to the general fund.

SECTION 13. That Section 41-1233, Idaho Code, be, and the same is hereby amended to read as follows:

41-1233. REPORT AND TAX OF INDEPENDENTLY PROCURED COVERAGES. (1) Every insured who in this state procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this state so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this state, other than insurance procured through a surplus line broker pursuant to the surplus line law of this state or exempted from tax pursuant to section 41-1212, Idaho Code, shall within thirty (30) days after the date such insurance policy was so received by the insured, continued or renewed file a written report of the same with the ~~director~~ surplus line association on forms designated by the director and furnished to the insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as the director reasonably requests. If the insurance covers also a subject of insurance resident, located or to be performed outside this state a proper pro rata portion of the entire premium payable for all such insurance shall be allocated to this state for the purposes of this section.

(2) Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured or continued or renewed in this state within the intent of subsection (1) of this section.

(3) The insured with respect to the obligation, chose in action, or right represented by such insurance shall be subject to chapter 4, title 41, Idaho Code, as it pertains to premium tax. Within thirty (30) days after the insurance policy was so received by the insured, continued or renewed, and coincidentally with the filing with the ~~director~~ surplus line association of the report provided for in subsection (1) of this section, the insured shall pay the amount of the tax to the director and a stamping fee to the surplus line association.

(4) The tax imposed hereunder if delinquent shall bear interest at the rate of six percent (6%) per annum, compounded annually.

(5) The tax shall be collectible from the insured by civil action brought by the director, or by distraint.

(6) This section does not abrogate or modify any provision of sections 41-1201 (representing or aiding unauthorized insurer prohibited), 41-1202 (representing or aiding unauthorized insurer prohibited — penalty), or 41-1203 (suits by unauthorized insurer prohibited), Idaho Code.

(7) This section does not apply as to life or disability insurances.

SECTION 14. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 19, 2002.

CHAPTER 92
(H.B. No. 485)

AN ACT

RELATING TO THE IDAHO ACCOUNTANCY ACT; AMENDING SECTION 54-201, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-202, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION 54-203, IDAHO CODE, TO REVISE THE MEMBERSHIP OF THE BOARD OF ACCOUNTANCY; AMENDING SECTION 54-204, IDAHO CODE, TO REVISE THE RULEMAKING AUTHORITY AND OTHER POWERS AND DUTIES OF THE BOARD OF ACCOUNTANCY; AMENDING SECTION 54-206, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-207, IDAHO CODE, TO PROVIDE FOR ADDITIONAL EDUCATIONAL REQUIREMENTS FOR LICENSURE AND TO PROVIDE THAT THE BOARD OF ACCOUNTANCY MAY ADOPT RULES RELATING TO EDUCATIONAL REQUIREMENTS; AMENDING SECTION 54-208, IDAHO CODE, TO REVISE THE REQUIREMENTS FOR ADMISSION TO EXAMINATION, TO PROVIDE FOR THE CONDUCT OF EXAMINATIONS AND TO PROVIDE THAT A FEE MAY BE CHARGED FOR EXAMINATIONS; AMENDING SECTION 54-209, IDAHO CODE, TO REVISE THE EXPERIENCE REQUIRED OF APPLICANTS FOR LICENSURE; AMENDING SECTION 54-210, IDAHO CODE, TO REVISE CERTAIN REQUIREMENTS FOR LICENSURE BY RECIPROCITY AND TO PROVIDE FOR FOREIGN RECIPROCITY; AMENDING SECTION 54-211, IDAHO CODE, TO REVISE LICENSING FEES AND LICENSING PERIODS FOR ORIGINAL LICENSES AND THE RENEWAL OF LICENSES, TO REVISE REQUIREMENTS FOR THE RENEWAL OF LICENSES, TO PROVIDE FOR REQUIREMENTS FOR INACTIVE AND RETIRED STATUS, TO REVISE FEES FOR REINSTATEMENT OF LICENSES, TO PROVIDE THAT APPLICANTS FOR INITIAL ISSUANCE OR REINSTATEMENT OF LICENSES SHALL FILE AN APPLICATION LISTING ANY PAST DENIALS, REVOCATIONS OR SUSPENSIONS OF A CERTIFICATE, LICENSE OR PERMIT AND TO PROVIDE A REFERENCE TO LICENSEES; AMENDING SECTION 54-212, IDAHO CODE, TO REVISE GENERAL FEES; AMENDING SECTION 54-213, IDAHO CODE, TO PROVIDE THAT CERTAIN INDIVIDUALS LICENSED AS OF JULY 1, 2002, SHALL BE CONSIDERED LICENSEES; AMENDING SECTION 54-214, IDAHO CODE, TO REMOVE REQUIREMENTS OF PRACTICE UNIT REGISTRATION AND QUALITY REVIEWS AND TO PROVIDE FOR FIRM REGISTRATION AND PEER REVIEWS; REPEALING SECTIONS 54-215 AND 54-216, IDAHO CODE; AMENDING SECTION 54-218, IDAHO CODE, TO PROVIDE FOR THE ACCEPTANCE OF COMMISSIONS AND CONTINGENT FEES UNDER CERTAIN CONDITIONS; AMENDING SECTION 54-219, IDAHO CODE, TO REVISE THE GROUNDS ON WHICH THE BOARD MAY PENALIZE LICENSEES AND HOLDERS OF CERTIFICATES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-220, IDAHO CODE, TO REVISE RESTRICTIONS ON THE USE OF CERTAIN TITLES, DESIGNATIONS OR ABBREVIATIONS RELATED TO ACCOUNTANCY; AMENDING SECTION 54-221, IDAHO CODE, TO PROVIDE THAT ONLY LICENSEES SHALL ISSUE REPORTS ON FINANCIAL STATEMENTS OR OFFER TO RENDER OR RENDER ATTEST OR COMPILATION SERVICES, TO PROVIDE THAT LICENSEES AND INDIVIDUALS GRANTED PRIVILEGES SHALL PERFORM ATTEST SERVICES ONLY THROUGH CERTAIN BUSINESSES, TO

PROVIDE THAT LICENSEES SHALL ISSUE COMPILATION REPORTS ONLY THROUGH CERTAIN BUSINESSES UNLESS SPECIFIED CONDITIONS ARE MET AND TO PROVIDE THAT LICENSEES AND FIRMS WHICH DO NOT ISSUE REPORTS MAY ISSUE FINANCIAL STATEMENTS ONLY IF SUCH STATEMENTS INCLUDE SPECIFIED DISCLAIMER LANGUAGE; AMENDING CHAPTER 2, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-227, IDAHO CODE, TO PROVIDE FOR SUBSTANTIAL EQUIVALENCY, TO PROVIDE CONDITIONS FOR THE EXERCISE OF CERTAIN PRIVILEGES BY LICENSEES OF OTHER STATES, TO PROVIDE THAT LICENSEES OF IDAHO WHO OFFER OR RENDER SERVICES OR USE THE CPA TITLE IN OTHER STATES SHALL BE SUBJECT TO DISCIPLINARY ACTION IN IDAHO AND TO PROVIDE THAT THE BOARD SHALL INVESTIGATE COMPLAINTS MADE BY ACCOUNTANCY BOARDS OF OTHER STATES; AND AMENDING CHAPTER 2, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-228, IDAHO CODE, TO PROVIDE FOR SEVERABILITY.

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

SECTION 1. That Section 54-201, Idaho Code, be, and the same is hereby amended to read as follows:

54-201. SHORT TITLE. This ~~act~~ chapter shall be known and may be cited as "The Idaho Accountancy Act."

SECTION 2. That Section 54-202, Idaho Code, be, and the same is hereby amended to read as follows:

54-202. LEGISLATIVE INTENT. It is the policy of this state, and the purpose of this chapter, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications shall not be permitted to hold themselves out as having special competence or to offer such assurance; that the ~~professional~~ conduct of persons licensed as having special competence in accountancy be regulated in all aspects of ~~the practice of public accountancy~~ their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the ~~professional~~ conduct of ~~practitioners of public accountancy~~ licensees be established; and that the use of titles ~~relating to the practice of public accountancy that are likely to mislead~~ that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles be prohibited.

SECTION 3. That Section 54-203, Idaho Code, be, and the same is hereby amended to read as follows:

54-203. BOARD CREATED — MEMBERSHIP -- APPOINTMENT -- VACANCIES. There is hereby created in the department of self-governing agencies a board of accountancy in and for the state of Idaho, to be known as the Idaho state board of accountancy. The board shall consist of seven (7) members, all of whom shall be residents of this state, appointed by the

governor, five (5) of whom shall hold current certified public accountant licenses issued under the laws of this state, one (1) who shall be either a licensed public accountant or certified public accountant and one (1) ~~who shall be a~~ public member not ~~engaged in the practice of public accounting~~ licensed under this chapter, who has professional or practical experience in the use of accounting services and financial statements. Board members shall be appointed for terms of five (5) years to commence on the first day of September. The existing members of the Idaho state board of accountancy as previously appointed, shall continue in office with their terms expiring on August 31 of each member's final year. ~~A person who is either a licensed public accountant or certified public accountant shall fill a sixth position on the board--whose first--term shall be for four (4) years beginning September 1, 1993. One (1) public member from the business community shall serve as the seventh member of the board whose first term shall be for four (4) years--beginning--September--1,--1993.~~ Whenever the term for a member of the board holding one (1) of the ~~original five (5)~~ seats on the board originally appointed from nominations of the Idaho society of certified public accountants expires or ~~the position is~~ becomes vacant for any cause, the Idaho society of certified public accountants shall nominate two (2) persons with qualifications to become a member of the board as herein specified, for each such vacancy. Whenever the term for a member holding the ~~sixth~~ position on the board ~~shall expire~~ originally appointed from nominations of the Idaho association of public accountants expires or becomes vacant for any cause, the Idaho association of public accountants shall nominate two (2) persons with qualifications to become a member of the board as herein specified, for each such vacancy. Nominations shall be forwarded to the governor who shall appoint from such nominees the requisite number of persons to be members of the board to fill such vacancy or vacancies. Whenever the term for ~~a~~ the public member ~~holding the seventh position~~ on the board ~~shall~~ expires or becomes vacant for any cause, the governor shall appoint a nonlicensed person to become a member of the board without receiving official nominees from any source. Vacancies occurring during the term shall be filled by appointment by the governor for the unexpired term. Upon expiration of the term of office, a member shall continue to serve until a successor shall have been appointed and shall have qualified.

SECTION 4. 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, examination and experience qualifications required for the issuance of certificates, ~~the expe-~~

~~rience 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~~ professional services 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~~ governing the professional standards applicable to licensees;

(f) Rules governing the manner and circumstances of use of the titles "certified public accountant" and "licensed public accountant";

(g) Rules regarding ~~quality~~ peer 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) Rules on substantial equivalency to implement section 54-227, Idaho Code;

(i) Rules adopting statements on standards as specified in section 54-206(3), Idaho Code, which, if the board may deem appropriate, shall be those standards developed for general application by recognized accountancy organizations such as the AICPA, as such statements are established from time to time; and

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

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

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

(4) To initiate or receive complaints, cause the same to be investigated, initiate proceedings, and conduct hearings or proceedings pursuant to chapter 2, title 54, Idaho Code. The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board.

Unless dismissed by the board as unfounded or trivial, the board may 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 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; may administer oaths; may take testimony; may cooperate with the appropriate authorities in other states in investigation and enforcement concerning violations of this chapter and comparable acts of other states; and may receive evidence 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.

(7) All hearings, investigations or proceedings conducted by the board shall be conducted in conformity with chapter 52, title 67, Idaho Code, and rules of the board adopted pursuant thereto, and, unless otherwise requested by the concerned party, be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 5. That Section 54-206, Idaho Code, be, and the same is hereby amended to read as follows:

54-206. DEFINITIONS. As used in this section:

(1) ~~"Academic--year"--means--that--period-of-study,-at-a-college-or university,-approved-by-the-board,-necessary-to-accumulate--the--equivalent-of-thirty-(30)-semester-credit-hours.~~

~~(2)~~ "AICPA" means the American institute of certified public accountants.

(3~~2~~) "Applicant" means any person having the requisite qualifications who makes application to the board for examination, or for initial issuance or renewal or reinstatement of a ~~certificate-and~~ license under the provisions of this chapter.

(3) "Attest" means providing the following financial statement services:

(a) Any audit or other engagement to be performed in accordance

with the statements on auditing standards;

(b) Any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services; and

(c) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements.

~~(4) "Audit"--means an examination of financial statements conducted in accordance with generally accepted auditing standards,--to--determine whether,--in--the auditor's opinion,-the statements are fairly presented and conform with generally accepted accounting principles,-or-if--applicable,-with another comprehensive basis of accounting.~~

~~(5)~~ "Board" means the Idaho state board of accountancy.

(6~~5~~) "Certificate" means that document issued by the board upon original approval of ~~a license~~ licensure. The original certificate does not constitute licensure and a person cannot ~~hold~~ represent himself or herself ~~out to the public~~ as a licensee unless a current and valid annual license has been issued by the board.

(~~7~~6) "Certified public accountant" means any person who holds a valid, unrevoked and unsuspended license under the provisions of chapter 2, title 54, Idaho Code, or an equivalent provision of the laws of another state designating said person as a certified public accountant.

(~~8~~7) "Client" means the person or entity ~~which retains a practice unit engaged in the practice of public accounting for the performance of~~ that agrees with a licensee or licensee's employer to receive any professional services with or without compensation and shall include all affiliates and related entities in the financial statements of an attest or compilation engagement.

(~~9~~8) "Compilation" means ~~presenting~~ a service performed in accordance with statements on standards for accounting and review services which presents, in the form of historical or prospective financial statements, ~~in accordance with standards adopted by the AICPA,~~ information that is the representation of management or owners without undertaking to express any assurance on the statements. The term "compilation" does not include financial statements accompanied by the language set forth in section 54-226(3), Idaho Code, (whether used by a licensee or by a person not licensed under this chapter) so long as the financial statements are not accompanied by any other language of assurance or disclaimer.

(~~10~~9) "Financial statements" means a presentation of historical or prospective financial data, which may include accompanying notes, intended to communicate an entity's economic resources or obligations at a point in time, or the changes therein for a period of time, in accordance with a comprehensive basis of accounting.

(1~~1~~0) "Firm" means a proprietorship, partnership, professional corporation, professional limited liability company, or any other form of professional organization permitted by Idaho law, ~~engaged in the practice of public accounting of which all proprietors, partners, officers, shareholders or members are licensed under the provisions of this chapter~~ registered under the requirements of section 54-214, Idaho Code.

(1~~2~~1) "Good moral character" means lack of a history of dishonest dealings or a felonious act.

~~(13) "Hold-out" or "holding out" means providing or offering to provide work or services as a certified public accountant or licensed pub-~~

~~lic-accountant.-Holding-out-includes,-but-is-not-limited-to,-display--of a--license,--or--oral--or-written-representation-that-the-person-holds-a current-and-valid-license-or-is-authorized-to-practice--public--account-ing.-Written-representation-can-include-the-certified-public-accountant, licensed--public--accountant,--or-any-other-designation-cited-in-section 54-220,-Idaho-Code,-which-may-appear-on--a--letterhead,--business--card, office-sign-or-advertisement.~~

(14~~2~~) "License" means that ~~permit~~ authorization issued by the board upon original approval and on an annual basis permitting a qualified person to practice as a certified public accountant or licensed public accountant in the state of Idaho.

(15~~3~~) "Licensed public accountant" or "LPA" means any person who holds a valid, unrevoked and unsuspended license under the provisions of chapter 2, title 54, Idaho Code, designating said person as a licensed public accountant.

(16~~4~~) "Licensee" means the holder of a current valid license. ~~issued by-this-state-authorizing-that-person-to-practice-public-accountancy.~~

(17~~5~~) "Member" means a ~~licensed~~ person who has been admitted to membership in a firm which is organized as a limited liability company.

~~(18)-"Partnership"-means-an-association-of-two-(2)-or-more-licensees to-carry-on-as-co-owners-a-business-for-profit-for-the-practice-of--pub-lic-accountancy.~~

(16) "Peer review" means a board approved study, appraisal or review of one (1) or more aspects of the professional work of a licensee or firm that performs attest or compilation services, by a person or persons licensed under this chapter or by another state and who are independent of the licensee or firm being reviewed.

(17) "Permit" means a permit to practice as a firm issued under corresponding provisions of the laws of other states.

(19~~8~~) "Person" means any natural living person.

~~(20)-"Practice--of--public--accounting"-means-offering-to-perform-or performing,-for-a-client-or-potential-client,-one-(1)-or-more--types--of services--involving-the-use-of-accounting-or-auditing-skills,-or-one-(1) or-more-types-of-management,-financial-advisory-or-consulting--services, or--the--preparation--of-tax-returns,-or-the-furnishing-of-advice-on-tax matters,-while-holding-oneself-out-in-such-manner-as-to-state--or--imply that-one-is-a-licensee.~~

~~(21)-"Practice--unit"--means-a-firm-with-which-a-licensee-engaged-in the-practice-of-public-accounting-is-affiliated,-including-a-proprietor-ship,-partnership,-professional-corporation-or-any-other-form-of-organi-zation-permitted-by-Idaho-law.~~

~~(22)-"Professional-corporation"-means-either:~~

~~(a)--A-professional-public-accounting-corporation-organized-pursuant to-chapter-13,-title-30,-Idaho-Code,-or-any-other-form-of--organiza-tion--permitted-by-Idaho-law,-the-shareholders-of-which-are-all-per-sons-licensed-as-certified-public--accountants--or--licensed--public accountants;-or~~

~~(b)--A-foreign-corporation-certified-by-the-secretary-of-state-to-do business--in-public-accountancy-in-Idaho,-provided-that-any-officer, shareholder,-agent-or-employee-of-the-corporation-remains-personally and-fully-liable-and-accountable-for-any-negligent-or--wrongful--act or--misconduct--committed--by-him,-or-by-any-person-under-his-direct supervision-and-control,--while--rendering--professional--accounting services-on-behalf-of-the-corporation-in-the-state-of-Idaho.~~

(~~23~~19) "Professional services" means ~~any~~ services ~~performed--or offered--to-be-performed-by-a-licensee-for-a-client-in-the-course-of-the practice-of-public-accountancy~~ arising out of or related to the specialized knowledge or skills associated with certified public accountants or licensed public accountants.

~~(24)-"Proprietorship"-means-a-business-for-the--practice--of--public accountancy-which-is-owned-by-a-licensee.~~

~~(25)-"Quality--review"--means--a--board-approved-study,-appraisal-or review-of-one-(1)-or-more-aspects-of-the-professional-work-of-a-practice unit-by-a-person-or-persons-who-are-licensed-under-this--chapter--or--by another--state--and--who--are--independent--of--the--practice-unit-being reviewed.~~

(26~~0~~) "Report," when used with reference to financial statements, means an opinion or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that ~~he-or-she~~ the person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or special knowledge or competence.

~~(27)-"Review"-means-performing-inquiry-and-analytical-procedures--in accordance-with-standards-adopted-by-the-AICPA-that-provide-a-reasonable basis--for-expressing-limited-assurance-that-there-are-no-material-modifications-that-should-be-made-to-financial-statements-in-order-for--them to-be-in-conformity-with-generally-accepted-accounting-principles-or,-if applicable,-with-another-comprehensive-basis-of-accounting.~~

(28~~1~~) "State" means any state~~,-territory-or-insular-possession~~ of the United States, ~~or~~ the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Idaho.

(22) "Substantial equivalency" or "substantially equivalent" means a determination by the board that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements for CPAs contained in this chapter or that an individual licensee's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements for CPAs contained in this chapter.

SECTION 6. That Section 54-207, Idaho Code, be, and the same is hereby amended to read as follows:

54-207. LICENSE -- APPLICATION. (1) Any person ~~meeting-the-qualifications-as-hereinafter-provided,-and~~ desiring a certificate and license ~~(where--applicable),~~ shall make a written application for such certificate and license to the board, upon forms to be prescribed and furnished by the board. Such application shall be filed and shall be accompanied

by such fee as may be required by rules of the board.

(2) In addition to meeting the qualifications provided elsewhere in this chapter, before a certificate and license may be issued, a person desiring to receive a certificate and license shall have satisfactorily completed a minimum of one hundred fifty (150) semester hours, or two hundred twenty-five (225) quarter hours, of college education, with a concentration in accounting, auditing and business, including a baccalaureate or higher degree at a college or university acceptable to the board, as established by rule. Satisfactory evidence in the form of an official transcript received directly from the school registrar indicating the credits and degree received shall be presented to the board to demonstrate successful completion of these education requirements.

(3) The board may adopt rules allowing persons who met the education requirements of section 54-208, Idaho Code, when they first sat for the examination to become licensed even though they do not meet the education requirements of this section.

SECTION 7. That Section 54-208, Idaho Code, be, and the same is hereby amended to read as follows:

54-208. EXAMINATION -- EDUCATION -- QUALIFICATIONS. (1) An applicant for admission to examination as a certified public accountant shall:

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

(b) Be of good moral character,

(c) Be a resident, have been a resident, or intend to immediately become a resident of the state of Idaho,

(d) Be approved by the board for admission to the examination, and

(e) ~~Comply with subparagraph (i) or (iii) hereof; provided, however, that subparagraphs (i) and (iii) hereof shall not apply to any applicant who has qualified under prior existing law and has made written application to the board and such application is on file with the board prior to the effective date of this chapter.~~

~~(i)~~ Provide s~~S~~atisfactory evidence in the form of an official transcript received directly from the school registrar indicating ~~the credits and degree received shall be presented to the board to demonstrate~~ successful completion of ~~the education requirements as established in subparagraph (ii) hereof~~ a baccalaureate degree or its equivalent, the required credits and courses to be prescribed by the rules of the board. Applicants who will complete the educational requirements within ninety (90) days of the examination ~~shall~~ may be allowed to sit for the examination provided that prior to the release of examination grades satisfactory evidence is submitted verifying that the required education was completed within ninety (90) days of the examination.

~~(ii) Education requirements. Until June 30, 2000, the board shall require four (4) academic years of study for a baccalaureate degree or its equivalent, the required credits and courses to be prescribed by the rules of the board. After July 1, 2000, the board shall require a minimum of one hundred fifty (150) collegiate level semester hours, or two hundred twenty-five (225) quarter hours, of education, with a concentration in accounting, auditing and business, including a baccalaureate~~

~~degree or its equivalent at a college or university acceptable to the board. The total educational program shall include subjects and hours approved by the board, as established by rule.~~

~~(iii) An applicant who is unable to meet the education requirements specified in subparagraph (ii) hereof shall show, to the satisfaction of the board, achievement of equivalency to the education requirements before and after July 1, 2000, as specified in subparagraph (ii) hereof. Equivalency standards shall be established by board rule.~~

(2) The examination required to be passed as a condition to granting a certificate shall be held at least twice each year, and shall test the applicant's knowledge of the subjects of accounting and auditing, and such other related subjects as the board may specify by rule, including, but not limited to, business law and taxation. The time for holding such examination shall be determined by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and determining a passing grade required of an applicant for a certificate; provided however, that the board shall endeavor to assure that the examination itself, grading of the examination, and the passing grades, are uniform with those of other states. The board may make use of all or any part of the uniform certified public accountant examination and advisory grading service of the AICPA and 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.

(3) The board may charge, or provide for a third party administering the examination to charge, each applicant a fee, in an amount prescribed by the board by rule.

(4) None of the education requirements specified in ~~subparagraph (i), (ii) or (iii) hereof~~ this section shall apply to an applicant who is a licensed public accountant pursuant to this chapter.

SECTION 8. That Section 54-209, Idaho Code, be, and the same is hereby amended to read as follows:

54-209. EXPERIENCE. An applicant of good moral character who successfully passes the examination, with standards no less than those prescribed by the board's rules for examination of candidates in Idaho, and who fulfills the requirements of section 54-207, Idaho Code, shall receive a license as a certified public accountant if the applicant has completed~~, or upon completion of the following:~~

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

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

~~(b) Experience of a character and for a length of time which is, in the opinion of the board, substantially equivalent to the require-~~

~~ments of subsection (a) of this section. Rules shall be adopted by the board establishing such experience levels.~~

~~(2) The board by order shall also have authority to approve programs with private industry, nonprofit and governmental entities to establish acceptable experience substantially equivalent to subsection (1)(a) of this section~~ one (1) year of experience. This experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills -- all of which have been verified by a licensee, meeting requirements prescribed by the board by rule. This experience may be gained through employment in government, industry, academia or public practice.

SECTION 9. That Section 54-210, Idaho Code, be, and the same is hereby amended to read as follows:

54-210. RECIPROCITY -- TRANSFER OF EXAMINATION GRADES -- FOREIGN RECIPROCITY -- QUALIFICATIONS. (1) A person whose certificate and license have been granted by another state, whose principal place of business is located in this state, shall obtain a license by reciprocity from the board before providing professional services in this state.

(2) An applicant for certificate and license by reciprocity to practice as a certified public accountant in Idaho must:

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

(b) Be of good moral character;

(c) Have obtained the education and passed the uniform CPA examination with standards no less than those required in Idaho. The requirements of education and the Idaho standards relating to passage of the uniform CPA examination shall be waived if the applicant has no less than ~~five~~ four (~~5~~4) years' experience as determined by the board, provided that the experience or its equivalent was obtained after original licensure as a certified public accountant and within the ten (10) years immediately preceding the reciprocity application; and

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

(~~2~~3) An applicant for certificate and license to practice as a certified public accountant in Idaho by transfer of examination grades from another licensing jurisdiction must:

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

(b) Be of good moral character;

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

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

(4) The board shall issue a certificate and license to a holder of a substantially equivalent designation issued by a foreign country, provided that:

(a) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate and

license issued by this state to obtain such foreign authority's comparable designation; and

(b) The designation:

(i) Was duly issued by an authority of a foreign country which regulates the practice of public accountancy and has not expired or been revoked or suspended;

(ii) Entitles the holder to issue reports upon financial statements; and

(iii) Was issued upon the basis of substantially equivalent educational, examination and experience requirements established by the foreign authority or by law; and

(c) The applicant:

(i) Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted;

(ii) Completed an experience requirement, substantially equivalent to the requirements set out in this chapter, in the jurisdiction which granted the foreign designation or has completed four (4) years of professional experience in this state; or meets equivalent requirements prescribed by the board by rule, within the ten (10) years immediately preceding the application; and

(iii) Passed a uniform qualifying examination in national standards acceptable to the board.

SECTION 10. That Section 54-211, Idaho Code, be, and the same is hereby amended to read as follows:

54-211. LICENSES -- LICENSING PERIOD -- REINSTATEMENT -- ~~VOLUNTARY SUSPENSION~~ INACTIVE LICENSES -- RETIREMENT -- FEES. (1) The board shall issue original certificates and licenses, and renewal and reinstatement licenses to practice as a certified public accountant, and renewal and reinstatement licenses to practice as a licensed public accountant to persons who have qualified therefor in accordance with the provisions of this chapter and the rules of the board. A certificate and license, once issued, shall continue in effect so long as the holder thereof complies with the provisions of this chapter and the rules and orders of the board.

(a) Original. The board shall collect an original license fee upon board approval of an original license to practice as a certified public accountant in the state of Idaho ~~in an amount not to exceed two hundred dollars ($200)~~ as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. Those individuals meeting the requirements for original licensure in Idaho, pursuant to the provisions of this chapter and the rules of the board, shall be issued a license effective ~~until the end of the fiscal year, which shall extend from July 1 through June 30, in which the original license was granted~~ for no more than twelve (12) months. The license shall then be subject to annual renewal.

(b) Renewal. The board shall collect an annual license fee from all licensees ~~by July 1 of~~ each year ~~in an amount not to exceed two hundred dollars ($200)~~ as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. Those persons meeting the requirements of ~~subparagraphs (i), (ii), (iii) and (iv) of~~ this sub-

section for license renewal shall be issued a license effective for a period of one (1) year ~~through the last day of June~~ after its issuance. Requirements include:

(i) Good moral character;

(ii) Completion of continuing professional education as specified by the board's rules;

(iii) Identification, in the renewal application, of the ~~practice unit~~ firm with which the licensee is affiliated; and

(iv) Where applicable, verification of satisfactory completion of a ~~quality~~ peer review program by the ~~practice unit~~ firm with which the licensee is affiliated, pursuant to section 54-214, Idaho Code, and the rules prescribed by the board. Any licensee who performs compilation services for the public other than through a firm must undergo no more frequently than once every three (3) years, a peer review conducted in accordance with rules prescribed by the board, and such review shall include verification that such licensee has met the competency requirements set out in professional standards for such service.

(c) Inactive status. Any licensee in current compliance with the provisions of this chapter who chooses not to ~~practice or hold himself or herself out to provide work or services as a certified public accountant or licensed public accountant~~ perform or offer to perform for the public one (1) or more kinds of attest or compilation services may apply to ~~suspend~~ place his or her license in inactive status. ~~An individual who holds out or practices public accounting, as defined in section 54-206, Idaho Code, shall not qualify for inactive status~~ The annual renewal fee for inactive status shall be as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. Licensees with inactive status must place the word "inactive" adjacent to their CPA or LPA title on any business card, letterhead or any other document or device when using the title, with the exception of their certificate on which their title appears.

(d) Retired. After a person reaches the age of sixty (60) years, or in the event of a disability preventing continued practice, the certificate of a certified public accountant or licensed public accountant, ~~may,~~ upon application to the board by the holder, may be placed by the board in retired status. Retired status shall allow the holder to retain the wall certificate and remain on the board's mailing list. The annual renewal fee for retired status shall ~~not exceed fifty dollars ($50.00)~~ be as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board. Licensees with retired status must place the word "retired" adjacent to their CPA or LPA title on any business card, letterhead or any other document or device when using the title, with the exception of their certificate on which their title appears. An individual who ~~holds out or practices public accounting, as defined in section 54-206, Idaho Code,~~ performs or offers to perform for the public attest or compilation services shall not qualify for retired status.

(e) Reinstatement. Any certificate and license suspended for nonpayment of the annual renewal fee, or a certificate in retired or inactive status, may be reinstated upon completion of an application supplied by the board along with payment of a reinstatement fee ~~in an amount not to exceed five hundred dollars ($500),~~ as set forth in

section 54-212, Idaho Code, and as prescribed by the rules of the board. In addition, the board shall require the applicant to meet the qualifications of ~~subparagraphs (i), (ii), (iii) and (iv) of~~ subsection (b) of this section. Reinstatement following involuntary suspension shall be governed by the terms of the board's order of involuntary suspension.

(2) Applicants for initial issuance or ~~renewal~~ reinstatement of licenses under this section shall in their application list all states in which they have applied for or hold a license ~~to practice public accountancy~~ and list any past denial, revocation or suspension of a certificate, license or permit.

(3) Applicants and licensees shall notify the board in writing, within thirty (30) days after its occurrence of:

(a) Any felony charges; or

(b) The issuance, denial, restriction, revocation or suspension of a certificate, license or permit by another state or by any federal agency.

SECTION 11. That Section 54-212, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) ~~Three hundred dollars ($300)~~ One thousand dollars ($1,000) for examination. ~~or application for licensure.~~

(2) Three hundred dollars ($300) for licensure application or license renewal.

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

(~~3~~4) Fifty dollars ($50.00) for administrative services, including, but not limited to, ~~review of examination papers~~ mailing lists and release of information to other boards for purposes of licensure.

(5) One hundred dollars ($100) for retired or inactive status licenses.

(6) Five hundred dollars ($500) for license reinstatement.

(~~4~~7) Three hundred dollars ($300) for late fees, including late filing of the annual license renewal.

(~~5~~8) Three hundred dollars ($300) for late fees, including late filing of the continuing professional education report.

~~(6) Two hundred dollars ($200) for temporary practice registration.~~

(~~7~~9) Two hundred dollars ($200) for ~~practice unit~~ firm registration.

(10) Fifty dollars ($50.00) for notification of intent to enter the state pursuant to section 54-227, Idaho Code.

SECTION 12. That Section 54-213, Idaho Code, be, and the same is hereby amended to read as follows:

54-213. GRANDFATHER CLAUSE. Individuals who, on July 1, ~~1993~~2002, hold certified public accountant and licensed public accountant licenses heretofore issued under the laws of this state, shall, for all purposes, be considered licensees under this chapter and subject to the provisions thereof.

SECTION 13. That Section 54-214, Idaho Code, be, and the same is hereby amended to read as follows:

54-214. ~~QUALITY--REVIEW----PRACTICE-UNIT~~ FIRM REGISTRATION -- PEER REVIEW. (1) ~~All individuals engaged in the practice of public accounting shall be affiliated with a practice unit. All practice units engaged--in practice--in--this state shall be required to register with the board on an annual basis. When registering annually,--each--practice--unit--shall indicate if it issues reports on financial statements.~~

~~The--board--may--require--by--rule--that--all-practice-units-issuing reports-undergo-quality-reviews,-on-either-a-uniform--or--random--basis, conducted--no--more--frequently--than-once-every-three-(3)-years-in-such manner-and-producing-such-satisfactory-results-as-the-board-may-specify; provided-however,-that-any--rule--imposing--such--requirement--shall--be adopted--reasonably--in--advance-of-the-time-when-compliance-is-required and-shall-include-reasonable-provision-for-compliance-by-a-practice-unit if-it-shows-that-it-has-undergone-a--satisfactory--quality--review--performed--for-other-purposes-which-was-substantially-equivalent-to-quality reviews-generally-required-pursuant-to-this-subsection-and-completion-of such-review-was-within-the-three-(3)--years--immediately--preceding--the registration-period~~ The board shall register firms that make application and demonstrate their qualifications therefor in accordance with the following subsections of this section or to firms originally licensed in another state that establish an office in this state. A firm must be registered with the board in order to provide attest or compilation services or in order to use the titles "CPAs," "CPA firm," "LPAs" or "LPA firm." Firms must register with the board annually in such form and between such dates as the board may specify by rule. The board may charge a fee for each registration for initial issuance or renewal of a registration under this section as set forth in section 54-212, Idaho Code, and as prescribed by the rules of the board.

(2) ~~Information-discovered-solely-as-a-result-of-a-practice--unit's quality--review--shall--not-be-grounds-for-suspension-or-revocation-of-a license~~ An applicant for initial registration or renewal of a registration to practice under this section shall demonstrate that:

(a) Notwithstanding any other provision of law, a simple majority of the beneficial ownership of the firm belongs to holders of a certificate who are licensed in some state, and such partners, officers, shareholders, members or managers, whose principal place of business is in this state, and who perform professional services in this state, hold a valid certificate and license issued by this state. Although a firm may include nonlicensee owners the firm and its ownership must comply with rules promulgated by the board.

(b) Any firm may include nonlicensee owners provided that:

(i) The firm designates a licensee of this state, who is responsible for the proper registration of the firm and identifies that individual to the board.

(ii) All nonlicensees are active individual participants in the firm or affiliated entities.

(iii) The firm complies with such other requirements as the board may impose by rule.

(c) Any licensee who is responsible for supervising attest or compilation services or who signs or authorizes someone to sign a report on financial statements on behalf of the firm, shall meet the

competency requirements of the professional standards for such services.

(3) ~~Each--practice--unit-shall-be-required-to-show-that-each-owner, partner,-officer,-member-or-shareholder--who--regularly--works--in--this state,--and--each--employee-holding-a-certificate-who-regularly-works-in this-state-holds-a-valid-individual-license-to-practice-issued-under-the provisions-of-this-chapter-and-that-each-nonresident--partner,--officer, member--or--shareholder--holds-a-certificate-and-is-licensed-to-practice public-accountancy-in-some-other--state~~ Firms registered to practice under this section shall be required to register each office of the firm within this state with the board and to show that all attest and compilation services rendered in this state are under the charge of a person holding a valid certificate and license issued by this state or some other state.

(4) ~~Each-practice-unit-shall-be-required-to-register-each-office-of the-firm-within-this-state-with-the-board-and-to--show--that--each--such office--is-under-the-charge-of-a-person-holding-a-valid-license-to-practice-issued-under-the-provisions-of-this-chapter--or--the--corresponding provision--of-prior-law~~ A firm registering under this section shall list all states in which it has applied for or holds permits as a firm and list any past denial, revocation or suspension of a permit by any other state. Each firm registered under this section shall notify the board in writing, within thirty (30) days following any change in the identities of partners, officers, shareholders or members whose principal place of business is in this state, any change in the number or location of offices within this state, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation or suspension of a permit by any other state.

(5) Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel, after registration, shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in penalties as prescribed by board rule.

(6) As a condition of registration renewal under this section, the board, by rule, shall require firms to undergo, no more frequently than once every three (3) years, peer reviews conducted as specified by rule. Such review shall include a verification that individuals in the firm who are responsible for supervising attest and compilation services and who sign or authorize someone to sign a report on financial statements on the behalf of the firm meet the competency requirements set out in the professional standards for such services. The rules concerning peer review shall require:

(a) Peer reviews to be subject to oversight by an oversight body established by board rule which will periodically report to the board on the effectiveness of the review program under its charge, and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and

(b) The peer review processes to be operated and documents maintained in a manner designed to preserve confidentiality, and that neither the board nor any third party, other than the oversight body, shall have access to documents furnished or generated in the course of the review.

(7) Information discovered solely as a result of a firm's peer review shall not be grounds for suspension or revocation of a license.

SECTION 14. That Sections 54-215 and 54-216, Idaho Code, be, and the same are hereby repealed.

SECTION 15. That Section 54-218, Idaho Code, be, and the same is hereby amended to read as follows:

54-218. ~~PROHIBITION---~~ ACCEPTANCE OF COMMISSIONS AND CONTINGENT FEES. (1) A licensee ~~engaged-in-the-practice-of-public-accounting-or-who holds--out--as--a--certified--public--accountant-or-as-a-licensed-public accountant-shall-not-pay-a-commission-to-obtain-a-client,-nor--accept--a commission-for-a-referral-to-a-client-of-products-or-services-of-others. This--does--not-prohibit-payments-for-the-purchase-of-all,-or-a-material part,-of-an-accounting-practice,-or-retirement-payments-to-persons--formerly--engaged-in-the-practice-of-public-accountancy,-or-payments-to-the heirs-or-estates-of-such-persons~~ may accept a commission or referral fee unless prohibited by this section.

(a) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee or the licensee's firm also performs for that client:

(i) An attest service; or

(ii) A compilation when the licensee expects, or reasonably might expect, that a third party will use the compilation and the compilation report does not disclose a lack of independence.

(b) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose in writing that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(c) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client in writing.

(2) A licensee ~~engaged-in-the-practice-of-public-accounting-or-who holds-out-as-a-certified-public--accountant--or--as--a--licensed--public accountant--shall--not--offer-or-perform-professional-services-for-a-fee which-is-contingent-upon-the-findings-or-results-of-such-services;--provided-however,-that-this-does-not-apply-to-professional-services-involving-federal,-state-or-other-taxes-in-which-the-findings-are-those-of-the tax-authorities-and-not-those-of-the-licensee,-nor-does-it-apply-to-professional--services-for-which-the-fees-are-fixed-by-courts-or-other-public-authorities,-and-which-are-indeterminate-in-amount-at-the--time--the professional--services--are-undertaken~~ may accept a contingent fee which is disclosed to the client in writing unless prohibited by this section.

(a) A licensee shall not perform for a contingent fee any professional service for, or receive such a fee from, a client for whom the licensee or the licensee's firm performs:

(i) An attest service; or

(ii) A compilation, when the licensee expects, or reasonably

might expect, that a third party will use the compilation and the compilation report does not disclose a lack of independence.

(b) A licensee shall not prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

(c) Except as stated in the next sentence, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this section, fees shall not be regarded as contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

(3) The prohibitions contained in this section shall apply during the period in which the licensee is engaged to perform any of the services listed herein and the period covered by any historical financial statements involved in any such listed services.

SECTION 16. That Section 54-219, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(c) Dishonesty, fraud or gross negligence in the ~~practice of public accounting~~ performance of professional services as a licensee or individual granted privileges under section 54-227, Idaho Code, or in the filing or failure to file his own income tax returns.

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

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

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

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

(h) Cancellation, revocation, suspension or refusal to renew or

grant a ~~certificate or authority to practice as a certified public accountant or licensed public accountant~~ license or privileges under section 54-227, Idaho Code, for disciplinary reasons by any other state~~;~~ for any cause. ~~other than failure to pay an annual registration or license fee in such other state.~~

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

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

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

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

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

(n) ~~Holding out~~ Representing oneself as qualified or authorized to practice as a certified public accountant or licensed public accountant in this state~~; or practicing public accountancy~~ without holding a current, valid, unrevoked and unsuspended certificate and license ~~issued by the board~~ or privileges under section 54-227, Idaho Code.

(o) Performance of any fraudulent act while holding a certificate, license, permit or privileges under this chapter.

(p) Any conduct reflecting adversely upon the licensee's fitness to perform services while a licensee, or individual granted privileges under section 54-227, Idaho Code.

(2) The expenses, including attorney's fees, incurred by the board for any or all proceedings initiated against a person for violation of any of the provisions of this chapter may be charged against such person by the board, upon the finding of a violation of this chapter, in addition to any administrative penalties which may be levied by the board against such person. Administrative penalties levied by the board shall not exceed ~~one~~ two thousand five hundred dollars ($~~1,0~~2,500) per violation.

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

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

(b) Preissuance review;

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

(d) Other similar remedies.

(4) In any action brought under the provisions of this chapter, evidence of the commission of a single act prohibited in this chapter shall be sufficient to justify a suspension, revocation, fine, adminis-

trative penalty, restriction, reprimand, injunction, restraining order, conviction or any other remedy authorized in this chapter. Evidence of a general course of conduct shall not be required.

SECTION 17. That Section 54-220, Idaho Code, be, and the same is hereby amended to read as follows:

54-220. USE OF TITLE -- VALID LICENSE TO PRACTICE. (1) No person shall assume or use the title or designation "certified public accountant" or "licensed public accountant" or any other title, designation, words, letters, abbreviations, sign, card or device tending to indicate that such person is a certified public accountant or licensed public accountant unless such person holds a license or is granted privileges as a certified public accountant or licensed public accountant pursuant to chapter 2, title 54, Idaho Code.

(2) No person~~,--proprietorship,-partnership-or-corporation~~ or firm not licensed, granted privileges or registered pursuant to this chapter shall assume or use the title or designation "certified accountant," "chartered accountant," "public accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited accountant," ~~"accountant,"-"auditor"~~ or other titles, or designation ~~or--abbreviation~~ likely to be confused with the titles "certified public accountant" or "licensed public accountant~~.~~" or use any of the abbreviations "CA," "LA," "LPA," "CPA," "RA," "AA," or similar abbreviation likely to be confused with the abbreviations "CPA" or "LPA." The title "enrolled agent" or "EA" may only be used by individuals so designated by the internal revenue service. Notwithstanding the provisions of this section, the board may adopt rules authorizing and limiting the use of specific titles and designations granted by recognized professional societies or associations.

(3) No person, proprietorship, partnership or corporation not licensed or registered pursuant to this chapter shall assume or use any title or designation that includes the words "accountant," "auditor" or "accounting" in connection with any other language, including the language of a report, that implies that such person, proprietorship, partnership or corporation is so licensed or registered or has special competence as an accountant or auditor; provided however, that this subsection does not prohibit any officer, partner, member or employee of any organization from affixing his signature to any statement in reference to the financial affairs of such organization with any wording designating the position, title or office that he holds therein nor prohibit any act of a public official or employee in the performance of his duties as such.

(4) No business entity shall provide attest or compilation services or assume or use the title "certified public accountants" or "licensed public accountants" or the abbreviation "CPAs," "LPAs" or any other title, designation, words, letters, abbreviations, sign, card or device tending to indicate that such business entity is a firm unless: (a) the business entity is a firm registered pursuant to this chapter, and (b) ownership of the firm is in accord with this chapter and rules promulgated by the board.

SECTION 18. That Section 54-221, Idaho Code, be, and the same is hereby amended to read as follows:

54-221. ISSUANCE OF A REPORT. (1) Only ~~those practice units registered pursuant to this chapter~~ licensees shall issue a report on the financial statements of any other person, firm, organization or governmental unit or offer to render or render any attest or compilation service, as defined herein. This prohibition does not apply to any officer, partner, employee or member of any organization affixing their signature to any statement or report in reference to the financial affairs of such firm or organization with any wording designating the position, title or office that they hold therein; nor prohibit any act of a public official or employee in the performance of their duties as such; nor prohibit the performance by any person of other services involving the use of accounting skills, including the preparation of tax returns, management, financial advisory or consulting services, and the preparation of financial statements without the issuance of reports, as defined in section 54-206, Idaho Code.

(2) The prohibition contained in subsection (1) of this section is applicable to issuance, by a person or firm not holding a valid license, of a report using any form of language conventionally used by licensees respecting a review of financial statements or respecting a compilation of financial statements.

(3) ~~No corporation shall affix its name to a report on the financial statements of any other person, firm, organization or governmental unit unless it is a professional public accounting corporation, as defined in section 54-206, Idaho Code~~ No licensee or individual granted privileges under section 54-227, Idaho Code, shall perform attest services through any form of business that is not registered under the provisions of section 54-214, Idaho Code, or an equivalent provision of the laws of another state.

(4) ~~No firm of any kind or nature shall affix its name to a report on the financial statements of any other person, firm, organization or governmental unit unless all of its owners, partners, officers, shareholders or members who regularly work in the state of Idaho are themselves persons licensed as certified public accountants or licensed public accountants pursuant to this chapter, and all other partners, officers, shareholders or members are persons licensed as certified public accountants or licensed public accountants in some other state~~ No licensee shall issue a compilation report through any form of business that is not registered under the provisions of section 54-214, Idaho Code, unless the report discloses the name of the business through which the individual is issuing the report, and the individual:

(a) Signs the compilation report identifying the individual as a CPA or LPA;

(b) Meets the competency requirements provided in this chapter and by board rule; and

(c) Undergoes no less frequently than once every three (3) years, a peer review conducted in such manner as the board shall by rule specify, and such review shall include verification that such individual has met the competency requirements set out in professional standards for such services.

(5) A licensee or firm that does not issue reports may issue financial statements without reports only if the financial statements include the disclaimer language of section 54-226(3), Idaho Code.

SECTION 19. That Chapter 2, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-227, Idaho Code, and to read as follows:

54-227. SUBSTANTIAL EQUIVALENCY. (1) A person whose principal place of business is not in this state and who has a valid certificate and license as a certified public accountant from any state which the board has determined to be substantially equivalent to this chapter shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state without the need to obtain a license. However, such persons shall notify the board of their intent to enter the state under this provision.

(2) A person whose principal place of business is not in this state and who has a valid certificate and license as a certified public accountant from any state which the board has not determined to be substantially equivalent to this chapter shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state without the need to obtain a license only if such person demonstrates that his or her qualifications are substantially equivalent to the licensure requirements of this chapter. Such persons shall notify the board of their intent to enter the state under this provision in the manner provided by rules of the board. The board may charge a fee for such notification as set forth in section 54-212, Idaho Code, and as prescribed by rules of the board.

(3) Licensees of other states exercising the privilege afforded under this section hereby consent, as a condition of the grant of this privilege:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) To comply with this chapter and the board's rules; and

(c) To the appointment of the state boards which issued their licenses as their agents upon whom process may be served in any action or proceeding by this state's board against such licensees.

(4) A licensee of this state offering or rendering services or using the CPA title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in another state. Notwithstanding the board's enforcement authority granted by this chapter, the board shall investigate any complaint made by the board of accountancy of another state.

SECTION 20. That Chapter 2, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-228, Idaho Code, and to read as follows:

54-228. CONSTRUCTION -- SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 19, 2002.

CHAPTER 93
(H.B. No. 487, As Amended)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-604, IDAHO CODE, TO PROVIDE THAT LAND FIVE ACRES OR LESS WHICH IS BEING CLASSIFIED AS ACTIVELY DEVOTED TO AGRICULTURE MUST BE CONTIGUOUS, TO PROVIDE A DEFINITION OF "CONTIGUOUS" AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-604, Idaho Code, be, and the same is hereby amended to read as follows:

63-604. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED. (1) For property tax purposes, land which is actively devoted to agriculture as part of an agricultural enterprise shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

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

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

(ii) It is used to produce nursery stock as defined in section 22-2302(11), Idaho Code; or

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

(iv) It is in a cropland retirement or rotation program.

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

(i) It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owner's or lessee's annual gross income; or

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

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

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

(4) Land actively devoted to agriculture, having previously quali-

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

(5) As used in this section "contiguous" shall mean being in actual contact or touching along a boundary or at a point, except no area of land shall be considered not contiguous solely by reason of a roadway or other right-of-way.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2002.

Approved March 19, 2002.

CHAPTER 94
(H.B. No. 497)

AN ACT

RELATING TO JURIES; AMENDING SECTION 2-205, IDAHO CODE, TO CLARIFY THE COMPOSITION OF JURY COMMISSIONS, TO CLARIFY THE TERM OF SERVICE AND QUALIFICATIONS OF THE JURY COMMISSIONER AND TO CLARIFY EXPENSE REIMBURSEMENT PROVISIONS; AMENDING SECTION 2-207, IDAHO CODE, TO AUTHORIZE EACH JUDICIAL DISTRICT'S ADMINISTRATIVE JUDGE TO DETERMINE THE FREQUENCY AT WHICH THE DISTRICT'S MASTER JURY WHEEL WILL BE EMPTIED AND REFILLED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 2-208, IDAHO CODE, TO PROVIDE THAT THE JURY COMMISSIONER SHALL HAVE CERTAIN DUTIES AND RESPONSIBILITIES RELATING TO PROSPECTIVE JURORS, TO PROHIBIT RELEASE OF NAMES OF PROSPECTIVE JURORS OR THE JUROR LIST ABSENT SPECIFIC ORDER OF THE TRIAL JUDGE, TO CLARIFY THE REQUIRED CONTENT OF JUROR QUALIFICATION FORMS, TO PROVIDE FOR A JUROR'S ACKNOWLEDGMENT THAT WILLFUL MISREPRESENTATION ON THE JUROR QUALIFICATION FORM MAY BE PUNISHED AS A MISDEMEANOR, TO CLARIFY THAT A PROSPECTIVE JUROR WHO FAILS TO APPEAR IS GUILTY OF CONTEMPT, TO PROVIDE AN ADDITIONAL CONSEQUENCE TO PROSPECTIVE JURORS WHO FAIL TO APPEAR, TO PROVIDE THAT A PROSPECTIVE JUROR'S WRONGFUL MISREPRESENTATION OF A MATERIAL FACT ON THE JUROR QUALIFICATION FORM SHALL CONSTITUTE A MISDEMEANOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 2-209, IDAHO CODE, TO CLARIFY THE INDIVIDUALS WHO MAY REQUEST THAT THE COURT DETERMINE WHETHER A PROSPECTIVE JUROR IS DISQUALIFIED FROM JURY SERVICE BASED ON CERTAIN CRITERIA, TO STRIKE CERTAIN DUTIES OF THE CLERK, TO PROVIDE THAT THE CLERK OR THE JURY COMMISSION SHALL DETERMINE WHETHER A PROSPECTIVE JUROR IS DISQUALIFIED FROM JURY SER-

VICE BASED ON CERTAIN CRITERIA, TO STRIKE A DISQUALIFICATION FROM SERVICE FOR CERTAIN PROSPECTIVE JURORS SEVENTY YEARS OF AGE OR OLDER AND TO STRIKE CERTAIN REASONS AND CONDITIONS FOR POSTPONEMENT; AMENDING SECTION 2-210, IDAHO CODE, TO PROVIDE THAT THE NAMES OF QUALIFIED JURORS AND THE CONTENT OF THOSE JURORS' QUALIFICATION FORMS SHALL BE AVAILABLE TO THE PUBLIC AT THE DISCRETION OF THE TRIAL COURT; AMENDING SECTION 2-212, IDAHO CODE, TO PROVIDE FOR POSTPONEMENT OF JURY SERVICE, TO PROVIDE THAT A MEMBER OF THE JURY COMMISSION DESIGNATED BY THE COURT MAY DETERMINE WHETHER A PROSPECTIVE JUROR SHOULD BE EXCUSED FROM JURY SERVICE OR HAVE JURY SERVICE POSTPONED AND TO PROVIDE FOR ENTRY OF THEIR DETERMINATION, TO PROVIDE A PROCEDURE FOR PERSONS SEVENTY YEARS OF AGE OR OLDER TO BE EXCUSED FROM JURY SERVICE AND TO PROVIDE FOR POSTPONEMENT OF JURY SERVICE; AMENDING SECTION 2-216, IDAHO CODE, TO AUTHORIZE THE ADMINISTRATIVE JUDGE OF A JUDICIAL DISTRICT TO EXTEND THE LIMITATION ON REQUIRED JURY SERVICE AND TO PROVIDE THAT APPEARANCES BY JURORS MAY INCLUDE TELEPHONE STANDBY IF PERMITTED BY THE ADMINISTRATIVE JUDGE OF THE DISTRICT; AMENDING SECTION 2-501, IDAHO CODE, TO PROVIDE A PROCEDURE FOR THE IMPANELING OF GRAND JURIES; REPEALING SECTION 19-1904, IDAHO CODE; AMENDING CHAPTER 19, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-1904, IDAHO CODE, TO PROVIDE FOR ADDITIONAL JURORS; AND AMENDING SECTION 19-2126, IDAHO CODE, TO PROVIDE THAT THE COUNTY MUST SUPPLY BOARD AND LODGING FOR A JURY ORDERED BY A COURT TO BE KEPT TOGETHER AND TO PROVIDE THAT A BAILIFF MAY BE SWORN TO UNDERTAKE CERTAIN RESPONSIBILITIES WITH A JURY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 2-205, Idaho Code, be, and the same is hereby amended to read as follows:

2-205. JURY COMMISSIONS ESTABLISHED -- COMPOSITION -- QUALIFICATIONS OF COMMISSIONERS -- EXPENSES AND COMPENSATION. A jury commission is established in each county to manage the jury selection process under the supervision and control of the court. The jury commission shall be composed of the clerk of the district court and a jury commissioner appointed for a term of two (2) years by the administrative judge~~,~~. ~~who~~ The jury commissioner shall serve until a successor is appointed and qualifies. The jury commissioner must be a citizen of the United States and a resident in the county in which ~~he~~ the jury commissioner serves. The jury commissioner may be reimbursed for travel, subsistence, and other necessary expenses incurred ~~by him~~ in the performance of ~~his~~ jury commission duties and may receive compensation at a per diem rate fixed by the administrative judge and payable from ~~the~~ county ~~general~~ funds, if ~~he is~~ not otherwise a county employee.

SECTION 2. That Section 2-207, Idaho Code, be, and the same is hereby amended to read as follows:

2-207. MASTER JURY WHEEL -- MANNER OF SELECTING NAMES FOR. (1) The jury commission for each county shall maintain a master jury wheel, into which the commission shall place the names or identifying numbers of prospective jurors taken from the master list. If the total number of

prospective jurors on the master list is one thousand (1,000) or less, the names or identifying numbers of all of them shall be placed in the master jury wheel. In all other cases, the number of prospective jurors to be placed in the master jury wheel shall be one thousand (1,000) plus not less than one ~~per-cent~~ percent (1%) of the total number of names on the master list. From time to time a larger or additional number may be determined by the jury commission or ordered by the administrative judge to be placed in the master jury wheel. In December of each odd-numbered year, or more frequently as determined by the administrative judge of a judicial district, the wheel shall be emptied and refilled as prescribed in this act.

(2) Unless all the names on the master list are to be placed in the master jury wheel pursuant to subsection (1) of this section, the names or identifying numbers of prospective jurors to be placed in the master jury wheel shall be selected by the jury commission at random from the master list in the following manner: the total number of names on the master list shall be divided by the number of names to be placed in the master jury wheel; the whole number nearest the quotient shall be the "key number," except that the key number shall never be less than 2. A "starting number" for making the selection shall then be determined by a random method from the numbers from 1 to the key number, both inclusive. The required number of the names shall then be selected from the master list by taking in order the first name on the master list corresponding to the starting number and then successively the names appearing in the master list at intervals equal to the key number, recommencing if necessary at the start of the list until the required number of names has been selected. Upon recommencing at the start of the list, or if additional names are subsequently to be selected for the master jury wheel, names previously selected from the master list shall be disregarded in selecting the additional names. The jury commission may use an electronic or mechanical system or device in carrying out its duties.

SECTION 3. That Section 2-208, Idaho Code, be, and the same is hereby amended to read as follows:

2-208. NAMES DRAWN FROM MASTER JURY WHEEL -- QUALIFICATION FORMS FOR PROSPECTIVE JURORS -- MAILING AND RETURN -- ORDER TO APPEAR -- CRIMINAL CONTEMPT -- PENALTY FOR MISREPRESENTATION. (1) From time to time and in a manner prescribed by the administrative judge the jury commission publicly shall draw at random from the master jury wheel the names or identifying numbers of as many prospective jurors as the administrative judge by order requires. The clerk or the jury commissioner shall prepare an alphabetical list of the names drawn. Neither the names drawn nor the list shall be disclosed to any person ~~other--than--pursuant--to this--act--or~~ except upon specific order of the ~~administrative~~ trial judge. The clerk or the jury commissioner shall mail to every prospective juror whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form by mail to the clerk or the jury commissioner within ten (10) days after its receipt. The juror qualification form shall be subject to approval by the administrative judge as to matters of form and shall elicit the name, address of residence, and age of the prospective juror and whether ~~he~~ the prospective juror: (~~1~~a) is a citizen of the United States of America and a resident of the county, (~~2~~b) is able to read,

speak and understand the English language, (~~3~~c) has any ~~physical or mental~~ disability impairing his capacity to render satisfactory jury service, and (~~4~~d) has lost the right to vote because of a felony criminal conviction and has not had that right restored. The juror qualification form shall contain the prospective juror's declaration that his responses are true to the best of his knowledge and his acknowledgment that a ~~wilful~~ willful misrepresentation of a material fact may be punished ~~by a fine of not more than three hundred dollars ($300) or imprisonment for not more than sixty (60) days, or both~~ as a misdemeanor. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor. If it appears there is an omission, ambiguity, or error in a returned form, the clerk or the jury commissioner shall again send the form with instructions to the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commission within ten (10) days after its second receipt.

(2) Any prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the jury commission to appear forthwith before the clerk or the jury commissioner to fill out the juror qualification form. At the time of his appearance for jury service, or at the time of any interview before the court, ~~or~~ clerk, or the jury commissioner, any prospective juror may be required to fill out another juror qualification form in the presence of the court, ~~or~~ clerk, or the jury commissioner, at which time the prospective juror may be questioned, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired by the court, ~~or~~ clerk, or the jury commissioner shall be noted on the juror qualification form.

(3) A prospective juror who fails to appear as directed by the commission, pursuant to subsection (1) of this section shall be ordered by the court to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the court's order or fails to show good cause for his failure to appear as directed by the jury commission, he is guilty of ~~criminal~~ contempt and upon conviction may be fined not more than one hundred dollars ($100) or imprisoned not more than three (3) days, or both, and postponed to a new jury term as set by the presiding judge.

(4) Any person who ~~wilfully~~ willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a misdemeanor. ~~and upon conviction may be fined not more than three hundred dollars ($300) or imprisoned not more than sixty (60) days, or both.~~

SECTION 4. That Section 2-209, Idaho Code, be, and the same is hereby amended to read as follows:

2-209. ~~COURT~~ DETERMINATION OF QUALIFICATION OF PROSPECTIVE JUROR -- QUALIFICATIONS -- PHYSICIAN'S CERTIFICATE OF ~~PHYSICAL OR MENTAL~~ DISABILITY. (1) The court, upon request of the clerk or the jury commissioner or a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether: ~~the prospective juror is disqualified for jury service. The clerk shall~~

~~enter--this--determination-in-the-space-provided-on-the-juror-qualification-form-and-on-the-alphabetical-list-of-names-drawn--from--the--master jury-wheel.~~

~~(2)--A-prospective-juror-is-disqualified-to-serve-on-a-jury-if-he:~~

(a) The prospective juror is not ~~a-citizen-of-the-United-States, eighteen-(18)-years-old,-and-a-resident-of-the-county;~~

~~(b)~~ qualified to serve on a jury because he or she is unable to read, speak, and understand the English language; or

(~~c~~b) The prospective juror is ~~incapable,-by-reason-of-his-physical or-mental~~ disqualified from service on a jury because of a disability~~,--of--rendering~~ which renders the prospective juror incapable of performing satisfactory jury service; but a person claiming this disqualification ~~may~~ shall be required to submit a physician's certificate as to the disability, and the certifying physician is subject to inquiry by the court at its discretion~~;~~.

(~~d~~2) The clerk or the jury commissioner shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether:

(a) The prospective juror is not qualified to serve on a jury because the person is not a citizen of the United States of America, eighteen (18) years of age, and a resident of the county; or

(b) The prospective juror is disqualified from serving on a jury because the person has lost the right to vote because of a felony criminal conviction and has not had that right reinstated.~~;-or~~

~~(e)--is-seventy-(70)-years-of-age-or-older-and-submits-in-writing--a statement-requesting-that-he-be-excused.~~

~~(3)--The--court-shall-provide-that-a--mother-nursing-her-child-shall have-service-postponed-until-she-is-no-longer-nursing-the-child.~~

~~(4)--The-court-may-require-a-person-requesting--a--postponement--for any-medical-reason-to-provide-documentation-from-a-medical-care-provider and-the-provider-is-subject-to-inquiry-by-the-court-at-its-discretion.~~

SECTION 5. That Section 2-210, Idaho Code, be, and the same is hereby amended to read as follows:

2-210. NAMES PLACED IN QUALIFIED JURY WHEEL -- DRAWING PANELS -- NOTICE TO PERSONS DRAWN -- SUMMONING ADDITIONAL TRIAL JURORS -- NAMES DRAWN TO BE PUBLIC -- EXCEPTION. (1) The jury commission shall maintain a qualified jury wheel and shall place therein the names or identifying numbers of all prospective jurors drawn from the master jury wheel who are not disqualified under section 2-209, Idaho Code.

(2) The court or any other state or county official having authority to conduct a trial or hearing with a jury within the county may direct the jury commission to draw and assign to that court or official the number of qualified jurors he deems necessary for one (1) or more jury panels or as required by law for a grand jury. Upon receipt of the direction and in a manner prescribed by the court, the jury commission shall publicly draw at random from the qualified jury wheel the number of qualified jurors specified. The qualified jurors drawn for jury service shall be assigned at random by the clerk to each jury panel in a manner prescribed by the court.

(3) If a grand, trial, or other jury is ordered to be drawn, the clerk thereafter shall cause each person drawn for jury service to be served with a summons either personally or by first class mail or certi-

fied mail, return receipt requested, addressed to him at his usual residence, business, or post-office address, requiring him to report for jury service at a specified time and place.

(4) If there is an unanticipated shortage of available trial jurors drawn from a qualified jury wheel, the court may require the sheriff to summon a sufficient number of trial jurors selected at random by the clerk from the qualified jury wheel in a manner prescribed by the court.

(5) The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors shall be made available to the public ~~and shall be subject to disclosure according to chapter 3, title 9, Idaho Code~~ at the discretion of the trial court.

SECTION 6. That Section 2-212, Idaho Code, be, and the same is hereby amended to read as follows:

2-212. EXCUSING ~~FROM~~ OR POSTPONING JURY SERVICE -- INQUIRY BY COURT -- GROUNDS FOR EXCUSING OR POSTPONING. (1) The court, or a member of the jury commission designated by the court, upon request of a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror should be excused from jury service or have their jury service postponed. The clerk or the jury commissioner shall enter this determination in the space provided on the juror qualification form.

(2) A person who is seventy (70) years of age or older may be excused if the person submits in writing a statement requesting that he or she be excused.

(3) A person who is not disqualified for jury service under section 2-209, Idaho Code, may ~~be excused from~~ have jury service postponed by the court or ~~a duly authorized court official appointed by the administrative district judge,~~ the jury commissioner only upon a showing of undue hardship, extreme inconvenience, or public necessity, ~~for a period the court deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the court's direction~~ or upon a showing that the juror is a mother breastfeeding her child.

(a) Any person requesting a postponement shall provide a sworn statement setting forth the ground for the request and the anticipated date that the ground will no longer exist.

(b) The court or the jury commissioner may require a person requesting a postponement for any medical reason to provide a statement from a medical provider supporting the request.

(c) The postponement shall be for a period of time as the court or the jury commissioner deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the direction of the court or the jury commissioner.

SECTION 7. That Section 2-216, Idaho Code, be, and the same is hereby amended to read as follows:

2-216. LIMITATION ON REQUIRED JURY SERVICE. In any two (2) year period, or a longer period not to exceed five (5) years, as determined by the administrative judge of a judicial district, a person shall not be required:

(1) To serve or attend court for prospective service as a trial juror more than ten (10) court days, except if necessary to complete service in a particular case;

(2) To be available for jury service for a period to exceed six (6) months; provided however, that the administrative district judge for the judicial district in which a county is located may by order specify a shorter term of required availability for jury service;

(3) To serve on more than one (1) grand jury; or

(4) To serve as both a grand and trial juror.

Appearance for jury service, whether or not the roll is called, shall be credited toward required jury service. Appearance for jury service may include telephone standby as permitted by the administrative judge of the district.

SECTION 8. That Section 2-501, Idaho Code, be, and the same is hereby amended to read as follows:

2-501. GRAND JURY -- IMPANELING ON ORDER OF JUDGE. Grand juries shall not hereafter be drawn, summoned or required to attend at the sittings of any court within the state, as provided by law, unless the district judge ~~thereof~~ as assigned by the administrative judge shall so ~~direct by~~ order in writing. ~~under his hand and~~ The order shall be filed with the clerk of ~~said~~ the court and a copy of the order shall be delivered to the jury commission and prosecuting attorney.

SECTION 9. That Section 19-1904, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Chapter 19, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-1904, Idaho Code, and to read as follows:

19-1904. ADDITIONAL JURORS. A court may direct that one (1) or more jurors in addition to the regular panel be called and impaneled to sit as alternate jurors. All jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges prior to deliberations. At the conclusion of closing arguments, jurors exceeding the number required of a regular panel shall be removed by lot. Those removed by lot may be discharged after the jury retires to consider its verdict. If more than one (1) additional juror is called, each party is entitled to two (2) peremptory challenges in addition to those otherwise allowed by law; provided however, that if only one (1) additional juror is called, each party shall be entitled to one (1) peremptory challenge in addition to those otherwise provided by law.

SECTION 11. That Section 19-2126, Idaho Code, be, and the same is hereby amended to read as follows:

19-2126. CUSTODY OF JURY DURING TRIAL. The jury sworn to try any felony may, at any time during the trial, and after the submission of the cause, in the discretion of the court, be permitted to separate, or they may be kept together, in the charge of a proper officer. Provided

however, that in causes where the defendant has been charged with first degree murder, the jury may not be permitted to separate after submission of the cause. Before permitting the jury to separate after the cause has been submitted, the court shall permit counsel to place objections, if any, on the record outside the presence of the jury. In case the court orders the jury to be kept together the ~~sheriff~~ county must provide a suitable place for the board and lodging of the jury, at the expense of the county, and when first given custody of the jury the officer or bailiff must be sworn to keep the jury together during each recess and adjournment during the trial; to ~~suffer~~ allow no person to speak to or communicate with them, or ~~either~~ any of them, nor to do so himself, on any subject connected with the trial, and to return them into court as ordered by the court.

Approved March 19, 2002.

CHAPTER 95
(H.B. No. 499)

AN ACT

RELATING TO CERTAIN JUDICIAL ASSIGNMENTS TO THE SUPREME COURT AND COURT OF APPEALS; AMENDING SECTION 1-2210, IDAHO CODE, TO PROVIDE FOR THE ASSIGNMENT OF CERTAIN ATTORNEY MAGISTRATES TO TEMPORARY SERVICE ON THE SUPREME COURT; AND AMENDING SECTION 1-2405, IDAHO CODE, TO PROVIDE FOR THE ASSIGNMENT OF ACTIVE AND SENIOR ATTORNEY MAGISTRATE JUDGES TO CERTAIN COURT OF APPEALS PANELS, TO PROVIDE CERTAIN RESTRICTIONS, TO PROVIDE FOR REIMBURSEMENT OF EXPENSES FOR CERTAIN JUDGES AND TO PROVIDE FOR COMPENSATION FOR CERTAIN JUDGES.

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

SECTION 1. That Section 1-2210, Idaho Code, be, and the same is hereby amended to read as follows:

1-2210. ASSIGNMENTS RESTRICTED TO MAGISTRATES WHO ARE ATTORNEYS. (1) The supreme court by rule may specify additional categories of matters assignable to magistrates, except that the following matters may not be assigned to magistrates who are not attorneys:

(~~1~~a) Civil actions in which the amount of money or damages or the value of property claimed exceeds four thousand dollars ($4,000), except as otherwise authorized by this act;

(~~2~~b) Criminal proceedings in which the maximum authorized punishment exceeds the punishment authorized for misdemeanors;

(~~3~~c) All proceedings involving the custody of minors and all habeas corpus proceedings;

(~~4~~d) Proceedings for divorce, separate maintenance or annulment; and

(~~5~~e) Proceedings in quo warranto, or for injunction, prohibition, mandamus, ne exeat, or appointment of a receiver.

(2) The supreme court may assign an attorney magistrate to temporary service on the supreme court, except an attorney magistrate may not be assigned to hear cases in which the attorney magistrate participated,

nor may an attorney magistrate be assigned to hear cases which originated in his or her judicial district.

SECTION 2. 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~~ senior district judges, ~~retired~~ active or senior attorney magistrate judges, senior justices of the supreme court and ~~retired~~ senior 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~~ senior district judge or active or senior attorney magistrate judge may not be assigned to hear cases in which he or she participated while serving on the district court, nor may an active district judge or an active attorney magistrate judge hear cases ~~which~~ originated in his or her judicial district.

(3) Active district judges or active attorney magistrate 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, for active district judges, or as provided by section 1-2219, Idaho Code, for active attorney magistrate judges. Compensation for ~~retired~~ senior justices or senior judges serving on the court of appeals shall be paid in the ~~same~~ manner provided for ~~such temporary service on the supreme court~~ ~~in sect~~ion 1-2005 or section 1-2221, Idaho Code.

Approved March 19, 2002.

CHAPTER 96
(H.B. No. 500)

AN ACT

RELATING TO THE RECORDING OF COURT PROCEEDINGS AND TESTIMONY; AMENDING SECTION 1-1103, IDAHO CODE, TO PROVIDE AN ALTERNATIVE TO THE REQUIREMENT OF STENOGRAPHIC RECORDING FOR DESIGNATED PROCEEDINGS AND TESTIMONY.

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

SECTION 1. That Section 1-1103, Idaho Code, be, and the same is hereby amended to read as follows:

1-1103. RECORDING OF TESTIMONY -- WAIVER. The said reporter shall correctly report all oral proceedings had in said court and the testimony taken in all cases tried before said court, ~~but~~ except the supreme court, by rule, may designate proceedings and testimony in said court

that may be recorded by an electronic device in lieu of stenographic means. ~~T~~the parties may, with the consent of the judge, waive the recording by such reporter of any part of the proceedings or testimony.

Approved March 19, 2002.

CHAPTER 97
(H.B. No. 502)

AN ACT

RELATING TO JUVENILE SENTENCING; AMENDING SECTION 20-520, IDAHO CODE, TO PROVIDE THAT A COURT, IN ITS DISCRETION, MAY REQUEST AND RECEIVE A REPORT CONTAINING CERTAIN INFORMATION REGARDING THE JUVENILE AND THE JUVENILE'S HOME ENVIRONMENT PRIOR TO ENTRY OF AN ORDER DISPOSING OF A CASE, OTHER THAN AN ORDER OF DISCHARGE OR DISMISSAL.

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~~ may request and, if requested, 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, except the court may place a juvenile on formal probation for a period not to exceed the juvenile's twenty-first birthday if the court finds that the juvenile has committed a crime of a sexual nature;

(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 bring 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) 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;
(h) 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;
(i) 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;
(j) 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;
(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;
(l) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;
(m) Order the case and all documents and records connected there-

with 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;

(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;

(o) The court shall assess a twenty dollar ($20.00) detention/probation training academy fee 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 fund which is created in section 20-542, Idaho Code;

(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;

(q) 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. Court-ordered restitution shall be paid prior to any other court-ordered payments unless the court specifically orders otherwise.

(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.

Approved March 19, 2002.

CHAPTER 98
(H.B. No. 504)

AN ACT

RELATING TO THE IDAHO ELECTRICAL BOARD; AMENDING SECTION 54-1006, IDAHO CODE, TO PROVIDE THAT MEMBERS OF THE BOARD SHALL HOLD OFFICE UNTIL EXPIRATION OF THE TERM FOR WHICH THE MEMBER WAS APPOINTED AND UNTIL HIS SUCCESSOR HAS BEEN DULY APPOINTED AND QUALIFIED; AND DECLARING AN EMERGENCY.

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, and to serve as secretary to the Idaho electrical board.

(2) The board shall consist of nine (9) members to be appointed by the governor with power of removal for cause. Two (2) members shall be licensed journeymen or master electricians; two (2) members shall be employees or officers of licensed electrical contractors; one (1) member shall be a licensed specialty journeyman or contractor; one (1) member shall be an employee or officer of an electrical power provider; one (1) member shall be an employee or officer of a manufacturing plant or other large power user; one (1) member shall be an employee or director of a manufacturer or distributor of electrical supplies or materials; and one (1) member shall be from the public at large not directly associated with the electrical industry. Board members shall be appointed for a term of four (4) years. Members of the board shall hold office until expiration of the term to which the member was appointed and until his successor has been duly appointed and qualified. 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 examination and licensing of electrical contractors, journeyman electricians, master electricians, specialty electricians, specialty electrical contractors, specialty electrical trainees and apprentice electricians. The board shall also establish the classifications for specialty electrician and specialty electrical contractor licensing and the fees to be charged for permits and inspections of electrical systems. The board shall establish by administrative rule the fines to be paid for citations issued and shall hear appeals regarding the imposition of civil penalties for violations of this chapter and the rules of the Idaho electrical board. The board is authorized to affirm, reject, decrease or increase the penalty imposed by the administrator. However, in no case shall the penalty exceed one thousand dollars ($1,000) for each offense.

(6) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(h), 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 19, 2002.

CHAPTER 99
(H.B. No. 505, As Amended, As Amended in the Senate)

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTIONS 41-4706 AND 41-5206, IDAHO CODE, TO REVISE SUNSET PROVISIONS APPLICABLE TO INDEX RATE BANDS FOR HEALTH BENEFIT PLANS AND TO PROVIDE THAT THE DIRECTOR SHALL REVIEW CERTAIN PROVISIONS OF LAW FOLLOWING THE RECEIPT OF DATA FROM HEALTH CARE INSURERS FOR CALENDAR YEAR 2004 AND SHALL SUBMIT TO CERTAIN COMMITTEES OF THE LEGISLATURE A REPORT REGARDING RETENTION OF THE INDEX RATE BANDS.

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

SECTION 1. That Section 41-4706, Idaho Code, be, and the same is hereby amended to read as follows:

41-4706. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent (20%).

(b) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than fifty percent (50%) of the index rate. The provisions of this subsection (1)(b)

shall apply until July 1, 2004, with respect to all health benefit plans offered to small employers other than the small employer basic, standard and catastrophic plans. The director shall review the provisions of this subsection following the receipt of data from health care insurers for calendar year 2004 and shall submit to the house business committee and the senate commerce and human resources committee a report regarding retention of the index rate bands.

(c) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

(d) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

(e) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by small employer carriers pursuant to section 41-4711, Idaho Code, or chapter 55, title 41, Idaho Code.

(f) (i) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans; and

(ii) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(g) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(h) The small employer carrier shall not use case characteristics, other than age, individual tobacco use, geography, as defined by rule of the director, or gender, without prior approval of the director.

(i) A small employer carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under twenty-three (23) years of age, and the same rating factor may be applied on an annual basis as to individuals or nondependents twenty (20) years of age or older.

(j) The director may establish rules to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by small employer carriers; and

(iii) Prescribe the manner in which a small employer carrier is to demonstrate compliance with the provisions of this section, including requirements that a small employer carrier provide the director with actuarial certification as to such compliance.

(2) A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

(3) The director may suspend for a specified period the application of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more small employers included within a class of business of a small employer carrier for one (1) or more rating periods upon a filing by the small employer carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(4) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

(b) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and con-

tracts; and

(d) The provisions relating to any preexisting condition provision.

(5) (a) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each small employer carrier shall file with the director annually on or before March 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the small employer carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(c) A small employer carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

SECTION 2. That Section 41-5206, Idaho Code, be, and the same is hereby amended to read as follows:

41-5206. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The premium rates charged during a rating period to individuals with similar case characteristics for the same or similar coverage, or the rates that could be charged to such individuals under the rating system, shall not vary from the index rate by more than fifty percent (50%) of the index rate. The provisions of this subsection (1)(a) shall apply until July 1, 200~~2~~4, with respect to all health benefit plans offered to individuals other than the individual basic, standard, catastrophic A and catastrophic B plans. The director shall review the provisions of this subsection following the receipt of data from health care insurers for calendar year 2004 and shall submit to the house business committee and the senate commerce and human resources committee a report regarding retention of the index rate bands.

(b) The percentage increase in the premium rate charged to an individual for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the individual carrier is no longer enrolling new individuals, the individual carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in

the new business premium rate for the most similar health benefit plan into which the individual carrier is actively enrolling new individuals.

(ii) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status or duration of coverage of the individual or dependents as determined from the individual carrier's rate manual; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the individual carrier's rate manual.

(c) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by carriers pursuant to section 41-4711, Idaho Code, or chapter 55, title 41, Idaho Code.

(d) (i) Individual carriers shall apply rating factors, including case characteristics, consistently with respect to all individuals. Rating factors shall produce premiums for identical individuals which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the individuals assumed to select particular health benefit plans; and

(ii) An individual carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

(e) For purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs.

(f) The individual carrier shall not use case characteristics, other than age, individual tobacco use, geography as defined by rule of the director, or gender, without prior approval of the director.

(g) An individual carrier may utilize age as a case characteristic in establishing premium rates, provided that the same rating factor shall be applied to all dependents under twenty-three (23) years of age, and the same rating factor may be applied on an annual basis as to individuals or nondependents twenty (20) years of age or older.

(h) The director may establish rules to implement the provisions of this section and to assure that rating practices used by individual carriers are consistent with the purposes of this chapter, including rules that:

(i) Assure that differences in rates charged for health benefit plans by individual carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the individuals assumed to select particular health benefit plans;

(ii) Prescribe the manner in which case characteristics may be used by individual carriers; and

(iii) Prescribe the manner in which an individual carrier is to demonstrate compliance with the provisions of this section, including requirements that an individual carrier provide the director with actuarial certification as to such compliance.

(2) The director may suspend for a specified period the application

of subsection (1)(a) of this section as to the premium rates applicable to one (1) or more individuals for one (1) or more rating periods upon a filing by the individual carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the individual carrier or that the suspension would enhance the efficiency and fairness of the marketplace for individual health insurance.

(3) In connection with the offering for sale of any health benefit plan to an individual, an individual carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for an individual are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the individual and his dependents;

(b) The provisions of the health benefit plan concerning the individual carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(4) (a) Each individual carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each individual carrier shall file with the director annually on or before September 15, an actuarial certification certifying that the carrier is in compliance with the provisions of this chapter and that the rating methods of the individual carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the individual carrier at its principal place of business.

(c) An individual carrier shall make the information and documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.

Approved March 19, 2002.

CHAPTER 100
(H.B. No. 506)

AN ACT

RELATING TO IRRIGATION DISTRICTS AND CONTRACTS FOR CONSTRUCTION WORK; AMENDING SECTION 43-901, IDAHO CODE, TO INCREASE TO TWENTY-FIVE THOUSAND DOLLARS THE AMOUNT OF AN EXPENDITURE FOR WHICH COMPETITIVE BIDDING IS REQUIRED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 43-901, Idaho Code, be, and the same is hereby amended to read as follows:

43-901. CONTRACTS FOR CONSTRUCTION WORK. A. The following provisions relative to competitive bidding apply to all irrigation districts of the state of Idaho, but shall be subject to the provisions of any specific statute pertaining to the letting of any contract, purchase or acquisition of any commodity or thing by soliciting and receiving competitive bids therefor, and shall not be construed as modifying or amending the provisions of any such statute, nor preventing the irrigation district from doing any work by its own employees.

B. The word "expenditure" shall mean the granting of a contract to another by the irrigation district, the construction of any works, or any portion thereof, and every manner and means whereby the irrigation district disburses funds or obligates itself to disburse funds; provided, however, that "expenditure" does not include disbursement of funds to any irrigation district employee, official, agent, or for the performance of personal services to the irrigation district, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions or an agency of the federal government, and does not include the purchase of used personal property.

C. When the expenditure contemplated exceeds ~~fifteen~~ twenty-five thousand dollars ($~~1~~25,000), the expenditure shall be contracted for and let to the lowest responsible bidder.

D. The notice inviting bids shall set a date and place for the opening of bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids. Notice shall be published at least twice, not less than one (1) week apart, in the official newspaper of such irrigation district. The notice shall succinctly set forth the project or construction to be done. Any of the following documents shall be made available, upon reasonable deposit, to any interested bidder: bid form, bidder's instructions, contract documents, general and special instructions, drawings and specifications.

E. All bids shall be presented or otherwise delivered under sealed cover to the secretary with a concise statement marked on the outside thereof generally identifying the expenditure to which said bid pertains. All bids shall contain one (1) of the following forms of bidder's security:

a. Cash;

b. Cashier's check made payable to the irrigation district;

c. A certified check made payable to the irrigation district;

d. A bidder's bond executed by a qualified surety company, made payable to the irrigation district.

F. The security shall be an amount equal to at least ten ~~per--cent~~ percent (10%) of the amount bid. A bid shall not be considered unless one (1) of the forms of bidder's security is enclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the irrigation district.

G. Any bid received by the irrigation district may not be withdrawn after the time set in the notice for opening of bids. All bids received must be opened at the time and place set in the notice inviting bids,

and no person shall be denied the right to be present at the opening of bids.

H. If the successful bidder fails to execute the contract, the amount of his bidder's security shall be forfeited to the irrigation district and the proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of costs and publication of notice are paid.

I. The irrigation district may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the board awards the contract to the next lowest responsible bidder, the amount of the said lowest responsible bidder's security shall be applied by the irrigation district to the difference between the said lowest responsible bid and the said next lowest responsible bid, and the surplus, if any, shall be returned to the said lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used.

J. In its discretion, the board may reject any bids presented and readvertise. If two (2) or more bids are the same and the lowest responsible bids, the board may accept the one it chooses. If no bids are received, the board may make the expenditure without further compliance with this section.

K. After rejecting bids, the board may, after finding it to be a fact, pass a resolution declaring that the thing sought to be accomplished by the expenditure can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the thing sought to be accomplished done in the manner stated without further compliance with this section.

L. If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or if the irrigation system of the district has been seriously damaged or impaired, the board may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property or to replace or repair any damaged portion of the irrigation system or to remove any impediment therefrom. Upon adoption of the resolution, it may expend any sum required in the emergency without compliance with this section.

Approved March 19, 2002.

CHAPTER 101
(H.B. No. 518)

AN ACT

RELATING TO THE STATE MILITIA; AMENDING CHAPTER 4, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-409, IDAHO CODE, TO PROVIDE A STAY OF CIVIL PROCEEDINGS WHERE NATIONAL GUARD MEMBERS ARE CALLED INTO STATE SERVICE.

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

SECTION 1. That Chapter 4, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-409, Idaho Code, and to read as follows:

46-409. STAY OF CIVIL PROCEEDINGS. (1) Any civil action or proceeding in any court which involves a member called into state active duty, for services as defined in subsection (3) of this section, may be stayed by the court during such service and for a period after such service of thirty (30) days. The stay may be granted by the court on its own motion and will be granted upon the motion of a plaintiff or defendant unless, in the opinion of the court, the ability to prosecute or defend the action is not materially affected by reasons of the member's state active duty.

(2) Before a member shall be entitled to the protections of this section, that member shall furnish to the affected creditor, landlord, court or other affected person a copy of the written orders placing the member on state active duty, together with a written certification, issued under the direction of the adjutant general to certify that the member has served continuously on state orders for the period commencing with the date of the orders through the date of the statement. At the expiration of such certification, the creditor, landlord, court or other affected person may require the member to furnish a new certification for every ensuing thirty (30) day period of consecutive state active duty, which shall be furnished to the member, upon request, by the adjutant general.

(3) The definition of "state active duty," as used in sections 46-409 through 46-412, Idaho Code, is limited to service that exceeds seventeen (17) consecutive calendar days and that is ordered by the governor for the security of the rights or lives of citizens, or the protection of public or private property.

Approved March 19, 2002.

CHAPTER 102
(H.B. No. 523, As Amended, As Amended)

AN ACT

RELATING TO BRUCELLOSIS; AMENDING SECTION 25-613, IDAHO CODE, TO REQUIRE BRUCELLOSIS VACCINATIONS BE ADMINISTERED BY VETERINARIANS LICENSED AND ACCREDITED IN THE STATE OR BY STATE OR FEDERAL REGULATORY PERSONNEL, TO STRIKE REFERENCE TO CERTAIN DIRECT SUPERVISION OF VACCINATIONS AND TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO DESIGNATE CERTAIN VACCINATION REQUIREMENTS BY RULE; AMENDING SECTION 25-613A, IDAHO CODE, TO STRIKE REFERENCE TO CALFHOOD VACCINATIONS, TO PROVIDE FOR OFFICIAL VACCINATIONS FOR BRUCELLOSIS FOR FEMALE CATTLE IN THE STATE OF IDAHO, TO REFERENCE AN EXCEPTION, TO REVISE A DEFINITION, TO PROVIDE FOR FEMALE CATTLE THAT HAVE NOT BEEN OFFICIALLY VACCINATED, TO PROVIDE THAT PERSONS FAILING TO COMPLY WITH REQUIREMENTS SHALL BE SUBJECT TO CERTAIN CRIMINAL VIOLATIONS AND PENALTIES, TO STRIKE REFERENCE TO REGISTERED QUARANTINE, TO PROVIDE THAT ANIMALS NOT IN COMPLIANCE WITH DESIGNATED LAW MAY BE PLACED IN FEEDLOTS APPROVED BY THE DIRECTOR AND TO MAKE

TECHNICAL CORRECTIONS; AND AMENDING SECTION 25-616, IDAHO CODE, TO EXTEND THE APPLICATION OF PENALTY PROVISIONS, TO PROVIDE CERTAIN VIOLATIONS ARE MISDEMEANORS, TO REVISE PENALTY PROVISIONS, TO PROVIDE FOR CIVIL PENALTIES, TO PROVIDE FOR DEPOSIT OF MONEYS COLLECTED FOR VIOLATIONS, TO PROVIDE FOR CERTAIN CORRECTIVE ACTION AND TO PROVIDE THAT THE DIRECTOR MAY EXERCISE DISCRETION IN DETERMINING WHETHER TO REPORT CERTAIN MINOR VIOLATIONS.

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

SECTION 1. That Section 25-613, Idaho Code, be, and the same is hereby amended to read as follows:

25-613. VACCINATION METHOD OF CONTROL. (1) The owner of any cattle who ~~desires--to--have~~ has such cattle vaccinated for protection against brucellosis shall have such cattle vac~~cinated by~~ a veterinarian who is licensed and accredited in the state of Idaho~~.--Except-in-the-case-of vaccination-of-adult-cattle-which-vaccination-shall--be--performed--only under--the-direct-supervision-of~~ or vaccinated by state or federal regulatory personnel.

(2) The director shall designate in rules the vaccine to be utilized, the vaccinal dose to be administered, age range of cattle that may be vaccinated, the method for identification of vaccinated cattle and the form and contents of reports to be made of cattle vaccinated.

(3) No person, firm, or corporation shall sell, give away, or in any manner place in the hands of any owner or caretaker of cattle any brucellosis vaccine, and only licensed and accredited veterinarians, and state or federal regulatory personnel, may inject brucellosis vaccine into any cattle.

SECTION 2. That Section 25-613A, Idaho Code, be, and the same is hereby amended to read as follows:

25-613A. ~~CALFHOOD~~ OFFICIAL VACCINATION AGAINST BRUCELLOSIS REQUIRED ~~--~~ PENALTY. (1) All female cattle ~~born-after-July-1,-1983,~~ in the state of Idaho shall be officially ~~calfhood~~ vaccinated for protection against brucellosis except as provided in subsection (2) of this section. "Officially ~~calfhood~~ vaccinated" shall mean a bovine female animal vaccinated against ~~B~~brucellosis in accordance with section 25-613, Idaho Code, under the supervision of a federal or state veterinary official with age limits prescribed by the department, ~~in-compliance-with-United States-department-of-agriculture-recommended-uniform-methods-and--rules,~~ with a vaccine approved by the department, and permanently identified as such a vaccinate and reported at the time of vaccination to the department or appropriate federal agency cooperating in the eradication of ~~B~~brucellosis.

(2) Female cattle which have not been officially vaccinated shall not be utilized for breeding or dairy purposes. Such cattle may be shipped directly to slaughter, placed in recognized feedlots within the state to be finish fed for slaughter or may be shipped out of the state of Idaho to a state that will accept them as nonvaccinated cattle. The department may require that female cattle which have not been officially vaccinated be uniquely identified as nonvaccinates and may specify in rules identification requirements, methods for identification, require-

ments for feedlot facilities, entry of cattle into the feedlot, removal of cattle from the feedlot, and recordkeeping requirements for feedlots which desire to finish feed nonvaccinated female cattle.

(3) Female cattle which have not been officially vaccinated may enter the state of Idaho from a state that does not require vaccination. Such cattle shall only be destined for feedlots approved by the director or to other locations at the discretion and under the oversight of the director. Such cattle that are to be utilized for breeding or dairy purposes must be vaccinated upon arrival at a feedlot or other facility approved by the director pursuant to the rules of the department. Female cattle, imported pursuant to the provisions of this subsection, which are eighteen (18) months of age or older (as evidenced by the loss of the first pair of temporary incisors) shall be tested negative for brucellosis to an official brucellosis test prior to being vaccinated.

(4) ~~However, t~~The director of the department or his designee may grant a hearing to any persons, under such rules as the department may prescribe which are in compliance with chapter 52, title 67, Idaho Code, as to whether an exception should be made to the provisions of this section. An appeal may be taken from the decision of the director or his designee under the provisions of chapter 52, title 67, Idaho Code.

(5) Any person who shall possess or own in this state or acquire within this state any cattle contrary to the provisions of this section shall be ~~guilty of a misdemeanor and shall be punished according~~ subject to the provisions of section 25-616, Idaho Code. The department also may order that when animals are found not to be in compliance with the provisions of chapter 2, title 25, Idaho Code, and chapter 6, title 25, Idaho Code, that they be slaughtered, removed from the state, or placed in ~~an Idaho registered quarantine feed lot~~ a feedlot approved by the director.

SECTION 3. That Section 25-616, Idaho Code, be, and the same is hereby amended to read as follows:

25-616. PENALTY FOR VIOLATIONS. ~~OF SECTIONS 25-608 - - - - - 25-615.~~ (1) Any person, firm, or corporation who shall fail to do or perform, or who shall not permit another to do or perform, any act which he or it is required to do or perform under ~~sections 25-608 through 25-615, Idaho Code, inclusive, or any of them~~ the provisions of this chapter, or who shall in any manner interfere with the compliance of ~~said sections or any of them or any provisions thereof~~ the provisions of this chapter by any officer or representative of the department, veterinary services or commissioners, or who shall refuse to present or restrain any cattle or other animals for the purpose of identifying, testing, inspecting, examining, vaccinating, or branding ~~under this act~~ pursuant to the provisions of this chapter, or who shall remove any eartag from any brucellosis reactor, or who shall remove the eartag from any animal tested, identified or vaccinated for brucellosis and place such tag on or in the ear of another animal, or place a vaccination tag in the ear of an unvaccinated animal~~, shall, upon conviction thereof, be fined~~ is guilty of a misdemeanor. Upon conviction, violators are subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) for each offense,~~. For the purposes of this section, a person shall be charged with a separate offense for each animal he owns or possesses and which is found not to be in compliance with the provi-~~

~~sions--of--sections-25-608-through-25-615,-Idaho-Code,-or-any-of-them~~ or by imprisonment in the county jail for a period not to exceed six (6) months.

(2) Any person violating the provisions of this chapter or rules promulgated under this chapter may be assessed a civil penalty by the department or its agent of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) for each offense. Persons against whom civil penalties are assessed are liable for reasonable attorney's fees. Civil penalties may be assessed in conjunction with any other department administrative action. Civil penalties may not be assessed unless the person charged has been given notice and an opportunity for a hearing pursuant to the provisions of chapter 52, title 67, Idaho Code. If the department is unable to collect an assessed civil penalty or if any person fails to pay all or a set portion of a civil penalty as determined by the department, the department may recover such amount by action in the appropriate district court. Any person against whom the department has assessed a civil penalty under this chapter may, within twenty-eight (28) days of the final agency action making the assessment, seek judicial review of the assessment in accordance with the provisions of chapter 52, title 67, Idaho Code. Moneys collected for violations of this chapter or rules promulgated under this chapter shall be deposited in the state treasury and credited to the livestock disease control and T.B. indemnity fund. If the director determines that a person has not complied with this chapter or the rules promulgated under this chapter, the director shall identify appropriate corrective actions. The director may develop a formal compliance schedule to correct deficiencies caused by noncompliance. The director may, through a formal compliance schedule, allow all or part of the value of the assessed civil penalties to apply toward correction of the deficiencies.

(3) Nothing in this section requires the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action.

Approved March 19, 2002.

CHAPTER 103
(H.B. No. 524)

AN ACT

RELATING TO DOMESTIC CERVIDAE; AMENDING SECTION 25-3706, IDAHO CODE, TO REVISE CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN STATUTES AND RULES REGARDING DOMESTIC CERVIDAE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 25-3706, Idaho Code, be, and the same is hereby amended to read as follows:

25-3706. VIOLATIONS — CIVIL -- CRIMINAL -- PENALTIES FOR VIOLATIONS. (1) Failure to comply with provisions applicable to domestic cervidae as set forth in chapters 2, 3, 4 and 6 of title 25, Idaho Code,

the provisions of this chapter, or rules promulgated thereunder, shall constitute a violation. Civil penalties may be assessed against a violator as follows:

(a) A civil penalty as assessed by the department or its duly authorized agent not to exceed five thousand dollars ($5,000) for each offense;

(b) ~~Each--day--of-a-continuing-violation-may-be-assessed-as-a-separate-offense;~~

~~(c)~~ Assessment of a civil penalty may be made in conjunction with any other department administrative action.

(2) No civil penalty may be assessed against a person unless the person was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act as set forth in chapter 52, title 67, Idaho Code.

(3) If the department is unable to collect an assessed civil penalty, or if a person fails to pay all or a set portion of an assessed civil penalty as determined by the department, the department may file an action to recover the civil penalty in the district court of the county in which the violation is alleged to have occurred. In addition to the assessed penalty, the department shall be entitled to recover reasonable attorney's fees and costs incurred in such action or on appeal from such action.

(4) A person against whom the department has assessed a civil penalty under this section may, within thirty (30) days of the final agency action making the assessment, appeal the assessment to the district court of the county in which the violation is alleged to have occurred.

(5) Moneys collected pursuant to this section shall be deposited in the state treasury and credited to the livestock disease control and T.B. indemnity fund.

(6) The imposition or computation of monetary penalties shall take into account the seriousness of the violation, good faith efforts to comply with the law, the economic impact of the penalty on the violator and such other matters as justice requires.

(7) Nothing in this chapter shall be construed as requiring the director to report minor violations when the director believes that the public interest will be best served by suitable warnings or other administrative action.

(8) Any person, firm or corporation violating any of the provisions of chapters 2, 3, 4 and 6, title 25, Idaho Code, this chapter, or rules promulgated thereunder by the division of animal industries, applicable to domestic cervidae, shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) for each offense.

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, 2002.

CHAPTER 104
(H.B. No. 529, As Amended)

AN ACT

RELATING TO DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE; AMENDING SECTION 22-103, IDAHO CODE, TO PROVIDE FOR THE DIRECTOR'S REGULATION OF COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES AND TO PROVIDE THAT CERTAIN AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY IS PREEMPTED BY THE PROVISIONS OF SECTION 22-103(17), IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-103, Idaho Code, be, and the same is hereby amended to read as follows:

22-103. DUTIES OF DIRECTOR. The director of the department of agriculture shall execute the powers and discharge the duties vested by law in him or in the department, including, but not limited to, the following:

(1) Pursuant to chapter 53, title 67, Idaho Code, hire, assign duties and evaluate the performance of all employees of the department.

(2) Designate employees for special assignment, office or function as the needs of the department may require.

(3) Acquire, generate, develop and disseminate information and data concerning agricultural pursuits, productivity and product quality.

(4) Encourage and promote in every practical manner, the interests of agriculture, horticulture, apiculture, aquaculture, the livestock industries, poultry and fowl raising, wool and fur-bearing animals and their allied industries.

(5) Assist, encourage and promote the organization of farmers' institutes, agricultural, horticultural, management or cooperative societies and organizations for the benefit of agricultural pursuits in this state.

(6) Promote improved methods of production, storage, sales and marketing of agricultural industries.

(7) Establish and promulgate standards of construction, use and sanitation of open and closed receptacles for farm products, and standards for grade or other classification of farm products.

(8) Prescribe and promulgate rules governing marks, brands and labels, and the registration thereof, for use upon receptacles for farm products.

(9) Promote, in the interest of the public, economical and efficient use of products and commodities used in the production of agricultural, horticultural, meats and other products and farm commodities and their distribution.

(10) Cooperate with producers, processors and consumers in devising and maintaining economical and efficient systems of distribution, and to assist in the reduction of waste and expense incidental to the marketing of agricultural products.

(11) Gather and diffuse timely information and statistics concerning supply, demand, prevailing prices and commercial movement of agricultural products.

(12) Maintain a market news service, including information concerning crops, freight rates, commission rates and such other information as may be of service to producers and consumers, and to act as a clearinghouse for information between producers and consumers.

(13) Cooperate with the secretary, colleges and universities, experiment stations, and other agencies which cooperate in devising, research and development and utilization of improved agricultural production and other activities.

(14) Investigate the practices, methods of factors, management techniques of commission merchants, track buyers and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grains, eggs, livestock, vegetables or other products used as human foods, to the end that distribution of such commodities through such factors, commission merchants, track buyers and others be efficiently and economically accomplished without hardship, waste or fraud.

(15) Enter and inspect any right-of-way of any irrigation canal, railway, public highway, field, orchard, nursery, fruit or vegetable packing house, store room, sales room, storage facility, depot or other place where fruits and vegetables are grown or stored and to inspect fruits, trees, plants, vines, shrubs or other articles within the state, and if such places or articles are infested with pests, insects or their eggs or larvae, or with any contagious or transmittable diseases injurious to plant life, to abate or eradicate the same as a nuisance.

(16) Provide treatment for and prevent the spread of infectious or communicable diseases among bees, livestock, fur-bearing animals or domestic animals through the systematic and periodic inspection, testing or treatment of such bees and animals at the expense of the owner thereof.

(17) Protect the livestock interests of the state from losses due to disease or hazards to animal health and communicable to humans through agricultural products. The director is authorized to regulate, as deemed necessary, commercial livestock truck washing facilities. This includes permitting for the treatment or disposal, at any location, of any wash water generated by the facility. This subsection preempts Idaho department of environmental quality's authority to issue land application permits and to do plan and specification reviews under section 39-118, Idaho Code, for livestock truck wash facilities, but does not affect any other authority of the Idaho department of environmental quality.

(18) Maintain recording of earmarks, eartags or other identifying marks not covered under any other provisions of law.

(19) Purchase, lease, hold, sell, and dispose of real and personal property of the department when, in the judgment of the director, such transactions promote the purposes for which the department is established.

(20) Contract with any state agency, federal agency or agency of another state concerning any matter, program or cooperative effort within the scope and jurisdiction of its authority pursuant to law.

(21) Assist in the improvement of country life, farm occupations and to cooperate in effectuating equality of opportunity of those employed in agricultural pursuits in the state of Idaho.

(22) Investigate diseases, contamination of livestock and poultry, agricultural, horticultural, and farm products, suspected to be infected or contaminated by bacterial, viral, protozoal, parasitic, chemical, nuclear, botanical or other disease-producing agents, or carrying a res-

idue of any such disease-producing agent or chemical in excess of any tolerance established by federal or state law or regulation and to examine, conduct tests, and issue "hold orders" on any livestock, poultry, agricultural, horticultural or farm products as deemed necessary to effectuate a diagnosis of disease, contamination or chemical level to safeguard and protect animal and man. And additionally, authorize and implement a predator control program on state and private lands using any kind of toxic material or substance suitable for such purpose. Any toxic material or substance shall be approved for use by the director. In order to carry out the provisions of this subsection (22), the director shall prescribe and promulgate rules pursuant to chapter 52, title 67, Idaho Code.

(23) Prescribe by rule an interest charge which may be assessed on all accounts which are thirty (30) days past due from the initial billing date or the assessment due date. The interest rate charged shall not exceed twelve percent (12%) per annum.

(24) To take all steps that are deemed necessary to prevent and control damage or conflicts on federal, state, or other public or private lands caused by predatory animals, rodents, or birds, including threatened or endangered wildlife within the state of Idaho as are established by federal or state law, federal or state regulation, or county ordinance, that are injurious to animal husbandry, agriculture, horticulture, forestry, wildlife and human health and safety.

(25) To administer oaths, certify to all official acts and subpoena any person in this state as a witness; to compel through subpoena the production of books, papers, and records; and to take the testimony of any person on deposition in the same manner as prescribed by law in the procedure before the courts of this state. A subpoena issued by the director shall extend to all parts of the state and may be served by any person authorized to do so. All powers of the director enumerated in this subsection (25) with respect to administering oaths, power of subpoena, and other powers in hearings on complaints shall likewise be applicable to hearings held on applications for the issuance or renewal of licenses.

(26) To appoint, as necessary, committees for the purpose of advising the director on any and all matters relating to agricultural programs within the Idaho department of agriculture.

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, 2002.

CHAPTER 105
(H.B. No. 534)

AN ACT

RELATING TO THE IDAHO DIGITAL LEARNING ACADEMY; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 55, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO CREATE THE IDAHO DIGITAL LEARNING ACADEMY, TO PROVIDE LEGISLATIVE FINDINGS AND TO STATE THE GOAL OF THE ACAD-

EMY, TO CREATE AN ACADEMY BOARD OF DIRECTORS, TO PROVIDE DUTIES OF THE ACADEMY BOARD, TO DEFINE TERMS, TO PROVIDE FOR DESIGN, DEVELOPMENT AND ACCREDITATION OF COURSES, TO PROVIDE FOR REGISTRATION AND ACCOUNTABILITY AND TO PROVIDE FUNDING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 55, Title 33, Idaho Code, and to read as follows:

CHAPTER 55
IDAHO DIGITAL LEARNING ACADEMY

33-5501. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Digital Learning Academy Act of 2002."

33-5502. CREATION — LEGISLATIVE FINDINGS — GOAL. (1) There is hereby created within the state department of education the Idaho digital learning academy, a school-choice learning environment which joins the best technology with the best instructional practices.

(2) The legislature finds that it is in the best public interest to create the Idaho digital learning academy based on findings that indicate:

(a) Technology continues to impact all facets of life, including the education of students of school age and adult learners;

(b) Systems for delivery of education are as diverse as the learners;

(c) Public school systems are seeking high quality educational choices within the public system, and are aligning curriculum and assessment with state achievement standards; and

(d) The development of a comprehensive digital learning environment is cost prohibitive for individual school districts.

(3) The goal of the digital learning academy is to provide choice, accessibility, flexibility, quality and equity in curricular offerings for high school-aged students in this state.

33-5503. ACADEMY BOARD OF DIRECTORS. (1) There is hereby created an academy board of directors which shall be responsible for the development and oversight of the Idaho digital learning academy.

(2) The academy board of directors shall be comprised of seven (7) voting members and two (2) nonvoting members as follows:

(a) Three (3) members shall be superintendents, each elected to a three (3) year term and each representing two (2) educational classification regions as established by the state board of education. One (1) superintendent shall be elected from among the superintendents in regions one and two on a rotating term basis between the two (2) regions; one (1) superintendent shall be elected from among the superintendents in regions three and four on a rotating term basis between the two (2) regions; and one (1) superintendent shall be elected from among the superintendents in regions five and six on a rotating term basis between the two (2) regions;

(b) Two (2) members shall be high school principals, each elected to a three (3) year term by the governing body of the Idaho associa-

tion of secondary school administrators;

(c) Two (2) members shall be citizens at-large who are not professional educators, appointed by the members of the academy board, each to a term of three (3) years; and

(d) Two (2) members shall be ex officio, nonvoting members: (i) the state superintendent of public instruction who shall serve concurrently with the term of office to which the state superintendent is elected, and (ii) a member appointed by the academy board of directors to serve as secretary to the academy board.

(3) For purposes of establishing staggered terms of office, the initial term of office for the superintendent position representing educational classification regions one and two shall be one (1) year, and thereafter shall be three (3) years. The initial term of office for the superintendent position representing educational classification regions three and four shall be two (2) years, and thereafter shall be three (3) years. The superintendent position representing educational classification regions five and six shall be three (3) years. The initial term of office for one (1) high school principal position shall be one (1) year and thereafter shall be three (3) years, and the initial term of office for the other high school principal position shall be two (2) years and thereafter shall be three (3) years. The initial term of office for one (1) member at-large shall be one (1) year and thereafter shall be three (3) years, and the term of office for the other member at-large shall be three (3) years.

(4) No voting member shall serve for more than two (2) consecutive full terms. Members of the board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

(5) The board shall meet in person at least three (3) times annually; none of these three (3) meetings shall be conducted by telephone or video conferencing.

33-5504. DUTIES OF THE ACADEMY BOARD OF DIRECTORS. The board shall be responsible for ensuring that academy procedures and courses are in compliance with the rules of the state board of education and applicable statutes of the state of Idaho. In addition, the board shall:

(1) Recommend policies to be established by rule of the state board for effecting the purposes of this chapter.

(2) Employ staff as follows:

(a) A director who shall be responsible for staff development, staff evaluation, program development and oversight, and quality assurance;

(b) A professional development coordinator who shall be responsible for training faculty in online course design, development and delivery, and shall assist the director in quality assurance;

(c) Clerical staff as necessary to manage student information, maintain student records, manage academy correspondence, and oversee basic financial accounting as directed;

(d) Appropriate technology staff who shall support faculty in understanding and applying the technical aspects of online course development and delivery;

(e) Faculty and teaching staff who are fully certificated Idaho teachers, to design and deliver planned curriculum content. Such staff shall be provided appropriate and sufficient training as nec-

essary. The number of such staff shall largely be dictated by the number of courses under development, the number of courses offered, and the number of students participating in academy programs.

(3) Obtain housing with a host school district where actual operations of the academy are conducted by academy staff. Housing should be minimal and reasonably portable so that it can be transferred from one (1) host district to another without disruption of the program.

(4) Contract with a service provider for delivery of academy courses online which shall be accessible twenty-four (24) hours a day, seven (7) days a week.

(5) Ensure that the academy is accredited by the state of Idaho and the northwest accreditation association.

(6) Develop policy for earning credit in courses based on mastery of the subject, demonstrated competency, and meeting the standards set for each course.

(7) Provide for articulating the content of certain high school courses with college and university courses in order to award both high school and undergraduate college credit.

(8) Develop policies and practices which provide strict application of time limits for completion of courses.

(9) Develop policies and practices on accountability, both by the student and the teacher, and in accordance with the provisions of section 33-5507, Idaho Code.

(10) Manage the moneys disbursed to the academy board from the superintendent.

33-5505. DEFINITIONS. As used in this chapter:

(1) "Academy board," also referred to in this chapter as "the board" means the board of directors of the Idaho digital learning academy as such board is created in section 33-5503, Idaho Code.

(2) "Host district" means an Idaho school district where the operations of the Idaho digital learning academy are housed. The host district shall also act as the fiscal agent for the academy.

(3) "Idaho digital learning academy" means an online educational program organized as a fully accredited high school with statewide capabilities for delivering accredited courses to Idaho resident students in grades nine (9) through twelve (12) at no cost to the student or school district. Participation in the academy by public school students shall be in compliance with academy and local school district policies. Adult learners and out-of-state students shall pay tuition commensurate with rates established by the state board with the advice of the superintendent.

(4) "State board" means the Idaho state board of education. The board is authorized and directed, with the advice and recommendation of the academy board of directors, to promulgate rules to implement the provisions of this chapter.

(5) "Superintendent" means the Idaho state superintendent of public instruction.

33-5506. COURSES — DEVELOPMENT — BROKERED — CREDIT — ACCREDITATION. Online courses shall reflect state of the art in multimedia-based digital learning. Courses offered shall be of high quality in appearance and presentation, and shall be designed to meet the needs of all students regardless of the student's level of learning.

(1) All courses developed under the auspices of the academy are the property of the academy. Courses may be developed by qualified Idaho teachers who possess the necessary technical background and instructional expertise. Such persons may also be hired to deliver the course online. Nothing shall prevent the board from providing additional training to teachers in the development and online delivery of courses.

(2) At the discretion of the board with consideration for necessity, convenience and cost effectiveness, brokered courses developed by outside sources may be obtained for use by the academy; however, such courses shall be taught online by Idaho teachers unless special circumstances determined by the director require a waiver of this requirement.

(3) Credit earned in courses shall be based on such criteria as mastery of the subject, demonstrated competency, and meeting the standards set for each course, in contrast to credit earned in a traditional classroom based on time spent in the classroom.

(4) All courses shall meet criteria established by the state of Idaho and the northwest accreditation association as necessary for accreditation of the academy.

33-5507. REGISTRATION — ACCOUNTABILITY. (1) A student may register with the academy upon recommendation from a traditional school counselor or administrator, or may register directly with the academy if there is no current public school affiliation. However, in order for course work completed through the academy to be recorded on the student's transcript, the student shall indicate which high school is to receive and record credits earned.

(2) Students who register for courses shall provide the name of a responsible adult who shall be the contact person for the academy in situations which require consultation regarding the student's conduct and performance. A designated responsible adult for students with a school affiliation may be a teacher, a counselor or a distance learning coordinator. For home schooled students, a parent or guardian may be designated.

(3) Policies of accountability as established by rule of the state board shall address the special conditions which exist in an environment where there is reduced face-to-face contact between student and teacher; where students access courses at any time of day, from any location and at the student's own pace; where online etiquette and ethics should be clearly understood and required of all participants; and where all students' participation is monitored by online teachers and academy personnel.

(4) Policies shall be established by rule of the state board for student-related issues including taking exams, proctored or unproctored; ensuring that the work is being done by the student; and ensuring that ethical conduct and proper etiquette are always observed by all participants.

33-5508. FUNDING. Funding for the program shall be provided from an annual budget request to the legislature from the superintendent of public instruction. The superintendent shall disburse the funds to the Idaho digital learning academy board of directors who shall use the moneys to develop courses and maintain operations of the academy.

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, 2002.

CHAPTER 106
(H.B. No. 535)

AN ACT
RELATING TO ATTENDANCE AT SCHOOL AND DUAL ENROLLMENT; AMENDING SECTION 33-203, IDAHO CODE, TO CLARIFY WHAT CONSTITUTES DEMONSTRATION OF ACADEMIC PROFICIENCY TO ESTABLISH ELIGIBILITY FOR A NONPUBLIC SCHOOL STUDENT OR PUBLIC CHARTER SCHOOL STUDENT TO PARTICIPATE IN PUBLIC SCHOOL NONACADEMIC ACTIVITIES.

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

SECTION 1. That Section 33-203, Idaho Code, be, and the same is hereby amended to read as follows:

33-203. DUAL ENROLLMENT. (1) The parent or guardian of a child of school age who is enrolled in a nonpublic school or a public charter school shall be allowed to enroll the student in a public school for dual enrollment purposes. The board of trustees of the school district shall adopt procedures governing enrollment pursuant to this section. If enrollment in a specific program reaches the maximum for the program, priority for enrollment shall be given to a student who is enrolled full time in the public noncharter school.

(2) Any student participating in dual enrollment may enter into any program in the public school available to other students subject to compliance with the ~~same rules and~~ eligibility requirements herein and the same responsibilities and standards of behavior and performance that apply to any student's participation in the activity, except that the academic eligibility requirements for participation in nonacademic activities are as provided for herein.

(3) Any school district shall be allowed to include dual-enrolled nonpublic school and public charter school students for the purposes of state funding only to the extent of the student's participation in the public school programs.

(4) Oversight of academic standards relating to participation in nonacademic public school activities shall be the responsibility of the primary educational provider for that student. In order for any nonpublic school student or public charter school student to participate in nonacademic public school activities for which public school students must demonstrate academic proficiency or eligibility, the nonpublic school or public charter school student shall ~~achieve a minimum score on the achievement test required annually by the state board of education, and that score shall be used to determine eligibility for the following year. The~~ demonstrate composite grade-level academic proficiency on any state board of education recognized achievement test, portfolio, or other mechanism as provided for in state board of education rules. Addi-

tionally, a student shall be eligible if ~~the~~ he achieves a minimum composite, core or survey test score ~~places the student~~ within the average or higher than average range as established by the test service utilized on any nationally-normed test. Demonstrated proficiency shall be used to determine eligibility for the current and next following school years. School districts shall provide to nonpublic students who wish to participate in dual enrollment activities the opportunity to take state tests or other standardized tests given to all regularly enrolled public school students.

(5) A public school student who has been unable to maintain academic eligibility is ineligible to participate in nonacademic public school activities as a nonpublic school or public charter school student for the duration of the school year in which the student becomes academically ineligible and for the following academic year.

(6) A nonpublic school or public charter school student participating in nonacademic public school activities must reside within the attendance boundaries of the school for which the student participates.

(7) Dual enrollment shall include the option of joint enrollment in a regular public school and an alternative public school program. The state board of education shall establish rules that provide funding to school districts for each student who participates in both a regular public school program and an alternative public school program.

(8) Dual enrollment shall include the option of enrollment in a post-secondary institution. Any credits earned from an accredited post-secondary institution shall be credited toward state board of education high school graduation requirements.

(9) A nonpublic student is any student who receives educational instruction outside a public school classroom and such instruction can include, but is not limited to, a private school or a home school.

Approved March 19, 2002.

CHAPTER 107
(H.B. No. 540)

AN ACT

RELATING TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 28-9-102, IDAHO CODE, TO FURTHER DEFINE "HEALTH CARE INSURANCE RECEIVABLE"; AMENDING SECTION 28-9-304, IDAHO CODE, TO PROVIDE THAT AN AGREEMENT BETWEEN A BANK AND ITS CUSTOMER GOVERNING A DEPOSIT ACCOUNT MAY EXPRESSLY PROVIDE THAT A PARTICULAR JURISDICTION IS THE BANK'S JURISDICTION; AMENDING SECTION 28-9-309, IDAHO CODE, TO PROVIDE THAT SECURITY INTERESTS IN A SALE BY AN INDIVIDUAL OF AN ACCOUNT THAT IS A RIGHT TO PAYMENT OF WINNERS IN A LOTTERY OR OTHER GAME OF CHANCE ARE PERFECTED WHEN THEY ATTACH; AMENDING SECTION 28-9-515, IDAHO CODE, TO REVISE THE DURATION AND EFFECTIVENESS OF CERTAIN FINANCING STATEMENTS; AMENDING SECTION 28-9-626, IDAHO CODE, TO REMOVE LANGUAGE EXEMPTING CONSUMER TRANSACTIONS FROM RULES APPLICABLE TO ACTIONS IN WHICH DEFICIENCY OR SURPLUS IS IN ISSUE; AMENDING SECTION 28-9-705, IDAHO CODE, TO PROVIDE FOR THE EFFECTIVENESS OF FINANCING STATEMENTS FILED AS FIXTURE, TIMBER OR MINERAL FILINGS; AND AMENDING SECTION 39-1450, IDAHO CODE, TO PROVIDE THAT THE SECTION EXPRESSLY

GOVERNS THE CREATION, PERFECTION, PRIORITY AND ENFORCEMENT OF SECURITY INTERESTS CREATED BY THE IDAHO HEALTH FACILITIES AUTHORITY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 28-9-102, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-102. DEFINITIONS AND INDEX OF DEFINITIONS. (a) In this chapter:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance: (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; (ii) for services rendered or to be rendered; (iii) for a policy of insurance issued or to be issued; (iv) for a secondary obligation incurred or to be incurred; (v) for energy provided or to be provided; (vi) for the use or hire of a vessel under a charter or other contract; (vii) arising out of the use of a credit or charge card or information contained on or for use with the card; or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or a person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health care insurance receivables. The term does not include: (i) rights to payment evidenced by chattel paper or an instrument; (ii) commercial tort claims; (iii) deposit accounts; (iv) investment property; (v) letter of credit rights or letters of credit; or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include: (i) charters or other contracts involving the use or hire of a vessel; or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with

respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant's business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee

in a consignment.
(22) "Consumer debtor" means a debtor in a consumer transaction.
(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family or household purposes.
(24) "Consumer goods transaction" means a consumer transaction in which:
(A) an individual incurs an obligation primarily for personal, family or household purposes; and
(B) a security interest in consumer goods secures the obligation.
(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family or household purposes.
(26) "Consumer transaction" means a transaction in which: (i) an individual incurs an obligation primarily for personal, family or household purposes; (ii) a security interest secures the obligation; and (iii) the collateral is held or acquired primarily for personal, family or household purposes. The term includes consumer goods transactions.
(27) "Continuation statement" means an amendment of a financing statement which:
(A) identifies, by its file number, the initial financing statement to which it relates; and
(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.
(28) "Debtor" means:
(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
(B) a seller of accounts, chattel paper, payment intangibles or promissory notes; or
(C) a consignee.
(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.
(30) "Document" means a document of title or a receipt of the type described in section 28-7-201(2).
(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.
(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.
(33) "Equipment" means goods other than inventory, farm products or consumer goods.
(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:
(A) crops grown, growing, or to be grown, including:
(i) crops produced on trees, vines and bushes; and
(ii) aquatic goods produced in aquacultural operations;
(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or
(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to section 28-9-519(a).

(37) "Filing office" means an office designated in section 28-9-501 as the place to file a financing statement.

(38) "Filing office rule" means a rule adopted pursuant to section 28-9-526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 28-9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter of credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) "Goods" means all things that are movable when a security interest attaches. The term includes: (i) fixtures; (ii) standing timber that is to be cut and removed under a conveyance or contract for sale; (iii) the unborn young of animals; (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines or bushes; and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if: (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods; or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter of credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from

income taxation under the laws of the United States.

(46) "Health care insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health care goods or services provided or to be provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include: (i) investment property; (ii) letters of credit; or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter of credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.

(54) "Manufactured home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under section 28-9-203(d) by a security agreement previously entered into by another person.

(57) "New value" means: (i) money; (ii) money's worth in property, services or new credit; or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral: (i) owes payment or other performance of the obligation; (ii) has provided property other than the collateral to secure payment or other performance of the obligation; or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor," except as used in section 28-9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 28-9-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister, or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means:

(A) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A) of this paragraph;

(D) the spouse of an individual described in subparagraph (A), (B) or (C) of this paragraph; or

(E) an individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C) or (D) of this paragraph and shares the same home with the individual.

(64) "Proceeds" means the following property:

(A) whatever is acquired upon the sale, lease, license,

exchange or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 28-9-620, 28-9-621 and 28-9-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intan-

gibles or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under section 28-2-401, 28-2-505, 28-2-711(3), 28-4-210, 28-5-120 or 28-12-508(5).

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send," in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A) of this paragraph.

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) "Supporting obligation" means a letter of credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument or investment property.

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas or water.

(b) The following definitions in other chapters apply to this chapter:

"Applicant"	section 28-5-102.
"Beneficiary"	section 28-5-102.
"Broker"	section 28-8-102.
"Certificated security"	section 28-8-102.
"Check"	section 28-3-104.

"Clearing corporation"	section 28-8-102.
"Contract for sale"	section 28-2-106.
"Customer"	section 28-4-104.
"Entitlement holder"	section 28-8-102.
"Financial asset"	section 28-8-102.
"Holder in due course"	section 28-3-302.
"Issuer" (with respect to a letter of credit or letter of credit right)	section 28-5-102.
"Issuer" (with respect to a security)	section 28-8-201.
"Lease"	section 28-12-103.
"Lease agreement"	section 28-12-103.
"Lease contract"	section 28-12-103.
"Leasehold interest"	section 28-12-103.
"Lessee"	section 28-12-103.
"Lessee in ordinary course of business"	section 28-12-103.
"Lessor"	section 28-12-103.
"Lessor's residual interest"	section 28-12-103.
"Letter of credit"	section 28-5-102.
"Merchant"	section 28-2-104.
"Negotiable instrument"	section 28-3-104.
"Nominated person"	section 28-5-102.
"Note"	section 28-3-104.
"Proceeds of a letter of credit"	section 28-5-114.
"Prove"	section 28-3-103.
"Sale"	section 28-2-106.
"Securities account"	section 28-8-501.
"Securities intermediary"	section 28-8-102.
"Security"	section 28-8-102.
"Security certificate"	section 28-8-102.
"Security entitlement"	section 28-8-102.
"Uncertificated security"	section 28-8-102.

(c) Chapter 1, title 28, contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 2. That Section 28-9-304, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-304. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNTS. (a) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and ~~the debtor~~ <u>its customer</u> governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this chapter, or the uniform commercial code, that jurisdiction is the bank's jurisdiction.

(2) If paragraph (1) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's juris-

diction.

(3) If neither paragraph (1) nor (2) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of the preceding paragraphs apply, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of the preceding paragraphs apply, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

SECTION 3. That Section 28-9-309, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-309. SECURITY INTEREST PERFECTED UPON ATTACHMENT. The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in section 28-9-311(b) with respect to consumer goods that are subject to a statute or treaty described in section 28-9-311(a);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health care insurance receivable to the provider of the health care goods or services;

(6) A security interest arising under section 28-2-401, 28-2-505, 28-2-711(3) or 28-12-508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under section 28-4-210;

(8) A security interest of an issuer or nominated person arising under section 28-5-120;

(9) A security interest arising in the delivery of a financial asset under section 28-9-206(c);

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; ~~and~~

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate; and

(14) A sale by an individual of an account that is a right to payment of winnings in a lottery or other game of chance.

SECTION 4. That Section 28-9-515, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT -- EFFECT OF LAPSED FINANCING STATEMENT. (a) Except as otherwise provided in section 28-9-705(g) and subsections (b), (e), (f) and (g) of this section, a filed financing statement is effective for a period of five (5) years after the date of filing.

(b) Except as otherwise provided in subsections (e), (f) and (g) of this section, an initial financing statement filed in connection with a public finance transaction or manufactured home transaction is effective for a period of thirty (30) years after the date of filing if it indicates that it is filed in connection with a public finance transaction or manufactured home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) Except as otherwise provided in section 28-9-705(g), a~~A~~ continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (a) of this section or the thirty (30) year period specified in subsection (b) of this section, whichever is applicable.

(e) Except as otherwise provided in sections 28-9-510 and 28-9-705(g), upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (c) of this section, unless, before the lapse, another continuation statement is filed pursuant to subsection (d) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 28-9-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

SECTION 5. That Section 28-9-626, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-626. ACTION IN WHICH DEFICIENCY OR SURPLUS IS IN ISSUE. In an action arising from a transaction~~, other than a consumer transaction,~~ in which the amount of a deficiency or surplus is in issue, the following rules apply:

(a) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition or accep-

tance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(b) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition or acceptance was conducted in accordance with this part.

(c) Except as otherwise provided in section 28-9-628, if a secured party fails to prove that the collection, enforcement, disposition or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses and attorney's fees exceeds the greater of:

(1) The proceeds of the collection, enforcement, disposition or acceptance; or

(2) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition or acceptance.

(d) For purposes of subsection (c)(2) of this section, the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses and attorney's fees unless the secured party proves that the amount is less than that sum.

(e) If a deficiency or surplus is calculated under section 28-9-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

SECTION 6. That Section 28-9-705, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-705. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE. (a) If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within one (1) year after this act takes effect. An attached security interest becomes unperfected one (1) year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(b) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(c) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former section 28-9-103. However, except as otherwise provided in subsections (d) and (e) of this section and section 28-9-706, the financing statement ceases to be effective at

the earlier of:

(1) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(2) June 30, 2006.

(d) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(e) Subsection (c)(2) of this section applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former section 28-9-103 only to the extent that part 3 provides that the law of a jurisdiction other than jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part 5 for an initial financing statement.

(g) A financing statement filed as a fixture. timber or mineral filing before July 1, 2001 (except for a record of mortgage which is effective as a financing statement filed as a fixture filing) shall cease to be effective after June 30, 2006. The effectiveness of such a financing statement may be continued by filing a continuation statement between January 1, 2006, and June 30, 2006, inclusive. The new five (5) year effective period for such a financing statement, as provided in section 28-9-515, shall commence on the date of filing such continuation statement.

SECTION 7. That Section 39-1450, Idaho Code, be, and the same is hereby amended to read as follows:

39-1450. SECURITY FOR BONDS AND NOTES. The principal of and interest on any bonds or notes issued by the authority may be secured by a pledge of, or security interest in, the revenues, rentals and receipts out of which the same may be made payable or from other moneys available therefor and not otherwise pledged or used as security and may be secured by a trust indenture or mortgage or deed of trust (including assignment of leases or other contract rights of the authority thereunder) covering all or any part of the facilities from which the revenues, rentals or receipts so pledged or used as security may be derived, including any enlargements of and additions to any such facilities thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture, mortgage or deed of trust may contain any agreements and provisions which shall be a part of the contract with the holders of the bonds or notes to be authorized as to:

(a) Pledging or providing a security interest in all or any part of the revenues of a facility or any revenue-producing contract or contracts made by the authority with any individual, partnership, corpora-

tion or association or other body, public or private, to secure the payment of the bonds or notes or of any particular issue of bonds, subject to such agreements with noteholders or bondholders as may then exist;

(b) Respecting the maintenance of the properties covered thereby;

(c) The fixing and collection of rents, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(d) The setting aside, creation and maintenance of special and reserve funds and sinking funds and the use and disposition of the revenues;

(e) Limitations on the right of the authority or its agent to restrict and regulate the use of facilities;

(f) Limitations on the purpose to which the proceeds of sale of any issue of bonds or notes then or thereafter to be issued may be applied and pledging or providing a security interest in such proceeds to secure the payment of the bonds or notes or any issue of the bonds or notes;

(g) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(h) The procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;

(i) Limitations on the amount of moneys derived from a facility to be expended for operating, administrative or other expenses of the authority;

(j) Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default;

(k) The mortgaging of a facility and the site thereof for the purpose of securing the bondholders or noteholders; and

(l) Such other additional covenants, agreements, and provisions as are judged advisable or necessary by the authority for the security of the holders of such bonds or notes.

Any pledge made by the authority shall be valid and binding from the time when the pledge is made; the revenues, moneys, or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, lease, indenture, mortgage and deed of trust made for the benefit or security of any of the bonds of the authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid or provision for such payment duly made. In the event of default in such payment or in any agreements of the authority made as a part of the contract under which the bonds were issued, whether contained in the resolutions authorizing the bonds or in any trust indenture, mortgage or deed of trust executed as security therefor, said payment or agreement may be enforced by suit, mandamus, the appointment of a receiver in equity or by fore-

closure of any mortgage and deed of trust, or any one (1) or more of said remedies.

In addition to the foregoing, bonds of the authority may be secured by a pooling of leases whereby the authority may assign its rights, as lessor, and pledge rents under two (2) or more leases of the facilities with two (2) or more participating health institutions, as lessees respectively, upon such terms as may be provided for in the resolutions of the authority or as may be provided for in a trust indenture authorized by the authority.

(m) Notwithstanding any other provision of chapter 9, title 28, Idaho Code, to the contrary, this section expressly governs the creation, perfection, priority and enforcement of a security interest created by the Idaho health facilities authority.

Approved March 19, 2002.

CHAPTER 108
(H.B. No. 541)

AN ACT
RELATING TO DOMESTIC RELATIONS; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-717D, IDAHO CODE, TO PROVIDE FOR PARENTING COORDINATORS.

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

SECTION 1. That Chapter 7, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-717D, Idaho Code, and to read as follows:

32-717D. PARENTING COORDINATOR. (1) Provided that a court has entered a judgment or an order establishing child custody in a case, the court may order the appointment of a parenting coordinator to perform such duties as authorized by the court, consistent with any controlling judgment or order of a court relating to the child or children of the parties, and as set forth within the order of appointment. The court shall direct the parenting coordinator to provide a status report to the court at a time and in a manner as determined by the court. Provided however, that the court shall require the parenting coordinator to provide a minimum of one (1) status report to the court at least once every six (6) months. At any time during the period of appointment, the court, on its own initiative, or upon request of the parenting coordinator or either party, may hold a status conference to review the continued appointment of the coordinator and/or the status of the case.

(2) Qualification, selection, appointment, termination of appointment, and prescribed duties and responsibilities of a parenting coordinator shall be based upon standards and criteria as adopted by the Idaho supreme court. Provided however, that standards and criteria for qualification and selection of a parenting coordinator, as adopted by the Idaho supreme court, shall not apply to a parenting coordinator selected and agreed to by the parties. In addition, as a condition of any appointment, a parenting coordinator shall:

(a) Be neutral to the dispute and to the parties;
(b) Be either selected pursuant to agreement of the parties or appointed by the court;
(c) Prior to any appointment, and at their own cost, have submitted to a criminal history check through any law enforcement office in the state providing such service. The criminal history check shall include a statewide criminal identification bureau, the federal bureau of investigation criminal history check, the national crime information center and the statewide sex offender register. A record of all background checks shall be maintained in the office of the supreme court of the state of Idaho with a copy going to the applicant and shall be available for review by the court considering a parenting coordinator appointment prior to an appointment; and
(d) Agree to appointment without requiring the parties to pay a retainer for services. Provided however, that any dispute regarding payment of the fees and costs of the parenting coordinator, shall be subject to review by the court upon request of the parenting coordinator or either party.

(3) In addition to those duties as authorized by the court pursuant to the order of appointment, the responsibilities of a parenting coordinator shall include collaborative dispute resolution in parenting. The parenting coordinator shall act to empower the parties in resuming parenting controls and decision-making, and minimize the degree of conflict between the parties for the best interests of the children.

(4) The court shall allocate the fees and costs of the parenting coordinator between the parties and may enter an order against either or both parties for the reasonable costs, fees and disbursements of the parenting coordinator.

Approved March 19, 2002.

CHAPTER 109
(H.B. No. 543)

AN ACT

RELATING TO CHARTER SCHOOL FINANCIAL SUPPORT; AMENDING SECTION 33-5208, IDAHO CODE, TO PROVIDE THAT THE PROVISION OF LAW RELATING TO REDUCTION IN THE ADMINISTRATIVE STAFF ALLOWANCE WHEN THERE IS A DISCREPANCY BETWEEN THE NUMBER ALLOWED AND THE NUMBER OF ADMINISTRATIVE STAFF ACTUALLY EMPLOYED SHALL NOT APPLY TO CHARTER SCHOOLS.

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

SECTION 1. 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 an advance payment of twenty-five percent (25%) of a charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the charter school has an increase of student population in any given year of twenty (20) students or more, to assist the school with initial start-up costs or payroll obligations.

(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 administrative and 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 pri-

vate 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.

Approved March 19, 2002.

CHAPTER 110
(H.B. No. 546)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5210, IDAHO CODE, TO CLARIFY THAT CHARTER SCHOOLS ARE REQUIRED TO COMPLY WITH THE GENERAL EDUCATION LAWS OF THE STATE UNLESS SPECIFICALLY DIRECTED OTHERWISE IN PUBLIC CHARTER SCHOOL LAW.

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

SECTION 1. 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, complies with the general education laws of the state unless specifically directed otherwise in this chapter 52, title 33, Idaho Code, 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) Waiver of teacher certification as necessitated by the provisions of section 33-5205(3)(g), Idaho Code;

(b) Accreditation of the school as necessitated by the provisions of section 33-5205(3)(e), Idaho Code;

(c) Qualifications of a student for attendance at an alternative school as necessitated by the provisions of section 33-5208(3), Idaho Code; and

(d) The requirement that all employees of the school undergo a criminal history check as required by section 33-130, Idaho Code.

Approved March 19, 2002.

CHAPTER 111
(H.B. No. 552, As Amended in the Senate)

AN ACT

RELATING TO ENVIRONMENTAL HEALTH SPECIALISTS; REPEALING CHAPTER 24, TITLE 54, IDAHO CODE; AMENDING SECTION 67-2601, IDAHO CODE, TO DELETE REFERENCES TO THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS; AMENDING SECTION 67-2602, IDAHO CODE, TO DELETE REFERENCES TO THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 24, Title 54, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) The department shall consist of the following:

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

(b) Professional and occupational licensing boards: Idaho state board of certified public accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturitry, as provided by chapter 33, title 54, Idaho Code; state board of engineering examiners, as provided by chapter 12, title 54, Idaho Code; ~~board--of--environmental health--specialists--examiners,-as-provided-by-chapter-24,-title-54,~~

~~Idaho Code;~~ state board for registration of professional geologists, as provided by chapter 28, title 54, Idaho Code; board of hearing aid dealers and fitters, as provided by chapter 29, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code, and its associated physical therapist advisory board, as provided by chapter 22, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; and the board of examiners of residential or assisted living facility administrators, as provided by chapter 42, title 54, Idaho Code.

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

(d) The division of building safety, to be headed by a division administrator and comprised of five (5) bureaus: plumbing, electrical, buildings, public works contractor licensing, and logging and industrial safety. The division administrator and bureau chiefs shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 40, title 39, Idaho Code, relating to manufactured homes and recreational vehicles; chapter 41, title 39, Idaho Code, relating to modular buildings; chapter 21, title 44, Idaho Code, relating to manufactured home dealer and broker licensing; chapter 10, title 54, Idaho Code, relating to electrical contractors and journeymen; chapter 19, title 54, Idaho Code, relating to licensing of public works contractors; chapter 26, title 54, Idaho Code, relating to plumbing and plumbers; and shall perform such additional duties as are imposed upon him by law. The division administrator shall cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report to the commission. The administrator shall make recommendations to the commission to aid the commission in its administration of sections 72-720, 72-721 and 72-723, Idaho Code, provided however, that nothing herein shall be construed as transferring to the administrator any of the authority or powers now vested in the industrial commission.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the

provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

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

SECTION 3. 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 acupuncture, 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 or assisted living 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.

(3) The department of self-governing agencies, by and through the bureau of occupational licenses, shall be empowered to provide administrative or other services for the administration of chapter 48, title 54, Idaho Code, to issue, suspend, revoke or refuse to renew certificates of registration, to issue subpoenas, to prescribe and impose fees and to assess administrative penalties pursuant to the provisions of chapter 48, title 54, Idaho Code.

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

Approved March 19, 2002.

CHAPTER 112
(H.B. No. 556)

AN ACT

RELATING TO AGRICULTURE; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 18, TITLE 22, IDAHO CODE, TO PROVIDE FOR A COMMISSION ON PESTICIDE MANAGEMENT, TO PROVIDE FOR THE USE OF APPROPRIATIONS, TO PROVIDE FOR RESTRICTIONS ON USE OF STATE MONEY AND TO PROVIDE FOR THE COMMISSION'S APPROVAL OF USE OF MONEYS, TO PROVIDE FOR THE DEPOSIT AND DISBURSEMENT OF FUNDS, TO PROVIDE FOR THE AUDIT OF FUNDS BY THE STATE OF IDAHO, TO PROVIDE FOR AN ANNUAL REPORT BY THE COMMISSION TO DESIGNATED STATE ENTITIES, TO PROVIDE FOR BIENNIAL AUDITS AND REPORTS AND TO PROVIDE AN EXEMPTION FROM THE STANDARD TRAVEL PAY AND ALLOWANCE ACT OF 1949 FOR COMMISSION EXPENDITURES, TO PROVIDE FOR DUTIES OF THE COMMISSION AND TO PROVIDE FOR AN ANNUAL REPORT TO THE LEGISLATURE.

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

SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 18, Title 22, Idaho Code, and to read as follows:

CHAPTER 18
IDAHO STATE PESTICIDE MANAGEMENT COMMISSION

22-1801. COMMISSION ON PESTICIDE MANAGEMENT -- ESTABLISHED -- COMPOSITION -- DURATION OF MEMBERSHIP -- COMPENSATION -- POWERS AND DUTIES. (1) A commission on pesticide management, hereinafter referred to in this chapter as "the commission," is established. The commission shall be composed of eleven (11) voting members appointed by the governor as follows:

(a) Eight (8) members from the following segments of the state's agricultural industry as nominated by a statewide private agricultural association or agricultural commodity commission formed under title 22, Idaho Code:

(i) The tree fruit industry;
(ii) Potato growers;
(iii) Grain growers;
(iv) Vegetable and seed growers;
(v) Sugarbeet, bean and alfalfa growers;
(vi) The nursery and landscape industry.

Although members are appointed from various segments of the agriculture industry, they are appointed to represent and advance the interests of the industry as a whole.

(b) One (1) member from each of the following:

(i) Food processors;
(ii) Agricultural chemical industry;
(iii) Professional pesticide applicators.

One (1) member shall be appointed for each such segment of the industry and shall be nominated by a statewide, private association of that segment of the industry. The representative of the agricul-

tural chemical industry shall be involved in the manufacture of agricultural crop protection products.

(c) The following shall be ex officio, nonvoting members of the commission:

(i) Coordinator of the interregional project number four (IR-4) at the University of Idaho;

(ii) Director of the department of environmental quality or the director's designee;

(iii) Director of the department of agriculture or the director's designee;

(iv) Director of the department of labor or the director's designee;

(v) Director of the department of health and welfare or the director's designee.

(2) Each voting member of the commission shall serve a term of three (3) years. However, the first appointments in the first year shall be made by the governor for one (1), two (2) and three (3) year terms so that, in subsequent years, approximately one-third (1/3) of the voting members shall be appointed each year. The governor shall assign the initial one (1), two (2) and three (3) year terms to members by lot. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office. Each member of the commission may receive travel expenses for attending meetings of the commission and for performing special duties, in the way of official commission business, specifically assigned to the person by the commission. The voting members of the commission shall serve without compensation from the state other than travel expenses.

(3) Nominations for the initial appointments to the commission under subsection (1) of this section shall be submitted by July 15, 2002. The governor shall make initial appointments to the commission by August 15, 2002.

(4) The commission shall elect a chair from among its voting members each calendar year. After its original organizational meeting, the commission shall meet at the call of the chair or by a consensus of four (4) members of the commission. A majority of the voting members of the commission constitutes a quorum and an official action of the commission may be taken by a majority vote of the quorum.

(5) The powers and duties of the commission shall include the following:

(a) To contract in the name of the commission and be contracted with;

(b) To employ and at pleasure discharge a research director, research staff, a secretary, advertising manager, advertising agents, agents, attorneys, and such clerical and other help as it deems necessary and to control their powers and duties and to fix their compensation;

(c) To keep books, records and accounts of all its dealings, which books, records and accounts of all its dealing shall be open to inspection by the state controller at all times;

(d) To purchase or authorize the purchase of all office equipment and/or supplies and incur all other reasonable and necessary

expenses and obligations in connection with and required for the proper carrying out of the provisions of this chapter.

22-1802. STATE APPROPRIATIONS -- RESTRICTIONS ON USE OF STATE MONEY -- COMMISSION APPROVAL REQUIRED. (1) This section applies to the use of state appropriations made to or legislatively intended for the commission on pesticide management and to any other moneys appropriated by the state and received by the commission on pesticide management:

(a) The moneys may not be expended without the express approval of the commission on pesticide management.

(b) The moneys may be used for:

(i) Evaluations, studies or investigations approved by the commission on pesticide management regarding the registration or reregistration of pesticides for minor crops or minor uses or regarding the availability of pesticides for emergency uses. These evaluations, studies or investigations may be conducted by any laboratory secured by the commission, researchers, or contractors by contract, which contracts may include, but are not limited to, those purchasing the use of proprietary information;

(ii) Evaluations, studies or investigations approved by the commission regarding research, implementation and demonstration of any aspect of integrated pest management and pesticide resistance management programs;

(iii) The tracking system described;

(iv) The support of the commission on pesticide management and its activities.

(2) The commission on pesticide management shall establish priorities to guide it in approving the use of moneys for evaluations, studies and investigations under this section.

22-1803. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one (1) or more separate accounts in the name of the commission in one (1) or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter. Any interest earned on the investment of idle moneys in an account shall be returned to the account.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative services office, the state controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. The report shall also include a reconciliation between

the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited biennially, but shall address every year distinctly, by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the state controller and to the senate agricultural affairs committee and the house of representatives agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

22-1804. DUTIES. The commission on pesticide management shall:

(1) Encourage agricultural organizations to assist in providing funding, in-kind services, or materials for studies and investigations concerning the registration of pesticides and research, implementation and demonstration of any aspect of integrated pest management (IPM) and pesticide resistance management programs for minor crops and minor uses that would benefit the organizations.

(2) Provide guidance for:

(a) Tracking the availability of effective pesticides for minor crops, minor uses and emergency uses;

(b) Providing this information to organizations of agricultural producers;

(c) Maintaining close contact between laboratories, the department of agriculture, and organizations of agricultural producers regarding the need for research to support the registration of pesticides for minor crops and minor uses and the availability of pesticides for emergency uses.

(3) Ensure that the activities of the commission are coordinated with the activities of laboratories in the pacific northwest, university pest management programs, the United States department of agriculture, and the United States environmental protection agency to maximize the effectiveness of regional efforts to assist in the registration of pesticides for minor crops and minor uses and in providing for the availability of pesticides for emergency uses for the region and the state.

(4) Ensure, prior to approving any residue study, that there is written confirmation of registrant support and willingness or ability to add the given minor crop to its label, including any restrictions or guidelines the registrant intends to impose.

22-1805. REPORT ON ACTIVITIES -- REVIEW BY LEGISLATURE. (1) By January 15 of each year, the commission shall file with the legislature a report on activities supported by the commission for the previous fiscal year. The report shall include identification of:

(a) The priorities that have been set by the commission;

(b) The state appropriations made to the commission;

(c) The evaluations, studies and investigations funded in whole or in part by such moneys and the registration and uses of pesticides made possible in large part by those evaluations, studies and investigations;

(d) The matching moneys, in-kind services and materials provided by agricultural organizations for those evaluations, studies and investigations;

(e) The program or programs for tracking pesticide availability provided by the laboratory under the guidance of the commission and the means used for providing this information to organizations of agricultural producers.

(2) During the regular session of the legislature the appropriate committees of the house of representatives and the senate shall evaluate the effectiveness of the commission in fulfilling its statutory responsibilities.

Approved March 20, 2002.

CHAPTER 113
(H.B. No. 557)

AN ACT

RELATING TO THE IDAHO STATE COUNCIL ON DEVELOPMENTAL DISABILITIES; AMENDING SECTION 67-6701, IDAHO CODE, TO REVISE THE DECLARATION OF PURPOSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6702, IDAHO CODE, TO REVISE DEFINITIONS, TO ALPHABETIZE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6703, IDAHO CODE, TO REVISE THE ROLE AND MISSION OF THE IDAHO STATE COUNCIL ON DEVELOPMENTAL DISABILITIES; AMENDING SECTION 67-6704, IDAHO CODE, TO INCREASE THE NUMBER OF MEMBERS ON THE COUNCIL, TO REVISE THE COUNCIL'S MAKEUP AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6705, IDAHO CODE, TO DELETE ARCHAIC LANGUAGE AND TO PROVIDE THAT THE GOVERNOR SHALL MAKE APPROPRIATE PROVISIONS FOR ROTATION OF MEMBERSHIP ON THE COUNCIL; AMENDING SECTION 67-6706, IDAHO CODE, TO PROVIDE THAT COUNCIL MEMBERS SHALL BE REIMBURSED FOR EXPENSES ASSOCIATED WITH THE RESPECTIVE MEMBERS' RESPITE CARE FOR THEIR CHILD OR ADULT FAMILY MEMBER WITH DEVELOPMENTAL DISABILITIES; AMENDING SECTION 67-6707, IDAHO CODE, TO PROVIDE FOR A CHAIR OF THE COUNCIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6708, IDAHO CODE, TO REVISE THE RESPONSIBILITIES AND DUTIES OF THE COUNCIL AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 67-6709, IDAHO CODE; AND AMENDING SECTION 67-6710, IDAHO CODE, TO REDESIGNATE THE SECTION.

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

SECTION 1. That Section 67-6701, Idaho Code, be, and the same is hereby amended to read as follows:

67-6701. DECLARATION OF PURPOSE. The legislature finds <u>that disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion in all aspects of their lives; that individuals with developmental disabilities comprise from 1.2 to 1.65 percent of the population; that individuals with developmental disabilities are at greater risk of discrimination and abuse, neglect, and exploitation; that individuals with developmental disabilities and their families</u>

often do not have access to appropriate services, support and other assistance to live independent lives in their homes and communities; that an increasing number of people with developmental disabilities are living at home with aging parents as primary caregivers; and that ~~while there are numerous generic services and programs designed to be provided to the developmentally disabled population of Idaho, that these~~ services and programs are located within diverse agencies and organizations with no central point for coordination and cooperation, comprehensive planning, evaluation, monitoring and ~~influencing~~ advocating on behalf of ~~the developmentally disabled. Cooperation and coordination would result in the identification and reduction in gaps in the services being provided, eligible individuals receiving appropriate services, reduction in inappropriate duplication of services, clarification in responsibility for providing services, and an increase in the effectiveness of the state to serve the developmentally disabled~~ people with developmental disabilities. This act is designed to ~~establish a central point for cooperation and coordination in order to optimally utilize federal, state, local and private resources to habilitate, normalize, rehabilitate or to bring to the highest level possible those persons with a developmental disability~~ assure that individuals with developmental disabilities and their families participate in the design of, and have access to, needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life through culturally appropriate programs. This act is also intended to assure the dignity of persons with developmental disabilities, by reaffirming their rights, which are the same rights as other people of the state of the same age and includes the right to live as complete and normal lives as possible and to develop their abilities and potential to the fullest extent possible.

It is understood that the intention of this act is not to supersede the authority or responsibilities of agencies of state government responsible for providing services to persons with developmental disabilities.

SECTION 2. That Section 67-6702, Idaho Code, be, and the same is hereby amended to read as follows:

67-6702. DEFINITIONS. (1) "Advocacy" means to act in the interest of individuals with developmental disabilities in accordance with the purposes of this chapter.

(2) "Assistive technology device" is any item, equipment or product system that is used to increase, maintain or improve functional capabilities of individuals with disabilities.

(3) "Assistive technology service" is any service which directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

(4) "Council" means the Idaho state council on developmental disabilities.

(5) A "developmental disability" ~~is~~ means a severe and chronic disability of an individual that:

(a) Is a~~A~~ttributable to ~~an impairment, such as mental retardation, cerebral palsy, epilepsy, autism, or other condition found to be closely related to or similar to one of these impairments that requires similar treatment or services or is attributable to dyslex-~~

~~ia resulting from such an impairment~~ a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the individual attains age twenty-two (22) years;

~~(c) Has continued or can be expected~~ Is likely to continue indefinitely; ~~and~~

~~(c) Constitutes a substantial handicap to such person's ability to function normally in society.~~

~~(2) A "substantial handicap" is:~~

(~~a~~d) ~~A disability which results in substantial functional limitation~~ Results in substantial functional limitations in three (3) or more of the following areas of major life activity:

~~1.~~(i) ~~S~~self-care;

~~2.~~(ii) ~~R~~receptive and expressive language;

~~3.~~(iii) ~~L~~learning;

~~4.~~(iv) ~~M~~mobility;

~~5.~~(v) ~~S~~self-direction;

~~6.~~(vi) ~~C~~capacity for independent living; or

~~7.~~(vii) ~~E~~economic self-sufficiency; and

(~~b~~e) Reflects the need for a combination and sequence of special, interdisciplinary, or generic ~~care, treatment, or other~~ services, individualized supports or other forms of assistance which are:

~~1.~~(i) ~~O~~of lifelong or extended duration, and

~~2.~~(ii) ~~I~~individually planned and coordinated.

~~(3) "Normalization" is the process of providing services which promotes a life as much as possible like that of the rest of the community, including living in the community and access to community resources.~~

~~(4) "Habilitation" is the process of developing skills and abilities.~~

~~(5) "Rehabilitation" is the process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning.~~

~~(6) "Council" means the Idaho state council on developmental disabilities.~~

~~(7) "Advocacy" means to act in the interests of the developmentally disabled population.~~

(6) "Inclusion" means the acceptance and encouragement of the presence and participation of individuals with developmental disabilities, by individuals without disabilities, in social, educational, work and community activities, that enables individuals with developmental disabilities to:

(a) Have friendships and relationships with individuals and families of their own choice;

(b) Live in homes close to community resources;

(c) Enjoy full access to and active participation in the same community activities and types of employment as individuals without disabilities;

(d) Take full advantage of their integration in a manner that allows them to live, learn, work and enjoy life in regular contact with individuals without disabilities;

(e) Enjoy full and equal access to appropriate assistive technology devices and services and to information and electronic technology.

(7) "Individualized supports" means supports that:

(a) Enable an individual with a developmental disability to exer-

cise self-determination, be independent, be productive, and be integrated and included in all facets of community life;

(b) Are designed to:

(i) Enable such individual to control such individual's environment, permitting the most independent life possible;

(ii) Prevent placement into a more restrictive living arrangement than necessary;

(iii) Enable such individual to live, learn work, and enjoy life in the community;

(c) Include:

(i) Early intervention services;

(ii) Respite care;

(iii) Personal assistance services;

(iv) Family support services;

(v) Supported employment services;

(vi) Support services for families headed by aging caregivers of individuals with developmental disabilities;

(vii) Provision of assistive technology devices and services; and

(viii) Transportation services.

(8) "Integration" means exercising the equal right of individuals with developmental disabilities to access and use the same community resources as are used by and available to other individuals.

(9) "Productivity" means:

(a) Engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

(b) Engagement in work that contributes to a household or community.

(10) "Self-determination" means that individuals with developmental disabilities have, with appropriate assistance:

(a) The ability and opportunity to communicate and make personal decisions;

(b) The ability and opportunity to communicate choices and exercise control over the type and intensity of services, supports and other assistance the individuals receive;

(c) The authority to control resources to obtain needed services, supports and other assistance;

(d) Opportunities to participate in and contribute to their communities;

(e) Financial and other support necessary to:

(i) Advocate for themselves and others;

(ii) Develop leadership skills, through training in self-advocacy;

(iii) Participate in coalitions;

(iv) Educate policymakers; and

(v) Play a role in the development of public policies that affect individuals with developmental disabilities.

SECTION 3. That Section 67-6703, Idaho Code, be, and the same is hereby amended to read as follows:

67-6703. IDAHO STATE COUNCIL ON DEVELOPMENTAL DISABILITIES. (1) The Idaho state council on developmental disabilities is ~~hereby~~ established. ~~The council shall be the interdepartmental and interagency planning and~~

~~advisory-body-for-the-departments-and-agencies-of-the-state-for-programs and-services-affecting-persons-with-a-developmental-disability.-In-addition,-the-council-shall-be-the-state-developmental-disabilities-planning council--required-by-the-developmental-disabilities-services-and-facilities-construction-act-(PL-91-517,-as-amended)--and--subsequent--acts~~ to engage in advocacy, capacity building, and systemic change activities that:

(a) Contribute to a coordinated, consumer and family-centered, consumer and family-directed, comprehensive system that includes needed community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families; and

(b) Are consistent with the requirements of the developmental disabilities assistance and bill of rights act of 2000 (P.L. 106-402) and subsequent acts.

(2) For budgetary purposes and for administrative support purposes, the council shall be assigned, by the governor, to a department or office within the state government. However, this assignment shall not interfere with the ~~interdepartmental-and-interagency--planning,--coordinating,--influencing,--evaluating--and--monitoring--functions~~ advocacy, capacity building, and systemic change activities, budget, personnel, plan development or plan implementation of the council, except that the designated state agency shall have the authority necessary to carry out the responsibilities described in P.L. 106-402, section 125(d)(3).

SECTION 4. That Section 67-6704, Idaho Code, be, and the same is hereby amended to read as follows:

67-6704. COMPOSITION. (1) The council shall consist of twenty-~~one~~three (2~~1~~3) members to be appointed by the governor, at least sixty percent (60%) of whom shall be individuals with developmental disabilities, parents or guardians of children with developmental disabilities, or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. These members shall not represent any other category of membership.

(2) ~~(a)~~ At least ~~four-(4)~~ five (5) of the members shall be persons with a developmental disability, and at least seven (7) of the members shall be parents or guardians of such persons, and who are not officers or employees of an entity or state agency which receives funds for, or provides services to, developmentally disabled persons. One (1) additional member shall be either a person with a developmental disability or the parent of a person with a developmental disability.

(3) The principal state agencies concerned with services or programs affecting ~~the-developmentally-disabled~~ individuals with developmental disabilities shall be represented as members of the council~~.~~, including entities responsible for administering funds under:

(a) The rehabilitation act of 1973 (29 U.S.C. section 701 et seq.);

(b) The individuals with disabilities education act (20 U.S.C. section 1400 et seq.);

(c) The older american act of 1965 (42 U.S.C. section 3001 et seq.);

(d) Titles V and XIX of the social security act (42 U.S.C. section 701 et seq. and section 1396 et seq.).

(4) The council shall also have representation from:

(a) The state protection and advocacy organization;

(b) The university center for excellence in developmental disabilities education, research and service.

One (1) representative may represent more than one (1) program or service.

~~(4) The designated state organization providing protection and advocacy services to the developmentally disabled shall be represented.~~

(5) The remainder of the members ~~may be appointed from the public at large and from~~ shall be representatives of local and nongovernmental agencies and private nonprofit groups concerned with ~~or dealing~~ services for individuals with developmental disabilities pursuant to P.L. ~~98-527~~106-402 and council ~~by laws~~ bylaws required by section 67-6707(2), Idaho Code.

(6) ~~Due regard shall be given to balanced representation from geographical and demographic areas of the state~~ The membership of the council shall be geographically representative of the state and reflect the diversity of the state with respect to race and ethnicity.

SECTION 5. That Section 67-6705, Idaho Code, be, and the same is hereby amended to read as follows:

67-6705. APPOINTMENT AND TERM OF OFFICE. (1) Council members' terms shall be for three (3) years.

(2) ~~For purposes of initial appointments, the existing membership of the Idaho state developmental disabilities planning council shall become the council required by section 67-6703, Idaho Code.~~

~~(3) For purposes of initial appointments, seven (7) members shall be appointed for one (1) year terms, seven (7) members shall be appointed for two (2) year terms, and seven (7) members shall be appointed for three (3) year terms~~ The governor shall make appropriate provisions for rotation of membership on the council.

(~~4~~3) A vacancy occurring in the membership of the council shall be filled by appointment of the governor for the unexpired portion of the vacated term.

(~~5~~4) Members may be replaced because of poor attendance, lack of participation in the council's work, or malfeasance in office.

SECTION 6. That Section 67-6706, Idaho Code, be, and the same is hereby amended to read as follows:

67-6706. COMPENSATION AND EXPENSES. Members of the council shall serve with no salary or benefits, but are entitled to reimbursement for travel and other expenses as authorized by the Idaho Code. Those members of the council, as set out in section 67-6704(2), Idaho Code, shall also be reimbursed for expenses associated with the respective members' ~~developmentally disabled children's~~ respite care for their child or adult ~~attendant care~~ family member with developmental disabilities when necessary for the members to participate in authorized council activities and meetings required under section 67-6707(2), Idaho Code.

SECTION 7. That Section 67-6707, Idaho Code, be, and the same is hereby amended to read as follows:

67-6707. ORGANIZATION OF COUNCIL -- EMPLOYMENT OF NECESSARY PERSONNEL. (1) The governor shall, after consultation with the council members, appoint a chair~~man~~ from among the council membership who shall serve for a one (1) year term, but at the pleasure of the governor.

(2) The council shall adopt and amend bylaws governing its proceedings, activities and organization, including, but not limited to, provisions for election of officers other than the chair~~man~~; provision for a quorum, procedure, frequency and location of meetings; and establishment, functions and membership of council committees.

(3) The council shall employ and fix the compensation, subject to provisions of chapter 53, title 67, Idaho Code, of such personnel as may be necessary, including, but not limited to, a full-time administrator, who shall be designated as the executive director of the council and who shall be exempt under the provisions of chapter 53, title 67, Idaho Code.

SECTION 8. That Section 67-6708, Idaho Code, be, and the same is hereby amended to read as follows:

67-6708. RESPONSIBILITIES AND DUTIES. The council shall:

(1) Serve as a forum by which issues and benefits regarding current and potential services and programs for persons with developmental disabilities may be discussed by consumer, public, private, professional and lay interests.

(2) Advocate for ~~the needs of persons~~ individuals with developmental disabilities and conduct or support programs, projects and activities that carry out such advocacy.

(3) Advise the executive and legislative branches of ~~the~~ local, state and federal governments and the private sector on programs and policies pertaining to current and potential services to persons with developmental disabilities and their families.

(4) Submit periodic reports to the governor, the legislature and departments of state government on how current federal and state programs, rules, regulations, and legislation affect services to persons with developmental disabilities.

(5) Assess, review and/or monitor the services and programs being provided for ~~the developmentally disabled~~ individuals with developmental disabilities.

(6) Review and comment on all service plans and budgets of the state which will or may affect services and programs for persons with developmental disabilities.

(7) Review and comment on proposed state legislation and/or rules and regulations relating to services and programs for persons with developmental disabilities.

(8) Participate in ~~the deinstitutionalization process of the state in regard to programs for the developmentally disabled~~ community integration for individuals with developmental disabilities.

(9) ~~Develop a data base that reflects the services and programs provided to persons with developmental disabilities, reflects potential needs of persons with developmental disabilities, and reflects characteristics of the population with developmental disabilities.~~

~~(10)~~ In consultation with the ~~departments of state government,~~ designated state agency develop~~, prepare~~ and adopt, and ~~at least~~ annually review and revise as necessary, ~~an annual~~ a five (5) year strategic

state plan. ~~prescribing a program which meets the needs of persons with developmental disabilities and submit such plan and all revisions to the governor's office and the germane committee of the legislature for their review and recommendations.~~ Such state plan shall be the state plan required to be submitted under P.L. ~~91-517~~106-402, as amended, and shall describe how the council will conduct and support advocacy, capacity building and systemic change through:

(a) ~~Establish goals and objectives in order for the state to meet the needs of persons with developmental disabilities, including the establishment of priorities for resource allocation for comprehensive services to persons with developmental disabilities and other matters considered necessary to achieve normalization. Such goals and objectives shall be based on needs identified and cover gaps in existing services.~~ Outreach and identification of individuals with developmental disabilities and their families to assist and enable them to obtain services, supports and assistance;

(b) ~~Establish alternative strategies to achieve the goals and objectives.~~ Training for individuals with developmental disabilities, their families and personnel to enable them to obtain access to the services and supports they need;

(c) ~~Establish strategies to eliminate inappropriate placement and to improve the quality of services and programs provided to persons with developmental disabilities.~~ Technical assistance to assist public and private entities to assist and support individuals with developmental disabilities in achieving independence, integration, productivity and self-determination;

(d) Support for and education of communities to respond positively to individuals with developmental disabilities and their families;

(e) Interagency collaboration and coordination;

(f) Coordination with related councils, commissions and programs concerning individuals with disabilities;

(g) Efforts to eliminate barriers to the access and use of community services by individuals with developmental disabilities, to enhance system design and redesign, and to enhance citizen participation;

(h) Public education activities regarding the capabilities, preferences and needs of individuals with developmental disabilities through coalition development, self-advocacy training and education of policymakers;

(i) Conducting studies, analyses, information gathering, and providing recommendations to local, state and federal policymakers in order to increase their ability to offer opportunities or enhance services to individuals with developmental disabilities;

(j) Demonstration of new approaches to services and supports for individuals with developmental disabilities and their families to assist them in achieving independence, integration, productivity and self-determination;

(k) Demonstration of new approaches to increase access to electronic and information technologies for individuals with significant disabilities; and

(l) Other advocacy, capacity building and systemic change activities to promote a coordinated, consumer and family directed comprehensive system of supports and services for individuals with developmental disabilities.

~~(11) Monitor programs and services for persons with developmental disabilities to assure nonduplication of services and to encourage efficient and coordinated use of resources in the provision of services.~~

~~(12) Encourage all agencies that provide treatment, services and habilitation for persons with developmental disabilities to design such services to maximize the individual's potential and encourage agencies to provide such treatment, services and habilitation in the least restrictive environment compatible with maximizing such persons' normalization.~~

SECTION 9. That Section 67-6709, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 67-6710, Idaho Code, be, and the same is hereby amended to read as follows:

67-67~~1~~09. SHORT TITLE. This act shall be known and cited as the "Idaho state council on developmental disabilities act."

Approved March 20, 2002.

CHAPTER 114
(H.B. No. 561)

AN ACT

RELATING TO DEALERS IN FARM PRODUCE; AMENDING SECTION 22-1315, IDAHO CODE, TO CLARIFY THAT CERTAIN VIOLATIONS ARE CRIMINAL VIOLATIONS AND TO PROVIDE FOR CIVIL VIOLATIONS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 22-1315, Idaho Code, be, and the same is hereby amended to read as follows:

22-1315. ~~OFFENSES~~ VIOLATIONS AND PENALTIES -- CRIMINAL -- CIVIL -- VENUE OF ACTIONS AND PROSECUTIONS. (1) Except as otherwise provided in this ~~act~~ chapter any person is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one (1) year or by both who assumes or attempts to act as a commission merchant, dealer, broker or agent without a license, or who, being a commission merchant, dealer, broker or agent, violates any of the provisions of this ~~act~~ chapter, or who being a commission merchant:

(a) Imposes false charges for handling or services in connection with farm products.

(b) Fails to account promptly, correctly, fully and properly and to make settlement therefor as herein provided.

(c) Intentionally makes false or misleading statement or statements as to market conditions.

(d) Makes fictitious sales or is guilty of collusion to defraud the producer.

(e) Directly or indirectly purchases for his own account, goods received by him upon consignment without prior authority from the consignor, or fails promptly to notify the consignor of such purchases, if any, on his own account. This clause does not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant forthwith enters such transaction on his account of sales.

(f) Intentionally makes false statement or statements as to grade, condition, markings, quality or quantity of goods shipped or packed in any manner.

(g) Fails to comply in every respect herewith.

(2) Failure to comply with the provisions of this chapter, or rules promulgated hereunder, by any person shall constitute a violation. A person in violation of the provisions of this chapter, or rules promulgated hereunder, may be assessed a civil penalty by the director, or a duly authorized agent, not to exceed ten thousand dollars ($10,000) for each offense and be liable for reasonable attorney's fees and costs.

(a) Assessment of a civil penalty as provided herein may be made in conjunction with any other department administrative action.

(b) No civil penalty may be imposed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

(c) If the department is unable to collect the civil penalty, or if any person fails to pay all or a set portion of a civil penalty as determined by the department, the department may recover such amount by action in the appropriate district court.

(d) Any person against whom the department has assessed a civil penalty under this section may, within thirty (30) days of the final action making assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred. Moneys collected for violations shall be deposited in the state treasury and credited to the general fund.

(3) Civil suits and criminal prosecutions arising by virtue of any of the provisions of this chapter may be commenced and tried in either the county where the products were received by the commission merchant, or within the county in which the principal place of business of such commission merchant is located, or within the county in which the violation of this chapter occurred.

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 20, 2002.

CHAPTER 115
(H.B. No. 566, As Amended in the Senate)

AN ACT

RELATING TO CONTROL OF DITCHES, CANALS, LATERALS AND DRAINS; AMENDING SECTION 18-4301, IDAHO CODE, TO EXTEND PROHIBITION ON INTERFERENCE WITH DITCHES AND CANALS TO LATERALS AND DRAINS; AMENDING SECTION

18-4306, IDAHO CODE, TO EXTEND PENALTIES FOR INJURIES TO CANALS, LATERALS AND DRAINS WHICH APPLY TO INJURIES TO DITCHES; AMENDING SECTION 18-4308, IDAHO CODE, TO PROVIDE FOR CHANGE OR BURIAL OF CANALS, LATERALS, AND DRAINS; AND AMENDING SECTION 42-1207, IDAHO CODE, TO PROVIDE FOR CHANGE OR BURIAL OF CANALS, LATERALS AND DRAINS.

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

SECTION 1. That Section 18-4301, Idaho Code, be, and the same is hereby amended to read as follows:

18-4301. INTERFERENCE WITH DITCHES, CANALS, LATERALS, DRAINS OR RESERVOIRS. Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, lateral, drain, flume or reservoir, used for the purpose of holding, draining or conveying water for manufacturing, agricultural, mining, or domestic uses, or who shall, without like authority, raise, lower, or otherwise disturb, any gate or other appurtenance thereof used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, lateral, drain, flume, or reservoir, any rubbish, filth, or obstruction to the free flow of water, is guilty of a misdemeanor.

SECTION 2. That Section 18-4306, Idaho Code, be, and the same is hereby amended to read as follows:

18-4306. INJURIES TO DITCHES, CANALS, LATERALS, DRAINS AND APPURTENANCES. Any person or persons, who shall willfully cut, break, damage, or in any way interfere with any ditch, canal, lateral, drain, headgate, or any other works in or appurtenant thereto, the property of another person, irrigation district, drainage district, canal company, corporation, or association of persons, and whereby water is conducted to any place for beneficial use or purposes, and when said canal, headgate, ditch, lateral, drain, dam, or appurtenance is being used or is to be used for said conduct or drainage of water, shall be guilty of a misdemeanor.

SECTION 3. That Section 18-4308, Idaho Code, be, and the same is hereby amended to read as follows:

18-4308. CHANGE OF ~~LATERAL~~ DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION CONDUIT. Where any ~~lateral~~ ditch, canal, lateral or drain has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling the said land, shall have the right at his own expense to change said ~~lateral~~ ditch, canal, lateral, drain or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such ~~lateral~~ ditch, canal, lateral, drain or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

A landowner shall also have the right to bury the ditch, canal, lat-

eral or drain of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the ~~ditch~~ owner of the ditch, canal, lateral or drain, but the landowner shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the ~~ditch~~ owner.

~~In the event that the ditch, lateral, buried irrigation conduit, or canal is owned by an organized irrigation district, canal company, ditch association, or other irrigation entity, t~~The written permission of the ~~entity~~ owner of a ditch, canal, lateral, drain or buried irrigation conduit must first be obtained before ~~a ditch, lateral, buried irrigation conduit, or canal~~ it is changed or placed in buried pipe by the landowner.

While ~~a ditch~~ the owner of a ditch, canal, lateral, drain or buried irrigation conduit shall have no right to relocate ~~his ditch~~ it on the property of another without permission, a ditch, canal, lateral or drain owner shall have the right to place ~~his ditch~~ it in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but not to exceed five (5) days after the start of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, canal, lateral or drain, provided that the landowner shall agree in writing to be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the ~~ditch~~ conduit owner.

No more than five (5) days after the start of construction, a landowner or ditch owner who buries a ditch, canal, lateral or drain in pipe shall record the location and specifications of the buried irrigation or drainage conduit, including primary and secondary easements, in the county in which the burying is done, and shall provide the irrigation or drainage entity that ~~supplies water to~~ owns the ditch, canal, lateral, or drain, with a copy of such location and specifications and the construction plans utilized. The irrigation or drainage entity shall keep and maintain such records and have them available for the public.

Any person or persons who relocate or bury a ~~lateral~~ ditch, canal, lateral or drain contrary to the provisions of this section shall be guilty of a misdemeanor.

SECTION 4. That Section 42-1207, Idaho Code, be, and the same is hereby amended to read as follows:

42-1207. CHANGE OF ~~LATERAL~~ DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION CONDUIT. Where any ~~lateral~~ ditch, canal, lateral or drain or buried irrigation conduit has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling said land shall have the right at their own expense to change said ~~lateral~~ ditch, canal, lateral or drain or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such ~~lateral~~ ditch, canal, lateral or drain or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

A landowner shall also have the right to bury the ditch, canal, lateral or drain of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the ~~ditch~~ owner of the ditch, canal, lateral or drain, but the landowner shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the ~~ditch~~ owner.

~~In the event that the ditch, lateral, buried irrigation conduit, or canal is owned by an organized irrigation district, canal company, ditch association, or other irrigation entity, t~~The written permission of the ~~entity~~ owner of a ditch, canal, lateral, drain or buried irrigation conduit must first be obtained before ~~a ditch, lateral, buried irrigation conduit, or canal~~ it is changed or placed in buried pipe by the landowner.

While ~~a ditch~~ the owner of a ditch, canal, lateral, drain or buried irrigation conduit shall have no right to relocate ~~his ditch~~ it on the property of another without permission, a ditch, canal, lateral or drain owner shall have the right to place ~~his ditch~~ it in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but not to exceed five (5) days after the start of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, canal, lateral or drain, provided that the landowner shall agree in writing to be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the ~~ditch~~ conduit owner.

No more than five (5) days after the start of construction, a landowner or ditch owner who buries a ditch, canal, lateral, or drain in pipe shall record the location and specifications of the buried irrigation or drainage conduit, including primary and secondary easements, in the county in which the burying is done, and shall provide the irriga-

tion or drainage entity that ~~supplies water to~~ owns the ditch, canal, lateral or drain, with a copy of such location and specifications and the construction plans utilized. The irrigation or drainage entity shall keep and maintain such records and have them available for the public.

Approved March 20, 2002.

CHAPTER 116
(H.B. No. 567)

AN ACT

RELATING TO THE IDAHO REAL ESTATE LICENSURE LAW; AMENDING SECTION 54-2058, IDAHO CODE, TO REVISE THE PROCEDURE FOR DISCIPLINARY INVESTIGATION AND FILING ADMINISTRATIVE COMPLAINTS WITH THE IDAHO REAL ESTATE COMMISSION.

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

SECTION 1. That Section 54-2058, Idaho Code, be, and the same is hereby amended to read as follows:

54-2058. AUTHORITY TO INVESTIGATE AND DISCIPLINE. (1) General authority to investigate. The commission may investigate the action of any person engaged in the business or acting in the capacity of real estate broker or salesperson within the state of Idaho, or any person believed to have acted as a real estate broker or salesperson without a license in violation of section 54-2002, Idaho Code. ~~The commission may initiate an investigation at its own discretion or u~~Upon receipt of a written complaint from anyone who claims to have been injured or defrauded as a result of such action, or upon information received by the executive director, the executive director shall perform an investigation of the facts alleged against such real estate broker or salesperson or such unlicensed person. Prior to the initiation of any proceedings for the revocation or suspension of a license, or for such other disciplinary actions as set forth in section 54-2059, Idaho Code, the executive director shall transmit to the commission a report, in writing, signed by the executive director, setting forth the facts alleged against such real estate broker or salesperson or unlicensed person. Upon receiving such report, the commission shall make an examination of all the facts and circumstances connected with such report. If the facts set forth in the report are deemed insufficient by the commission, no further action shall be taken, unless the executive director resubmits the report with additional facts supporting the filing of an administrative complaint. Should the commission deem that the facts set forth in the report are sufficient to proceed with a formal action, the commission shall authorize the filing of an administrative complaint against such person.

A person is acting "within the state of Idaho" if that person is dealing with any interest in real property or a business opportunity involving an interest in real property, which is situated in this state, or is conducting or attempting to conduct or solicit real estate business with residents of the state of Idaho.

(2) ~~Unlicensed persons. The commission also may investigate and file a formal administrative complaint under this chapter against any person believed to have acted as a real estate broker or salesperson without a license in violation of section 54-2002, Idaho Code.~~

~~(3)~~ Audits. The commission or its duly authorized representative is vested with the authority to conduct periodic inspections, surveys and audits of the transaction records and real estate trust accounts of all Idaho licensed designated brokers. Any transaction records or real estate trust account records located outside the state of Idaho shall promptly be made available to the commission upon request at the licensee's own cost and at the location or in the manner requested by the commission. If the analysis of a broker's real estate trust account indicates a deficiency or any irregularity which cannot be resolved between the commission and the broker, the commission may order a complete audit of the trust account by a certified public accountant at the broker's expense.

(4~~3~~) The commission ~~or its staff~~ also has the authority to investigate the action of any Idaho licensee as provided in this section. The licensee or broker shall answer all reasonable investigative questions of the commission, ~~or its staff,~~ and must make available, promptly upon request, any and all records to the commission at the licensee's own cost and at the location or in the manner requested by the commission.

Approved March 20, 2002.

CHAPTER 117
(H.B. No. 570, As Amended)

AN ACT

RELATING TO THE IDAHO PROMISE SCHOLARSHIP PROGRAM; AMENDING SECTION 33-4306, IDAHO CODE, TO PROVIDE THAT A GRADUATE OF AN ACCREDITED SECONDARY SCHOOL OR EQUIVALENT PROGRAM OUTSIDE OF THE UNITED STATES MAY QUALIFY FOR THE PROMISE SCHOLARSHIP IF WITHIN ONE YEAR OF LEAVING THE STATE DUE TO THE MILITARY STATUS OR JOB RELOCATION OF A PARENT, THE INDIVIDUAL OR STUDENT GRADUATED FROM SUCH SCHOOL OR COMPLETED SUCH PROGRAM AND THE INDIVIDUAL OR STUDENT AND A PARENT OF THE INDIVIDUAL OR STUDENT WERE RESIDENTS OF THE STATE OF IDAHO.

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

SECTION 1. That Section 33-4306, Idaho Code, be, and the same is hereby amended to read as follows:

33-4306. DEFINITIONS. As used in this act, unless the context otherwise requires:

(1) "Eligible postsecondary institution" means a public postsecondary organization governed or supervised by the state board of education, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of section 33-2106, Idaho Code, or the state board for professional-technical education or any educational organization which is operated privately and not for profit under the control of an independent board

and not directly controlled or administered by a public or political subdivision. A public or private educational organization becomes eligible to participate in category B grant awards if the organization agrees to match awards granted to each eligible category B student. If an institution declines to match awards, an eligible student will receive the state portion of the award to that institution.

(2) "Educational costs" means student costs for tuition, fees, room and board, or expenses related to reasonable commuting, books and such other expenses reasonably related to attendance at a postsecondary educational institution.

(3) "Student" means an individual resident student as defined in section 33-3717 or 33-2110B, Idaho Code, enrolled full-time and carrying a sufficient number of credit hours, or their equivalent, to secure an individual's first degree, certificate, diploma or less, toward which the individual is working, in no more than the number of semesters, or equivalent, normally required by the eligible postsecondary institution in the program in which the individual is enrolled and provided that the baccalaureate degree, certificate, diploma or lesser program requires at least six (6) months or equivalent of consecutive attendance. A student engaged in a four (4) year baccalaureate program shall not be terminated from this scholarship program by having earned an intermediate degree, certificate or diploma.

(4) "Enrollment" means the establishment and maintenance of an individual's status as a student in an eligible postsecondary institution, regardless of the term used at the institution to describe such status.

(5) "Eligible category A student" means any ~~graduate of~~ individual who declares his intention to matriculate in an eligible postsecondary institution in the state of Idaho during the educational year immediately following:

(a) The individual's graduation from an accredited secondary school in the state of Idaho; or

(b) The individual's graduation from an accredited secondary school outside of the United States, provided that the individual graduated from such school. and the individual and a parent of the individual were residents of the state of Idaho, within one (1) year of leaving the state due to the military status or job relocation of a parent.

~~who declares his intention to matriculate in an eligible postsecondary institution in the state of Idaho during the educational year immediately following such graduation.~~

(6) "Eligible category B student" means any student, having completed secondary school or its equivalent in the state of Idaho, or outside of the United States if within one (1) year of leaving the state due to the military status or job relocation of a parent (a) the student completed such secondary school or its equivalent, and (b) the student and a parent of the student were residents of the state of Idaho, and who enrolls as a student in an eligible postsecondary institution in the state of Idaho prior to reaching twenty-two (22) years of age. To maintain eligibility a student must achieve and maintain a 2.5 cumulative grade point average while enrolled in an eligible postsecondary institution. Students meeting the requirements of this subsection who were not eligible for a grant in the first term of postsecondary education and who achieve and maintain a 2.5 cumulative grade point average based on a 4.0 system in an eligible postsecondary institution will become eligible

for grant payments in subsequent school terms.

(7) "Grant" means an award to an eligible student for matriculation in an eligible postsecondary institution in the state of Idaho.

(8) "Educational year" means the period from July 1 of a year through June 30 of the succeeding year.

(9) "Competitive examination" means standardized examination(s) measuring achievement administered annually on a voluntary basis on a specified date and at specified locations announced publicly.

(10) "High school record," for category A students, will be defined by the state board of education and the board of regents of the university of Idaho and may include, but need not be limited to, an individual's rank in his secondary school class, grade point average, and difficulty of course load taken as certified by an official of such secondary school, and the individual's secondary school deportment as evaluated by at least two (2) officials of such secondary school.

(11) "High school record," for category B students, shall be defined by the state board of education and the board of regents of the university of Idaho and may include, but need not be limited to, an individual's secondary school cumulative grade point average or a composite score on the American college test (ACT).

(12) "Cumulative grade point average" is defined as a student's cumulative grade point average for all courses taken in grades nine (9) through twelve (12) and calculated on a grade of A equals 4.0 points, a grade of B equals 3.0 points, a grade of C equals 2.0 points, a grade of D equals 1.0 point and a grade of F equals 0.0 points.

Approved March 20, 2002.

CHAPTER 118
(H.B. No. 572, As Amended)

AN ACT

RELATING TO CERTIFICATION OF TAXING DISTRICT'S BUDGETS; AMENDING SECTION 63-803, IDAHO CODE, TO PROVIDE THAT THE BUDGET CERTIFICATION BY A TAXING DISTRICT TO THE COUNTY COMMISSIONERS SHALL BE MADE NOT LATER THAN THE THURSDAY PRIOR TO THE SECOND MONDAY IN SEPTEMBER, UNLESS, UPON APPLICATION THEREFOR, THE COUNTY COMMISSIONERS GRANT AN EXTENSION OF NOT MORE THAN SEVEN WORKING DAYS.

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

SECTION 1. That Section 63-803, Idaho Code, be, and the same is hereby amended to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts

within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. The certification to the county commissioners required in this section shall be made not later than the Thursday prior to the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than ~~one (1) week~~ seven (7) working days. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district, which when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) For the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

Approved March 20, 2002.

CHAPTER 119
(H.B. No. 574)

AN ACT

RELATING TO THE TEMPORARY INABILITY OF A FIRE PROTECTION DISTRICT COMMISSIONER; AMENDING SECTION 31-1416A, IDAHO CODE, TO REQUIRE A SIGNED WRITTEN NOTICE FROM A COMMISSIONER WHO IS TEMPORARILY UNABLE TO PERFORM THE DUTIES OF THE OFFICE OF A PERIOD OF AT LEAST NINETY DAYS AND TO PROVIDE FOR EACH MEMBER OF THE BOARD OF A FIRE PROTECTION DISTRICT TO DESIGNATE TWO TEMPORARY INTERIM SUCCESSORS.

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

SECTION 1. That Section 31-1416A, Idaho Code, be, and the same is hereby amended to read as follows:

31-1416A. TEMPORARY INABILITY OF COMMISSIONER. Whenever, for any reason, any member of the board of fire protection district commissioners submits to the board a signed written notice stating that the commissioner is temporarily unable to perform the duties of the office for a period of at least ninety (90) days, the other members of the board shall appoint a suitable person to perform such duties temporarily as an acting officer as provided herein, until the incumbent of the office shall be able to resume the performance of his duties, or a vacancy occurs in such office.

Each member of the board of a fire protection district shall designate ~~three~~ two (~~3~~2) temporary interim successors to his powers and duties and specify their order of succession. Each member shall review and, as necessary, revise the designations of temporary interim successors so there are ~~at least~~ always two (2) qualified temporary interim successors. The designation of a temporary interim successor shall become effective when the member making the designation files with the secretary of the board of the fire protection district the name, address and rank of the successors in order of succession.

When a member of the board of fire protection district commissioners is temporarily unable to perform the duties of office, the other members of the board shall appoint a temporary interim successor highest in order of succession who is available. The interim successor, except for the power and duty to appoint temporary interim successors, shall exercise the power and assume the duties of the member of the board of fire protection district commissioners. No person shall be designated or serve as a temporary interim successor unless he is qualified to hold the office of a member of the board of fire protection district commissioners, to whose powers and duties he is designated to succeed under the constitution and laws of the state of Idaho. The order of appointment of a temporary interim successor shall be recorded in the official proceedings of the board.

Approved March 20, 2002.

CHAPTER 120
(H.B. No. 581, As Amended)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622O, IDAHO CODE, TO PROVIDE A SALES AND USE TAX EXEMPTION FOR SALES TO OR PURCHASES BY VOLUNTEER FIRE DEPARTMENTS OR LICENSED EMERGENCY MEDICAL SERVICE AGENCIES AND TO DEFINE VOLUNTEER FIRE DEPARTMENT AND LICENSED EMERGENCY MEDICAL SERVICE AGENCY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3622O. 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 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; and

(g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies.

(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, The Children's Home Society of Idaho, American 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, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs and Special Olympics Idaho, and the Idaho Women's and Children's Alliance, 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, 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.

(k) "Agency of the state of Idaho" 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.

(l) "Volunteer fire department" means an entity exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which primarily provides fire protection, or fire pre-

vention on a not-for-profit basis to surrounding residents.

(m) "Licensed emergency medical service agency (EMS)" means an emergency medical service licensed by the EMS bureau of the department of health and welfare and which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which provides emergency medical services on a not-for-profit basis to surrounding residents.

(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) of this section do 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 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, 2002.

Approved March 20, 2002.

CHAPTER 121
(H.B. No. 583)

AN ACT

RELATING TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 28-3-103, IDAHO CODE, TO PROVIDE A REFERENCE TO DEMAND DRAFTS; AMENDING SECTION 28-3-104, IDAHO CODE, TO PROVIDE A REFERENCE TO DEMAND DRAFTS AND TO DEFINE "DEMAND DRAFT"; AMENDING SECTION 28-3-416, IDAHO CODE, TO PROVIDE THAT PERSONS WHO TRANSFER DEMAND DRAFTS FOR CONSIDERATION MAKE CERTAIN WARRANTIES UNLESS SUCH WARRANTIES ARE NOT GIVEN UNDER APPLICABLE CONFLICT OF LAW RULES; AMENDING SECTION 28-3-417, IDAHO CODE, TO PROVIDE THAT PERSONS OBTAINING PAYMENT OR ACCEPTANCE ON DEMAND DRAFTS AND PREVIOUS TRANSFERORS OF DEMAND DRAFTS MAKE CERTAIN WARRANTIES UNLESS SUCH WARRANTIES ARE NOT GIVEN UNDER APPLICABLE CONFLICT OF LAW RULES AND TO DEFINE "DEMAND DRAFT"; AMENDING SECTION 28-4-207, IDAHO CODE, TO PROVIDE THAT CUSTOMERS OR COLLECTING BANKS TRANSFERRING DEMAND DRAFTS FOR CONSIDERATION MAKE CERTAIN WARRANTIES UNLESS SUCH WARRANTIES ARE NOT GIVEN UNDER APPLICABLE CONFLICT OF LAW RULES; AND AMENDING SECTION 28-4-208, IDAHO CODE, TO PROVIDE FOR PRESENTMENT WARRANTIES FOR DEMAND DRAFTS AND TO PROVIDE THAT SUCH WARRANTIES SHALL NOT APPLY UNDER CERTAIN CONFLICT OF LAW RULES AND TO DEFINE "DEMAND DRAFT."

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

SECTION 1. That Section 28-3-103, Idaho Code, be, and the same is hereby amended to read as follows:

28-3-103. DEFINITIONS. (1) In this chapter:

(a) "Acceptor" means a drawee who has accepted a draft.

(b) "Drawee" means a person ordered in a draft to make payment.

(c) "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

(d) "Good faith" means honesty in fact in the conduct or transaction concerned.

(e) "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

(f) "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one (1) or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

(g) "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this chapter or chapter 4.

(h) "Party" means a party to an instrument.

(i) "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

(j) "Prove" with respect to a fact means to meet the burden of establishing the fact (section 28-1-201(8)).

(k) "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(2) Other definitions applying to this chapter and the sections in which they appear are:

"Acceptance"	Section 28-3-409
"Accommodated party"	Section 28-3-419
"Accommodation party"	Section 28-3-419
"Alteration"	Section 28-3-407
"Anomalous indorsement"	Section 28-3-205
"Blank indorsement"	Section 28-3-205
"Cashier's check"	Section 28-3-104
"Certificate of deposit"	Section 28-3-104
"Certified check"	Section 28-3-409
"Check"	Section 28-3-104
"Consideration"	Section 28-3-303
"Demand draft"	Section 28-3-104

"Draft"	Section 28-3-104
"Holder in due course"	Section 28-3-302
"Incomplete instrument"	Section 28-3-115
"Indorsement"	Section 28-3-204
"Indorser"	Section 28-3-204
"Instrument"	Section 28-3-104
"Issue"	Section 28-3-105
"Issuer"	Section 28-3-105
"Negotiable instrument"	Section 28-3-104
"Negotiation"	Section 28-3-201
"Note"	Section 28-3-104
"Payable at a definite time"	Section 28-3-108
"Payable on demand"	Section 28-3-108
"Payable to bearer"	Section 28-3-109
"Payable to order"	Section 28-3-109
"Payment"	Section 28-3-602
"Person entitled to enforce"	Section 28-3-301
"Presentment"	Section 28-3-501
"Reacquisition"	Section 28-3-207
"Special indorsement"	Section 28-3-205
"Teller's check"	Section 28-3-104
"Transfer of instrument"	Section 28-3-203
"Traveler's check"	Section 28-3-104
"Value"	Section 28-3-303

(3) The following definitions in other chapters apply to this chapter:

"Bank"	Section 28-4-105
"Banking day"	Section 28-4-104
"Clearing house"	Section 28-4-104
"Collecting bank"	Section 28-4-105
"Depositary bank"	Section 28-4-105
"Documentary draft"	Section 28-4-104
"Intermediary bank"	Section 28-4-105
"Item"	Section 28-4-104
"Payor bank"	Section 28-4-105
"Suspends payments"	Section 28-4-104

(4) In addition, chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 2. That Section 28-3-104, Idaho Code, be, and the same is hereby amended to read as follows:

28-3-104. NEGOTIABLE INSTRUMENT. (1) Except as provided in subsections (3) and (4) of this section, "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(a) Is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(b) Is payable on demand or at a definite time; and

(c) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an under-

taking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor.

(2) "Instrument" means a negotiable instrument.

(3) An order that meets all of the requirements of subsection (1) of this section, except paragraph (a), and otherwise falls within the definition of "check" in subsection (6) of this section is a negotiable instrument and a check.

(4) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this chapter.

(5) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft," a person entitled to enforce the instrument may treat it as either.

(6) "Check" means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank, ~~or~~ (ii) a cashier's check or teller's check, or (iii) a demand draft. An instrument may be a check even though it is described on its face by another term, such as "money order."

(7) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(8) "Teller's check" means a draft drawn by a bank (i) on another bank, or (ii) payable at or through a bank.

(9) "Traveler's check" means an instrument that (i) is payable on demand, (ii) is drawn on or payable at or through a bank, (iii) is designated by the term "traveler's check" or by a substantially similar term, and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(10) "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

(11) "Demand draft" means a writing not signed by the customer that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a bank. A demand draft shall contain the customer's account number and may contain any or all of the following:

(a) The customer's printed or typewritten name;

(b) A notation that the customer authorized the draft; or

(c) The statement "no signature required" or words to that effect.

"Demand draft" does not include a check purportedly drawn by and bearing the signature of a fiduciary, as defined in section 68-301, Idaho Code.

SECTION 3. That Section 28-3-416, Idaho Code, be, and the same is hereby amended to read as follows:

28-3-416. TRANSFER WARRANTIES. (1) A person who transfers an instrument for consideration warrants to the transferee and, if the

transfer is by indorsement, to any subsequent transferee that:

(a) The warrantor is a person entitled to enforce the instrument;

(b) All signatures on the instrument are authentic and authorized;

(c) The instrument has not been altered;

(d) The instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; ~~and~~

(e) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; and

(f) If the instrument is a demand draft, creation of the instrument according to the terms on its face was authorized by the person identified as drawer.

(2) A person to whom the warranties under subsection (1) of this section are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.

(3) The warranties stated in subsection (1) of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (2) of this section is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(4) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(5) If the warranty in subsection (1)(f) of this section is not given by a transferor under applicable conflict of law rules, then the warranty is not given to that transferor when that transferor is a transferee.

SECTION 4. That Section 28-3-417, Idaho Code, be, and the same is hereby amended to read as follows:

28-3-417. PRESENTMENT WARRANTIES. (1) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee making payment or accepting the draft in good faith that:

(a) The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(b) The draft has not been altered; ~~and~~

(c) The warrantor has no knowledge that the signature of the drawer of the draft is unauthorized; and

(d) If the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as drawer.

(2) A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer

because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.

(3) If a drawee asserts a claim for breach of warranty under subsection (1) of this section, based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under section 28-3-404 or 28-3-405 or the drawer is precluded under section 28-3-406 or 28-4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(4) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other instrument is presented for payment to a party obliged to pay the instrument, and (iii) payment is received, the following rules apply:

(a) The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.

(b) The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(5) The warranties stated in subsections (1) and (4) of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (2) or (4) of this section is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(6) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(7) A demand draft is a check. as provided in section 28-3-104.

(8) If the warranty in subsection (1)(d) of this section is not given by a transferor under applicable conflict of law rules, the warranty is not given to that transferor when the transferor is a transferee.

SECTION 5. That Section 28-4-207, Idaho Code, be, and the same is hereby amended to read as follows:

28-4-207. TRANSFER WARRANTIES. (1) A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

(a) The warrantor is a person entitled to enforce the item;

(b) All signatures on the item are authentic and authorized;

(c) The item has not been altered;

(d) The item is not subject to a defense or claim in recoupment (section 28-3-305(1)) of any party that can be asserted against the warrantor; ~~and~~

(e) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; and

(f) If the item is a demand draft, creation of the item according to the terms on its face was authorized by the person identified as drawer.

(2) If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item (i) according to the terms of the item at the time it was transferred, or (ii) if the transfer was of an incomplete item, according to its terms when completed as stated in sections 28-3-115 and 28-3-407. The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subsection by an indorsement stating that it is made "without recourse" or otherwise disclaiming liability.

(3) A person to whom the warranties under subsection (1) of this section are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.

(4) The warranties stated in subsection (1) of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(5) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(6) If the warranty in subsection (1)(f) of this section is not given by a transferor under applicable conflict of law rules, the warranty is not given to that transferor when the transferor is a transferee, nor to any prior collecting bank.

SECTION 6. That Section 28-4-208, Idaho Code, be, and the same is hereby amended to read as follows:

28-4-208. PRESENTMENT WARRANTIES. (1) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that:

(a) The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(b) The draft has not been altered; ~~and~~

(c) The warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized; and

(d) If the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as drawer.

(2) A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft (i) breach of warranty is a defense to the obligation of the acceptor, and (ii) if the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.

(3) If a drawee asserts a claim for breach of warranty under subsection (1) of this section based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under section 28-3-404 or 28-3-405 or the drawer is precluded under section 28-3-406 or 28-4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(4) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other item is presented for payment to a party obliged to pay the item, and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(5) The warranties stated in subsections (1) and (2) of this section cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty (30) days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(6) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(7) A demand draft is a check. as provided in section 28-3-104.

(8) If the warranty in subsection (1)(d) of this section is not given by a transferor under applicable conflict of law rules, the warranty is not given to that transferor when the transferor is a transferee.

Approved March 20, 2002.

CHAPTER 122
(H.B. No. 584)

AN ACT

RELATING TO THE UNIFORM TOD SECURITY REGISTRATION ACT; AMENDING SECTION 15-6-301, IDAHO CODE, TO FURTHER DEFINE "SECURITY ACCOUNT" TO INCLUDE CASH EQUIVALENTS AND INVESTMENT MANAGEMENT OR CUSTODY

ACCOUNTS WITH A TRUST COMPANY OR A TRUST DIVISION OF A BANK WITH TRUST POWERS, INCLUDING THE SECURITIES IN THE ACCOUNT, A CASH BALANCE IN THE ACCOUNT, CASH, CASH EQUIVALENTS, INTEREST, EARNINGS, OR DIVIDENDS EARNED OR DECLARED ON A SECURITY IN THE ACCOUNT, WHETHER OR NOT CREDITED TO THE ACCOUNT BEFORE THE OWNER'S DEATH.

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

SECTION 1. That Section 15-6-301, Idaho Code, be, and the same is hereby amended to read as follows:

15-6-301. DEFINITIONS. In this part:

(1) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(2) "Register," including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(3) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(4) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

(5) "Security account" means: (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; (ii) an investment management or custody account with a trust company or a trust division of a bank with trust powers, including the securities in the account, a cash balance in the account, cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in the account, whether or not credited to the account before the owner's death; or (iii) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

Approved March 20, 2002.

CHAPTER 123
(H.B. No. 585, As Amended in the Senate)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1007, IDAHO CODE, TO CLARIFY THE REQUIREMENTS OF AN APPRENTICE ELECTRICIAN BEFORE HE MAY TAKE THE JOURNEYMAN'S EXAMINATION, TO

SPECIFY REQUIREMENTS FOR MASTER ELECTRICIAN THAT THE ELECTRICAL BOARD SHALL ESTABLISH IN ITS RULES FOR EXAMINATION AND LICENSING OF MASTER ELECTRICIANS AND TO CLARIFY RECIPROCITY PROVISIONS FOR THE JOURNEYMAN AND THE APPRENTICE ELECTRICIAN WITH OUT-OF-STATE EXPERIENCE.

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

SECTION 1. 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, specialty electrician or master 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 or specialty 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~~

(2) An apprentice electrician, as herein defined, may take the journeyman's examination if he has completed the required related instruction for electrical apprentices as approved by the Idaho state board for professional-technical education and has worked the number of hours as prescribed by the Idaho electrical board, provided that for each such year he is claiming to have worked as an apprentice electrician, the apprentice shall have been 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, the number of instructional hours completed and the number of 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, the number of instructional hours completed and the number of 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--professional-technical education.~~

(3) Any person who has worked in this state for a period of not less than two (2) years and who has worked the number of hours as prescribed by rule of the board as a journeyman electrician shall be considered as qualified to apply for a master electrician's license in this state. The Idaho electrical board, in establishing by rule the requirements for a master electrician's license, shall also take into account the applicant's performance as a journeyman electrician.

(4) Any person with out-of-state experience who has worked as a journeyman electrician or as an apprentice electrician, as herein defined, for a period of four (4) years, and who has met such other requirements as established by rule of the board, shall be considered as

qualified to apply for a journeyman electrician's license in this state.

(~~2~~5) 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.

Approved March 20, 2002.

CHAPTER 124
(H.B. No. 588)

AN ACT

RELATING TO FEES CHARGED AND COLLECTED BY THE SECRETARY OF STATE; AMENDING SECTION 67-910, IDAHO CODE, TO DELETE SURPLUS LANGUAGE, TO AUTHORIZE THE SECRETARY OF STATE TO ENTER INTO AGREEMENTS FOR THE COLLECTION OF FEES, TO REVISE RULEMAKING REQUIREMENTS, TO PROVIDE FOR SEARCHES OR COPIES FOR NO CHARGE IN CERTAIN INSTANCES AND TO ALLOW THE SECRETARY OF STATE TO DELETE CERTAIN FILINGS IF PAYMENT FOR THE FILING IS NOT COMPLETED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-910, Idaho Code, be, and the same is hereby amended to read as follows:

67-910. FEES OF SECRETARY OF STATE. (1) The secretary of state, for services performed in his office, shall charge and collect the following fees:

(a) For a copy of any law, resolution, record or other document or paper on file in his office, twenty-five cents (25¢) per page.

(b) For affixing certificate and seal of the state, ten dollars ($10.00).

~~But no member of the legislature or state officer can be charged for any search relative to matters appertaining to the duties of their offices; nor must they be charged any fee for a certified copy of any law or resolution passed by the legislature relative to their official duties.~~

~~In his discretion, the secretary of state may grant to persons, without charge, access to files in his office for the purpose of making copies if a benefit to his office will thereby be obtained.~~

(c) For filing and indexing any map or other paper where the fee for the same is not already fixed by law, four dollars ($4.00).

(d) For searching legislative journals for records of enacted and reenacted laws, and certifying to the same, ten dollars ($10.00).

(e) For certifying and attaching certificate to any state law, published in pamphlet form, which shall include comparing the same with the enrolled act, ten dollars ($10.00).

(f) For any other certificate required of the secretary of state, the fee for which is not hereinbefore prescribed, ten dollars ($10.00).

(g) For provision of electronic access to ~~data bases~~ databases and provision of other automated data services, such fees as the secretary of state may require by duly promulgated administrative rule. ~~provide. Every rule promulgated within the authority conferred in this section shall be subject to review by the legislature at the regular session first following its adoption. The rules may be rejected or amended by the legislature by enactment of a statute. If the legislature rejects or amends a new rule by statute and if the new rule repealed or amended an already existing rule, the previous rule shall be reinstated or modified in accordance with the statute.~~

(2) The secretary of state may enter into agreements with private companies to provide access to services for which a fee is collected in accordance with subsection (1)(g) of this section. Such agreements may provide for the private company to collect the prescribed fee and remit such fee to the state treasurer on behalf of the secretary of state. The private company may also charge and collect a reasonable additional fee for its services.

(3) For all services not hereinbefore provided for, the secretary of state shall charge and collect such fees therefor as may now be ~~prescribed~~ provided by law, or as may be prescribed by the state board of examiners.

(4) No member of the legislature or state officer may be charged for any search relative to matters connected to the duties of their offices; nor may they be charged any fee for a certified copy of any law or resolution passed by the legislature relating to their official duties.

(5) In his discretion, the secretary of state may grant to persons, without charge, access to files in his office for the purpose of making copies if a benefit to his office will thereby be obtained.

(6) In the secretary of state's discretion, a business entity filing may be deleted from the secretary of state's files if the payment for the filing is not completed in a timely manner.

Approved March 20, 2002.

CHAPTER 125
(H.B. No. 589)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1212, IDAHO CODE, TO REVISE GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSURE OF PROFESSIONAL LAND SURVEYORS AND LAND SURVEYORS-IN-TRAINING; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-1212, Idaho Code, be, and the same is hereby amended to read as follows:

54-1212. GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSE. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, shall be issued until an applicant has successfully passed an examination given by or under the supervision of the board, nor shall a license as a professional engineer or professional land surveyor, or certification as an engineer-in-training or land surveyor-in-training, be issued to an applicant having habits or character that would justify revocation or suspension of certificate, as provided in section 54-1220, Idaho Code. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for assignment to an examination:

(1) As a professional engineer:

(a) Graduation from an approved engineering curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record of an additional four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant is competent to practice professional engineering; or

(b) Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum, graduation with a bachelor degree in a related science from a school or college approved by the board, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record of eight (8) years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional engineering.

(2) As a professional land surveyor:

(a) Graduation from an approved surveying curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of land surveying acceptable to the board, and a specific record of an additional four (4) years or more of combined office and field experience in land surveying work, with a minimum of two (2) years of progressive experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional land surveying; or

(b) ~~At least sixty (60) semester hours of college-level academic education beyond high school, with a minimum of fifteen (15) credits in land surveying, engineering, mathematics or related science,~~ Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum, graduation with a bachelor degree in a related science from a school or college approved by the board, passage of an examination on the fundamentals of land surveying acceptable to the board, and a specific record of ~~an additional~~ eight (8) years or more of progressive experience in surveying work, constituting six (6) years of combined office and field experience in land surveying work, with a minimum of two (2)

years of progressive experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying~~;-or~~

~~(c)--Evidence-that-the-applicant-possesses-knowledge-and-skill,-satisfactory--to-the-board,-similar-to-that-attained-upon-completion-of an-approved-college-curriculum,-passage-of--an--examination--on--the fundamentals-of-land-surveying-acceptable-to-the-board,-and-evidence of--a-specific-record-of-at-least-eight-(8)-years-of-combined-office and-field-experience-in-land-surveying-work-with-a-minimum-of--three (3)--years--of--progressive--experience--in-land-surveying-work-of-a grade-and-character-satisfactory-to-the-board--and--indicating--that the-applicant-is-competent-to-practice-land-surveying.~~

(3) As an engineer-in-training:

(a) Graduation from or in the last two (2) semesters of an approved engineering curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to enroll as an engineer-in-training; or

(b) Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum, graduation with a bachelor degree in a related science from a school or college approved by the board, and a specific record of one (1) year or more of progressive experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be enrolled as an engineer-in-training.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of section 54-1212(3)(a), Idaho Code, and a passing grade is attained, a certificate will be issued only after the applicant graduates.

(4) As a land surveyor-in-training:

(a) Graduation from, or in the last two (2) semesters of, an approved surveying curriculum of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to be enrolled as a land surveyor-in-training; or

(b) ~~At--least--sixty--(60)-semester-hours-of-college-level-academic education-beyond-high-school,-with-a-minimum-of-fifteen-(15)-credits in-land-surveying,-engineering,-mathematics-or-related-science,~~ Evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum, graduation with a bachelor degree in a related science from a school or college approved by the board, and in addition, a specific record of ~~three~~ one (~~3~~1) years or more of combined office and field experience in land surveying work of a character satisfactory to the board that the applicant is competent to be enrolled as a land surveyor-in-training. In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of subsection (4)(a) of this section, and attains a passing grade, a certificate shall be issued only after the applicant graduates~~;-or~~

~~(c)--Possesses-knowledge-and-skill,-satisfactory-to-the-board,-simi-~~

~~lar-to-that-attained-upon-completion-of-an--approved--college--level academic--curriculum--and--evidence-of-a-specific-record-of-at-least four-(4)-years-experience-of-combined-office-and-field-experience-of a-character-satisfactory-to-the-board-that-the-applicant--is--competent-to-be-enrolled-as-a-land-surveyor-in-training.~~

In counting years of experience for assignment to the professional engineer or professional land surveyor examination, the board may, at its discretion, give credit, not in excess of one (1) year, for satisfactory graduate study.

In considering the combined education and experience qualifications of applicants, the board shall consider engineering teaching, land surveying teaching, each year of satisfactory completion of undergraduate college education, advanced degrees in engineering and advanced degrees in land surveying in establishing the applicants' minimum composite knowledge and skill.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the practice of engineering, but if such experience, in the opinion of the board, has involved responsible supervision of a character that will tend to expand the engineering knowledge and skill of the applicant the board may in its discretion give such credit therefor as it may deem proper.

Any person having the necessary qualifications prescribed in this chapter to entitle him to registration shall be eligible for such registration although he may not be practicing his profession at the time of making his application.

SECTION 2. This act shall be in full force and effect on and after July 1, 2010.

Approved March 20, 2002.

CHAPTER 126
(H.B. No. 590, As Amended)

AN ACT

RELATING TO WORKER AND BUILDING SAFETY; REPEALING SECTIONS 39-4130 AND 39-4131, IDAHO CODE; AMENDING SECTION 39-8008, IDAHO CODE, TO CLARIFY AUTHORITY, TO PROVIDE FOR ANNUAL INSPECTIONS OF PUBLIC SCHOOL FACILITIES, TO PROVIDE THAT INSPECTIONS SHALL TAKE INTO ACCOUNT THE AGE OF SCHOOL FACILITIES AND THE CODES IN EFFECT AT THE TIME OF THE CONSTRUCTION, TO PROVIDE THAT PROVISIONS RELATING TO IMMINENT SAFETY HAZARDS SHALL APPLY TO ALL PUBLIC SCHOOL FACILITIES REGARDLESS OF AGE, TO PROVIDE THAT NOTIFICATIONS SHALL STATE IN BOLD PRINT THAT CITATIONS FOR VIOLATIONS OR NONCONFORMANCES CONSTITUTE RECOMMENDATIONS ONLY AND TO PROVIDE THAT ANNUAL INSPECTIONS OF PUBLIC SCHOOL FACILITIES SHALL BE FUNDED PURSUANT TO LEGISLATIVE APPROPRIATION; AND AMENDING SECTION 72-720, IDAHO CODE, TO LIMIT INSPECTIONS BASED UPON WRITTEN REQUESTS OR WRITTEN DOCUMENTED INFORMATION RELATING TO EMPLOYERS SUBJECT TO THE COMMISSION'S JURISDICTION IN WORKER SAFETY MATTERS, TO REVISE LANGUAGE AUTHORIZING THE COMMISSION TO INSPECT CERTAIN PLACES OF EMPLOYMENT, TO SET FORTH EXCEPTIONS AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Sections 39-4130 and 39-4131, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 39-8008, Idaho Code, be, and the same is hereby amended to read as follows:

39-8008. ADDITIONAL DUTIES OF ADMINISTRATOR -- RIGHT OF INSPECTION -- POSTING. (1) The administrator shall have authority under this section to enter all public school facilities covered by this chapter at reasonable times and to inspect, on an annual basis, such facilities for compliance with the Idaho uniform school building safety code; provided however, that inspections shall take into account the age of the school facilities and the appropriate codes that would have been in effect at the time of the construction of such facilities; provided further, that regardless of the codes in effect at the time of construction, imminent safety hazards found in public school facilities shall be identified and the provisions of this chapter relating to such imminent safety hazards shall apply.

(2) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes does not constitute an imminent safety hazard, he shall notify in writing the school district superintendent, principal, board member, or other person in charge. Such notification shall state, in bold print, that the citations for violations or nonconformances constitute recommendations only.

(3) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes an imminent safety hazard, he shall immediately notify the department of administration and request that the department of administration designate a licensed professional to independently evaluate the condition prior to issuing any report under this chapter. The department of administration shall, within two (2) working days, designate a licensed professional to independently evaluate the condition identified. That licensed professional shall, within fourteen (14) days, complete its independent evaluation of the condition identified by the administrator and notify the director of the department of administration of its conclusions. If the administrator determines that the condition constituting an imminent safety hazard could reasonably be expected to cause death or serious physical harm before the evaluation of the department of administration can be completed and before the condition can be eliminated, he shall determine the extent of the area where such condition exists and thereupon shall issue a written order or notice requiring the school district superintendent, principal, board member or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area pending the evaluation of the department of administration. This order shall be withdrawn if the evaluation of the department of administration does not concur with the administrator that the condition constitutes an imminent safety hazard as could reasonably be expected to cause death or serious physical harm before the condition can be eliminated.

(4) If the department of administration agrees with the determination of the administrator that a condition identified constitutes an imminent safety hazard, the department of administration shall, within

three (3) working days, so notify the administrator in writing.

(5) Upon receipt of such notification in writing, the administrator shall immediately serve, or cause to be served, written notice or order upon the school district superintendent, principal, board member or other person in charge describing the imminent safety hazard. The administrator shall also notify in writing the state superintendent of public instruction of such imminent safety hazard. Upon receipt of such written notice or order, the school district superintendent, principal, board member, or other person in charge shall require all changes necessary to eliminate the imminent safety hazard be made, without delay and within the time specified by the administrator in the notice or order. If the condition presenting an imminent safety hazard is not corrected within the specified time, or if the administrator determines that the condition constituting such imminent safety hazard could reasonably be expected to cause death or serious physical harm before the condition can be eliminated, if he has not previously done so he shall determine the extent of the area where such condition exists and thereupon shall issue an order or notice requiring the school district superintendent, principal, board member, or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area. The school district superintendent, principal, board member, or other person in charge shall assist the administrator as necessary to post such areas to prevent injury.

(6) The administrator shall follow up on the school district's progress in addressing any identified imminent safety hazard to ensure that appropriate corrective action was taken. The administrator may extend the time for completing corrective action if he deems necessary.

(7) Upon completion of corrective action and verification of such completion by the division of building safety and the department of administration, the administrator shall provide a report to the state superintendent of public instruction, the local superintendent of schools and the chair of the local school board.

(8) Annual inspections of public school facilities conducted by the administrator under the provisions of this section shall be funded pursuant to legislative appropriation.

SECTION 3. That Section 72-720, Idaho Code, be, and the same is hereby amended to read as follows:

72-720. POWERS OF COMMISSION -- SAFETY. (1) ~~The commission is empowered~~ Except as provided in subsection (2) of this section, whenever it receives a written request for an inspection or has written documented information that any employer subject to the ~~provisions of this act~~ commission's jurisdiction in worker safety matters is employing ~~workmen~~ workers in or about any structure, room or place of employment which is not constructed and maintained in conformity with reasonable standards of construction as shall render it safe, or is employing ~~workmen~~ workers on, or with, tools, equipment or machinery which are not equipped with safety devices, safeguards or other means of protection well adapted to render employees and places of employment safe, the commission is authorized to inspect such places of employment, to compel such employer to cease employing ~~workmen~~ workers in such places, or on, or with, such tools, appliances or machinery, if they are deemed unsafe,

and, pursuant to the provisions of chapter 52, title 67, Idaho Code, to adopt reasonable minimum safety standards~~, and to make inspection in and about any place where workmen are employed~~.

(2) The provisions of this section requiring a written request or written documentation prior to an inspection shall not apply to:

(a) Inspections conducted pursuant to rules promulgated by the commission relating to the logging safety program or elevators, boilers and pressure vessels; or

(b) Inspections of buildings owned or maintained by a political subdivision of the state if such political subdivision has not, pursuant to chapter 41, title 39, Idaho Code, adopted applicable building codes and instituted and implemented a code enforcement program; provided however, that inspections by the commission of such buildings shall be conducted on an annual basis only. For purposes of this subsection, "political subdivision" means any governmental unit or special district of the state of Idaho.

Approved March 20, 2002.

CHAPTER 127
(H.B. No. 592)

AN ACT

RELATING TO PUBLIC WORKS CONTRACTORS; AMENDING SECTION 54-1902, IDAHO CODE, TO PROVIDE FOR INVESTIGATIONS BY THE ADMINISTRATOR, TO MAKE GRAMMATICAL CHANGES AND TO CLARIFY AN EXCEPTION TO LICENSURE REQUIREMENTS; AMENDING SECTION 54-1920, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO PROVIDE FOR INJUNCTIONS AGAINST CERTAIN PUBLIC WORKS CONTRACTORS; AND AMENDING CHAPTER 19, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1920A, IDAHO CODE, TO PROVIDE ENFORCEMENT PROVISIONS.

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

SECTION 1. 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 -- INVESTIGATIONS. (1) 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 issued pursuant to the provisions of this chapter by the administrator of the division of building safety, unless such person is particularly exempted as provided in this chapter.

(2) It shall be unlawful for any public works contractor to subcontract in excess of eighty 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.

(3) ~~Nor~~ Except as provided in subsection (4) of this section, it shall be unlawful for any public works contractor to:

(a) ~~A~~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~~; or

(b) ~~A~~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 chapter~~; provided, however, that~~.

(4) ~~N~~no contractor shall be required to have a license under this chapter in order to submit a bid or proposal for contracts for public works financed in whole or in part by federal aid funds, ~~but~~ provided that, 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 chapter, the successful bidder ~~shall~~ has secured a license as provided in this chapter.

(5) The administrator may, upon his own motion or at the direction of the board, and shall, upon the verified written complaint of any person, investigate allegations of unlicensed practice of public works contracting.

SECTION 2. That Section 54-1920, Idaho Code, be, and the same is hereby amended to read as follows:

54-1920. PENALTIES -- INJUNCTION. (1) 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~~ chapter, without a license as herein provided, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the county jail for a term not to exceed one (1) year or by both such fine and imprisonment, 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~~ chapter.

(2) 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~~ chapter 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~~ chapter without alleging and providing that he was a duly licensed contractor at all times during the performance of such act or contract.

(3) In addition to any other penalties specified in this section, whenever any person violates the provisions of this chapter by acting as a public works contractor without a license, the administrator may maintain an action in the name of the state of Idaho to enjoin the person from any further violations. Such action may be brought either in the county in which the acts are claimed to have been or are being commit-

ted, in the county where the defendant resides or in Ada county. Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting the violation. A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under the provisions of this section is violated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

SECTION 3. That Chapter 19, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1920A, Idaho Code, and to read as follows:

54-1920A. ENFORCEMENT. Upon request of the administrator, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in section 54-1920, Idaho Code. The attorney general may delegate the authority and duty under this section to the prosecuting attorney of the county in which the action may arise.

Approved March 20, 2002.

CHAPTER 128
(H.B. No. 595)

AN ACT

RELATING TO THE HOSPITALIZATION OF THE MENTALLY ILL; AMENDING SECTION 66-317, IDAHO CODE, TO REVISE THE DEFINITION OF "GRAVELY DISABLED" AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 66-317, Idaho Code, be, and the same is hereby amended to read as follows:

66-317. DEFINITIONS. As used in this chapter, terms shall have the following meanings:

(a) "Department director" means the director of the state department of health and welfare.

(b) "Voluntary patient" means an individual admitted to a facility for evaluation pursuant to section 18-211 or 20-520, Idaho Code, or admitted to a facility for treatment pursuant to section 66-318, Idaho Code.

(c) "Involuntary patient" means an individual committed pursuant to section 18-212, 18-214, 66-329 or 66-1201, Idaho Code, or committed pursuant to section 16-1608 or 20-520, Idaho Code, and admitted to a facility for the treatment of minors.

(d) "Licensed physician" means an individual licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of his official duties.

(e) "Designated examiner" means any person designated by the department director as specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions. Such persons shall be psychiatrists, licensed psychologists, licensed physicians, a holder of an earned master's level or higher degree in social work from an accredited program, a registered nurse with an earned master's level or higher degree in psychiatric nursing from an accredited program, or a holder of an earned master's level or higher degree in psychology from an accredited program.

(f) "Dispositioner" means a designated examiner employed by or under contract with the department of health and welfare and designated by the department director to determine the appropriate location for care and treatment of involuntary patients.

(g) "Facility" means any public or private hospital, sanatorium, institution, mental health center or other organization designated in accordance with rules adopted by the board of health and welfare as equipped to initially hold, evaluate, rehabilitate or to provide care or treatment, or both, for the mentally ill.

(h) "Lacks capacity to make informed decisions about treatment" means the inability, by reason of mental illness, to achieve a rudimentary understanding after conscientious efforts at explanation of the purpose, nature, and possible significant risks and benefits of treatment.

(i) "Inpatient treatment facility" means a facility in which an individual receives medical and mental treatment for not less than a continuous twenty-four (24) hour period.

(j) "Supervised residential facility" means a facility, other than the individual's home, in which the individual lives and in which there lives, or are otherwise on duty during the times that the individual's presence is expected, persons who are employed to supervise, direct, treat or monitor the individual.

(k) "Likely to injure himself or others" means either:

(1) A substantial risk that physical harm will be inflicted by the proposed patient upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or

(2) A substantial risk that physical harm will be inflicted by the proposed patient upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm.

(l) "Mentally ill" means a person, who as a result of a substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize and adapt to reality, requires care and treatment at a facility.

(m) "Gravely disabled" means a person who, as the result of mental illness, is in danger of serious physical harm due to the person's inability to provide for any of his ~~essential~~ basic needs for nourishment, or essential medical care, or shelter or safety.

(n) "Outpatient commitment" means a court order directing a person to comply with specified mental health treatment requirements, not involving the continuous supervision of a person in an inpatient set-

ting, that are reasonably designed to alleviate or to reduce a person's illness or disability, or to maintain or prevent deterioration of the person's mental or emotional functioning. The specified requirements may include, but need not be limited to, taking prescribed medication, reporting to a facility to permit monitoring of the person's condition, or participating in individual or group therapy or in educational or vocational programs. Outpatient commitment may be up to one (1) year.

Approved March 20, 2002.

CHAPTER 129
(H.B. No. 599, As Amended)

AN ACT
RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-412, IDAHO CODE, TO PROVIDE EQUAL INCOME BENEFITS FOR DEATH TO WIDOWS AND WIDOWERS.

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

SECTION 1. That Section 72-412, Idaho Code, be, and the same is hereby amended to read as follows:

72-412. PERIODS OF INCOME BENEFITS FOR DEATH. The income benefits for death herein provided for shall be payable during the following periods:

(1) To a widow or widower, until death or remarriage, but in no case to exceed five hundred (500) weeks.

(2) ~~To a widower, during disability or until remarriage, but in no case to exceed five hundred (500) weeks.~~

~~(3)~~ To or for a child, until eighteen (18) years of age, and if incapable of self-support after age eighteen (18) for an additional period not to exceed five hundred (500) weeks, deducting the period benefits which were paid prior to eighteen (18) years of age. Provided, income benefits payable to or for any child shall cease when such child marries.

(~~4~~3) To a parent or grandparent, during the continuation of a condition of actual dependency, but in no case to exceed five hundred (500) weeks.

(~~5~~4) To or for a grandchild, brother or sister, during dependency as hereinbefore defined, but in no case to exceed five hundred (500) weeks.

(~~6~~5) In case death occurs after a period of disability, either total or partial, the period of disability shall be deducted from the total periods of compensation respectively stated in this section.

Approved March 20, 2002.

CHAPTER 130
(H.B. No. 600, As Amended in the Senate)

AN ACT

RELATING TO FUGITIVES; AMENDING SECTION 19-4516, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM BAIL REQUIREMENTS; AND AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-209F, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF CORRECTION OR HIS DESIGNEE MAY APPLY TO THE MAGISTRATE COURT IN ADA COUNTY FOR THE ARREST, DETENTION AND RETURN TO CUSTODY OF CERTAIN FUGITIVES, TO PROVIDE THAT THE MAGISTRATE SHALL ISSUE A WARRANT UPON THE SUBMISSION OF CERTAIN DOCUMENTATION, TO PROVIDE THAT CERTAIN FUGITIVES SHALL BE INELIGIBLE FOR BOND, BAIL OR RELEASE ON THEIR OWN RECOGNIZANCE, TO PROVIDE FOR THE RIGHT TO A HEARING, TO STATE THE EFFECTIVE TERM OF A WARRANT, TO PROVIDE THAT THE ISSUANCE OF A WARRANT DOES NOT NEGATE OR INTERFERE WITH THE ISSUANCE OF WARRANTS UNDER OTHER PROVISIONS OF LAW, TO PROVIDE THAT A WARRANT SHALL BE SUFFICIENT FOR ANY PEACE OFFICER TO ARREST, DETAIN AND RETURN CERTAIN PERSONS TO THE CUSTODY OF THE DEPARTMENT, TO REQUIRE PEACE OFFICERS TO EXECUTE WARRANTS IN THE SAME MANNER AS ORDINARY PROCESS AND TO RETURN CERTAIN PERSONS TO THE CUSTODY OF THE DEPARTMENT OF CORRECTION AND TO PROVIDE FOR THE QUASHING OF WARRANTS ISSUED UNDER THE PROVISIONS OF SECTION 20-209F, IDAHO CODE.

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

SECTION 1. That Section 19-4516, Idaho Code, be, and the same is hereby amended to read as follows:

19-4516. BAIL EXCEPT IN CAPITAL AND LIFE IMPRISONMENT CASES — CONDITION AND REQUISITES OF BOND. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, <u>and except as provided in section 20-209F(3), Idaho Code,</u> the judge or <u>mag-</u>istrate must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

SECTION 2. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION,</u> to be known and designated as Section 20-209F, Idaho Code, and to read as follows:

20-209F. WARRANTS FOR CERTAIN FUGITIVES. (1) The director of the department of correction or his designee shall have the authority to apply to the magistrates division of the district court of Ada county for a warrant for the arrest, detention and return to custody of any person committed to the custody of the department of correction under a judgment of conviction who, prior to satisfying the full term of his judgment of conviction and sentence, has either:

(a) Escaped or absconded from the custody or supervision of the department; or

(b) Been released for any reason by the department or by any law enforcement agency, department of correction or other agency in this state or another state.

(2) The magistrate shall issue a warrant upon submission by the director or his designee of an affidavit that:

(a) Identifies the person sought;

(b) Demonstrates that such person has been committed to the custody of the department of correction under a judgment of conviction; and

(c) Demonstrates that, prior to satisfying the full term of his judgment of conviction and sentence, the person sought has either:

(i) Escaped or absconded from the custody or supervision of the department; or

(ii) Been released for any other reason by the department or by any law enforcement agency, department of correction or other agency in this state or another state.

(3) Any person who is arrested and detained pursuant to this section shall be ineligible for bond, bail or release on his own recognizance.

(4) Any person arrested and detained pursuant to this section shall have the right to a hearing to confirm that:

(a) He is the person identified in the warrant; and

(b) An unsatisfied portion of his judgment of conviction and sentence remains to be served.

(5) A warrant issued pursuant to this section shall remain in effect until:

(a) The warrant is quashed by order of a court;

(b) The person identified in the warrant is returned to the custody of the department of correction; or

(c) The sentence of the person identified in the warrant is otherwise deemed satisfied.

(6) The issuance of a warrant pursuant to this section shall not negate or interfere with the issuance of warrants under any other provision of law.

(7) A warrant issued pursuant to this section shall be sufficient for any peace officer to arrest, detain and return to the custody of the department of correction any person described in the warrant. It shall be the duty of all peace officers to execute the warrant in the same manner as ordinary process and to return any person arrested pursuant to this section to the custody of the department of correction.

(8) A person who is detained pursuant to a warrant issued under this section may apply for an order quashing the warrant. An action to quash a warrant issued under this section may be brought in Ada county, Idaho or in the county in Idaho in which a person arrested under such a warrant is detained. A warrant issued under this section shall be quashed upon a showing that the person sought or detained is not the person identified in the warrant or that the person's sentence has been completed or has otherwise been deemed satisfied.

Approved March 20, 2002.

CHAPTER 131
(H.B. No. 602)

AN ACT

RELATING TO PERSONAL PROPERTY; AMENDING SECTION 55-404, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE REQUIREMENTS APPLICABLE TO THE DISBURSEMENT OF PROCEEDS FROM SALES OF PERSONAL PROPERTY; AND AMENDING CHAPTER 4, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-405, IDAHO CODE, TO PROVIDE THAT PERSONS WHO FIND MONEY OR GOODS OF A CERTAIN VALUE MUST NOTIFY THE COUNTY CLERK AND PUBLISH A NOTICE OF SUCH FINDING, TO SPECIFY THAT OWNERS OF FOUND PERSONAL PROPERTY MUST ESTABLISH SUCH OWNERSHIP WITHIN THREE MONTHS, TO PROVIDE FOR FORFEITURE UPON FAILURE TO PROPERLY NOTIFY THE COUNTY CLERK AND PUBLISH NOTICE OF SUCH FINDING, TO PROVIDE FOR NOTICE BY THE COUNTY TREASURER, TO PROVIDE FOR THE DISPOSITION OF UNCLAIMED PERSONAL PROPERTY, TO REQUIRE THE PAYMENT OF COSTS AND CHARGES INCURRED IN THE FINDING, GIVING OF NOTICE AND CARE AND CUSTODY OF MONEY OR GOODS AND TO LIMIT APPLICATION.

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

SECTION 1. That Section 55-404, Idaho Code, be, and the same is hereby amended to read as follows:

55-404. PROCEEDS OF SALE -- DISBURSEMENT. Except as provided in section 55-405, Idaho Code, t~~T~~he proceeds of said sale shall be applied first to all costs assessed or incurred against the personal property so sold including any storage charges as keepers' fee and expenses of sale incurred by the sheriff or city police department, and the balance of such proceeds, if any, shall be kept by the sheriff or city police department in a separate fund for a period of one (1) year from the date of sale. Any person claiming title to, or ownership of, such proceeds by reason of ownership of such personal property at the time of sale by the sheriff or city police department shall make written application therefor to the sheriff or city police department. If satisfactory proof of such title or ownership is furnished within one (1) year of the receipt of such proceeds, then the said proceeds shall be delivered to the claimant. If no claim and proof is made before the expiration of one (1) year from the receipt of the proceeds, the same shall be paid by the sheriff to the county treasurer or by the city police department to the city clerk who shall credit the same to the general fund of the county or the city, as the case may be, and no claim therefor shall be thereafter considered.

SECTION 2. That Chapter 4, 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 55-405, Idaho Code, and to read as follows:

55-405. FOUND PERSONAL PROPERTY. (1) Notwithstanding any other provision of law, any person who finds money or goods valued at one hundred dollars ($100) or more, excepting firearms, explosives or other deadly weapons as identified in chapter 33, title 18, Idaho Code, shall, if the owner of the money or goods is unknown, give written notice of the find-

ing within ten (10) days to the county clerk of the county in which the money or goods were found. Within twenty (20) days after the date of the finding, the person who finds such money or goods shall cause to be published in a newspaper of general circulation in the county a notice of the finding once each week for two (2) consecutive weeks. Each such notice shall state:

(a) A general description of the money or goods found;

(b) The address and telephone number of the county clerk's office; and

(c) The final date by which such money or goods must be claimed.

(2) If no person establishes ownership of the money or goods prior to the expiration of three (3) months from the date of the notice to the county clerk, as provided in subsection (1) of this section, the person who found such money or goods shall be the rightful owner thereof.

(3) (a) If any person who finds money or goods valued at one hundred dollars ($100) or more, excepting firearms, explosives or other deadly weapons as identified in chapter 33, title 18, Idaho Code, fails to comply with the provisions of subsection (1) of this section, such person shall be liable to the county for the money or goods or for the value of such money or goods.

(b) Upon forfeiture of the money or goods, or the value of such money or goods, as provided in this subsection, the county treasurer shall hold the money or goods or their value for the owner and shall publish in a newspaper of general circulation in the county a notice of the finding once each week for two (2) consecutive weeks. Each such notice shall state:

(i) A general description of the money or goods found;

(ii) The address and telephone number of the county treasurer's office; and

(iii) The final date by which such money or goods must be claimed.

(c) If the owner does not reclaim the money or goods within three (3) months after the date of first publication of the notice by the county treasurer, the owner forfeits any rights to the money or goods or the value thereof and:

(i) If money, such money shall be placed in the general fund of the county for payment of the general operating expenses of the county; or

(ii) If goods, such goods shall be delivered to the sheriff of the county and sold at public auction as provided in section 55-403, Idaho Code. The proceeds of the sale of such goods shall be applied first to the costs of the sale and the remainder shall be placed in the general fund of the county for the payment of the general operating expenses of the county.

(4) An owner of money or goods found by another person who establishes a claim to such money or goods within the time period specified in this section shall have restitution of such money or goods, or their value, upon payment to the finder or the county treasurer, as applicable, of all costs and charges incurred in the finding, giving of notice, and care and custody of such money or goods.

(5) Nothing in this section shall be construed to affect the provisions of chapter 5, title 14, Idaho Code.

Approved March 20, 2002.

CHAPTER 132
(H.B. No. 603)

AN ACT

RELATING TO CRIMINAL PROCEDURE; AMENDING SECTION 19-607, IDAHO CODE, TO PROVIDE THAT AN ARREST FOR A MISDEMEANOR CANNOT BE MADE INSIDE A PERSON'S RESIDENCE BETWEEN EIGHT P.M. AND EIGHT A.M. UNLESS UPON THE DIRECTION OF THE MAGISTRATE AS ENDORSED UPON THE WARRANT OR WHERE CONSENT WAS GIVEN TO ENTER THE RESIDENCE BY A PERSON WITH REAL OR APPARENT AUTHORITY.

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

SECTION 1. That Section 19-607, Idaho Code, be, and the same is hereby amended to read as follows:

19-607. WHEN ARREST MAY BE MADE UPON A WARRANT. If the offense charged is a felony, the arrest may be made on any day, and at any time of the day or night. If ~~it~~ the offense charged is a misdemeanor, the arrest ~~can~~ shall not be made ~~at--night~~ inside a person's residence between 8:00 p.m. and 8:00 a.m., unless upon the direction of the magistrate, as endorsed upon the warrant, or where consent was given to enter the residence by a person with real or apparent authority.

Approved March 20, 2002.

CHAPTER 133
(H.B. No. 608, As Amended)

AN ACT

RELATING TO COMPENSATION OF HIGHWAY DISTRICT COMMISSIONERS; AMENDING SECTION 40-1314, IDAHO CODE, TO PROVIDE THAT IT SHALL BE THE DUTY OF THE BOARD OF HIGHWAY DISTRICT COMMISSIONERS OF EACH HIGHWAY DISTRICT TO FIX THE ANNUAL SALARIES OF THE HIGHWAY DISTRICT COMMISSIONERS COMMENCING ON OCTOBER 1 AND FOR THE NEXT ENSUING YEAR AND TO PROVIDE NOTICE REQUIREMENTS FOR PROPOSED SALARIES.

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

SECTION 1. That Section 40-1314, Idaho Code, be, and the same is hereby amended to read as follows:

40-1314. COMPENSATION OF HIGHWAY DISTRICT COMMISSIONERS, OFFICERS, AGENTS AND EMPLOYEES. (1) It shall be the duty of the board of highway district commissioners of each highway district to fix the annual salaries of the highway district commissioners commencing on October 1 and for the next ensuing year. The proposed salaries shall be published in accordance with the provisions of section 40-206, Idaho Code, and for notice purposes of that section, the proposed salaries shall be treated as if they were an override or bond election hearing. ~~The highway district commissioners may be compensated as follows:~~

~~(a)--Commissioners-of-a-countywide-highway-district-organized--under the--provisions--of-chapter-14,-title-40,-Idaho-Code,-as-provided-in sections-40-1404-and-40-1404A,-Idaho-Code.~~

~~(b)--Commissioners-of-a-countywide-highway-district-organized--under the--provisions-of-chapter-17,-title-40,-Idaho-Code,-a-salary-not-to exceed-nine-hundred-dollars-($900)-per-calendar-month-for-each--member--with--the-exception-of-the-president-or-chairman-of-the-highway commissioners-who-may-receive-one-thousand-dollars-($1,000)-per-calendar-month,-provided-the-population-of--the--county--exceeds--fifty thousand-(50,000).~~

~~(c)--Commissioners--of-all-other-highway-districts,-a-salary-of-seventy-five-dollars-($75.00)-for-each-day-in-the-actual-performance-of duties,-but-the-total-amount-to-be-received--as--compensation--shall not-exceed-the-sum-of-six-thousand-dollars-($6,000)-per-year.~~

(2) Actual expenses shall be paid in addition to their compensation. The payment for expenses shall be paid from the funds of the highway district upon the presentation of itemized vouchers, signed by the commissioners and under oath made to the secretary of the district.

(3) When a commissioner is an officer and/or agent of the district, the two (2) remaining commissioners may fix the compensation to be paid him for his services as an officer and/or agent. A commissioner acting as an officer and/or agent of the district shall be entitled to his necessary and actual expenses in addition to his salary, but shall not be entitled to draw compensation as a commissioner when placed upon a salary. The board shall fix the compensation to be paid to the other officers and agents and employees of the highway district, to be paid out of the treasury of the highway district.

(4) Commissioners are considered employees of the district. The district shall be liable and responsible for the actions of the commissioners, officers, agents and/or employees of the district when the commissioners, officers, agents and/or employees are performing their duties on behalf of the district.

Approved March 20, 2002.

CHAPTER 134
(H.B. No. 616)

AN ACT

RELATING TO COMPETITIVE EXAMINATION POINTS FOR WAR VETERANS; AMENDING SECTION 65-506, IDAHO CODE, TO PROVIDE AN EXPANDED DEFINITION OF WAR VETERAN FOR PREFERENCE POINTS ON COMPETITIVE EXAMINATIONS; AMENDING SECTION 67-5309, IDAHO CODE, TO PROVIDE A STATUTORY CITATION FOR DEFINITION OF WAR VETERAN; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 65-506, Idaho Code, be, and the same is hereby amended to read as follows:

65-506. ADDITION OF POINTS TO COMPETITIVE EXAMINATION RATINGS. (1) Five (5) points shall be added to the earned rating of any war veteran

and the widow or widower of any war veteran as long as he or she remains unmarried, when required to take competitive examination for any position in any state department, county or municipal government, which may now or which may hereafter require competitive examination under merit system or civil service plan of selecting employees: The names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating. As used in this subsection, "war veteran" shall mean a veteran as defined in 5 U.S.C. section 2108.

(2) Ten (10) points shall be added to the earned rating of veterans discharged under honorable conditions who qualify as disabled veterans because they have served on active duty in the armed forces at any time and have a present service connected disability of ten percent (10%) or more. Ten (10) points shall also be added to the earned rating of the widow or widower of any disabled veteran as long as he or she remains unmarried, the spouse of any eligible disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference, when required to take competitive examination for any position in any state department, county or municipal government, which may now or which may hereafter require competitive examinations under merit system or civil service plan of selecting employees: The names of all ten (10) point preference eligibles resulting from any merit system or civil service examination shall be placed at the top of the register above the names of all nonpreference eligibles in accordance with their augmented rating.

The additional points added by reason of veteran's preference shall be used only for the purpose of initial appointment and not for the purpose of promotions.

(3) For the purpose of this section, an initial appointment shall meet the following criteria:

(a) The appointment shall be the first time a qualified veteran is hired by a county, municipal government or state agency and subsequent separation from the county, municipal government or state agency shall not result in the award of new preference points with such employer.

(b) Preference points shall only be applied if the county, municipal government or state agency is using a point system to rank candidates for the particular opening.

SECTION 2. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules shall include:

(a) A rule requiring the administrator, after consulting with each department to develop, adopt, and make effective, a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable

for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the examination was open; the application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time for any position for which the division maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any war veteran as defined in section 65-506, Idaho Code, and the widow or widower of any war veteran as defined in section 65-506, Idaho Code, as long as he or she remains unmarried. Pursuant to section 65-506, Idaho Code, ten (10) points shall be added to the earned rating of any disabled veteran, the widow or widower of any disabled veteran as long as he or she remains unmarried or the spouse of any disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference. Employment registers shall be established in order of final score except that the names of all five (5) point preference eligibles resulting from any merit system or civil service

examination shall be placed on the register in accordance with their augmented rating, and the names of all ten (10) point preference eligibles shall be placed at the top of the register above the names of all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the ten (10) top ranking available eligibles plus the names of all individuals with scores identical to the tenth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the division defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified permanent employee of the agency in which the vacancy occurs. An interagency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the division.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the administrator to extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

(k) A rule concerning provisional appointments.

(l) A rule concerning temporary appointments.

(m) A rule governing the employment of consultants and persons retained under independent contract.

(n) A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the administrator or the division.
2. Inefficiency, incompetency, or negligence in the performance of duties.
3. Physical or mental incapability for performing assigned duties.
4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.
5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.
6. Intoxication on duty.
7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.
8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.
10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.
11. Habitual pattern of failure to report for duty at the assigned place and time.
12. Habitual improper use of sick leave privileges.
13. Unauthorized disclosure of confidential information from official records.
14. Absence without leave.
15. Misstatement or deception in the application for the position.
16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.
17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of

this section as may be necessary and proper for the administration and enforcement of this chapter.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing for five percent (5%) shift differential pay.

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 20, 2002.

CHAPTER 135
(H.B. No. 619)

AN ACT

RELATING TO OPERATING PROPERTY ASSESSED BY THE STATE TAX COMMISSION; AMENDING SECTION 63-401, IDAHO CODE, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL IDENTIFY PROPERTY TO BE INCLUDED AS OPERATING PROPERTY FOR ASSESSMENT PURPOSES, TO PROVIDE THAT PROPERTY ASSESSED BY THE STATE TAX COMMISSION SHALL NOT BE SUBJECT TO ANOTHER ASSESSMENT BY ANY COUNTY ASSESSOR AND TO PROVIDE FOR APPEALS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-401, Idaho Code, be, and the same is hereby amended to read as follows:

63-401. OPERATING PROPERTY ASSESSED BY STATE TAX COMMISSION. Operating property, completed or under construction, shall be assessed by the state tax commission. The state tax commission shall identify property to be included as operating property for assessment purposes. Property assessed by the state tax commission shall not be subject to another assessment by any county assessor. A decision by the state tax commission under this section may only be appealed as provided in sections 63-407 and 63-409, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2002.

Approved March 20, 2002.

CHAPTER 136
(H.B. No. 623)

AN ACT

RELATING TO CRIME VICTIMS COMPENSATION; AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS OF THE INDUSTRIAL COMMISSION RELATING TO COMPENSATION FOR CRIME VICTIMS SHALL BE EXEMPT FROM DISCLOSURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1003, IDAHO CODE, TO PROVIDE CODE REFERENCES; AMENDING SECTION 72-1004, IDAHO CODE, TO PROVIDE THAT THE COMMISSION MAY REQUIRE CLAIMANTS TO SIGN A RELEASE AND PROVIDE INFORMATION TO DETERMINE ELIGIBILITY FOR COMPENSATION AND TO PROVIDE THAT CERTAIN INFORMATION SHALL BE KEPT CONFIDENTIAL; AMENDING SECTION 72-1007, IDAHO CODE, TO PROVIDE THAT INFORMATION AND RECORDS RELATING TO CRIME VICTIMS COMPENSATION THAT ARE IN THE POSSESSION OF THE COMMISSION SHALL BE KEPT CONFIDENTIAL AND EXEMPT FROM DISCLOSURE, TO PROVIDE EXCEPTIONS TO THE EXEMPTION AND TO REMOVE LANGUAGE PROVIDING FOR THE PUBLIC INSPECTION OF SUCH DOCUMENTS UNDER CERTAIN CONDITIONS; AMENDING SECTION 72-1014, IDAHO CODE, TO PROVIDE THAT THE COMMISSION MAY REQUIRE CLAIMANTS TO SUPPLEMENT APPLICATIONS WITH DOCUMENTS RELATING TO INJURIES OR CONDITIONS, TO PROVIDE THAT THE FAILURE TO PROVIDE SUCH DOCUMENTS MAY RESULT IN THE DENIAL OF THE CLAIMANT'S APPLICATION FOR COMPENSATION OR CLAIM FOR PAYMENT, TO AUTHORIZE HEALTH CARE PROVIDERS TO SUBMIT CERTAIN INFORMATION DIRECTLY TO THE COMMISSION, TO MAKE GRAMMATICAL CORRECTIONS AND TO REMOVE LANGUAGE RELATING TO PRIVILEGED COMMUNICATIONS OR RECORDS; AMENDING SECTION 72-1016, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AND AMENDING SECTION 72-1019, IDAHO CODE, TO PROVIDE THAT COMPENSATION DUE TO INJURIES SUFFERED DUE TO AN ACT OR ACTS OF CRIMINALLY INJURIOUS CONDUCT INVOLVING THE SAME OFFENDER AND OCCURRING WITHIN A SIX MONTH PERIOD MAY NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS IN THE AGGREGATE, TO PROVIDE FOR REIMBURSEMENT FOR EXPENSES FOR NECESSARY TRAVEL INCURRED IN CONNECTION WITH OBTAINING CERTAIN BENEFITS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 9-340B, Idaho Code, 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(6), 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) (a) The following records of the department of correction:

(i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;

(ii) Records that contain any identifying information, or any information that would lead to the identification of any victims or witnesses;

(iii) Records that reflect future transportation or movement of a prisoner;

(iv) Records gathered during the course of the presentence investigation;

(v) Records of a prisoner, as defined in section 9-337(9), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.

(b) Operation and security manuals, plans or codes of county jails and buildings owned or leased by Idaho state government, a county or a city. "Operation manuals" are those internal documents of any state government agency, county or city building or jail that define the procedures utilized to maintain security within the building or jail. "Plans or codes" relate only to those documents, the release of which could jeopardize the safety of workers, visitors or prisoners in those buildings, or adversely affect the public safety.

(c) Records of the commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A, Idaho Code, and section 20-223, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.

(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 Idaho state police 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 inter-

est 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 Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

(12) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

(1~~2~~3) Records of a prisoner or former prisoner in the custody of any state or local correctional facility, when the request is made by another prisoner in the custody of any state or local correctional facility.

(14) Except as provided in section 72-1007, Idaho Code, records of the Idaho industrial commission relating to compensation for crime victims under chapter 10, title 72, Idaho Code.

SECTION 2. That Section 72-1003, Idaho Code, be, and the same is hereby amended to read as follows:

72-1003. DEFINITIONS. As used in this chapter:

(1) "Claimant" means any of the following claiming compensation under this chapter:

(a) A victim;

(b) A dependent of a deceased victim; or

(c) An authorized person acting on behalf of any of them, including parent(s), legal guardian(s), and sibling(s), of a victim who is a minor.

(2) "Collateral source" means a source of benefits, other than welfare benefits, or advantages for economic loss otherwise compensable under this chapter which the claimant has received or which is readily available to him from:

(a) The offender;

(b) The government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of two (2) or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this chapter;

(c) Social security, medicare, and medicaid;

(d) Worker's compensation;

(e) Wage continuation programs of any employer;

(f) Proceeds of a contract of insurance payable to the claimant for loss which was sustained because of the criminally injurious conduct; or

(g) A contract, including an insurance contract, providing hospital and other health care services or benefits for disability. Any such contract in this state may not provide that benefits under this chapter shall be a substitute for benefits under the contract or that the contract is a secondary source of benefits and benefits under this chapter are a primary source.

(3) "Commission" means the industrial commission.

(4) "Criminally injurious conduct" means intentional, knowing, or reckless conduct that:

(a) Occurs or is attempted in this state or occurs outside the state of Idaho against a resident of the state of Idaho and which occurred in a state which does not have a crime victims compensation program for which the victim is eligible as eligibility is set forth in this statute;

(b) Constitutes an act of terrorism as defined by 18 U.S.C. 2331, committed outside the United States against a resident of this state;

(c) Results in injury or death; and

(d) Is punishable by fine, imprisonment, or death or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle except when intended to cause personal injury or death; provided that criminally injurious conduct shall include violations of the provisions of section 18-4006 3(b), 18-8004, <u>18-8006,</u> 18-8007, <u>67-7027,</u> 67-7034 or 67-7035, Idaho Code.

(5) "Dependent" means a natural person who is recognized under the law of this state to be wholly or partially dependent upon the victim for care or support and includes a child if under the age of eighteen

(18) or incapable of self-support and unmarried and includes a child of the victim conceived before the victim's death but born after the victim's death, including a child that is conceived as a result of the criminally injurious conduct.

(6) "Injury" means actual bodily harm or disfigurement and, with respect to a victim, includes pregnancy, venereal disease, mental or nervous shock, or extreme mental distress. For the purposes of this chapter, "extreme mental distress" means a substantial personal disorder of emotional processes, thought or cognition which impairs judgment, behavior or ability to cope with the ordinary demands of life.

(7) "Victim" means a person who suffers injury or death as a result of:

(a) Criminally injurious conduct;

(b) His good faith effort to prevent criminally injurious conduct; or

(c) His good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

(8) "Welfare benefits" as used in subsection (2) of this section, shall include sums payable to or on behalf of an indigent person under chapter 35, title 31, Idaho Code.

SECTION 3. That Section 72-1004, Idaho Code, be, and the same is hereby amended to read as follows:

72-1004. POWERS AND DUTIES OF COMMISSION. (1) The commission shall:

(a) Adopt rules to implement this chapter in compliance with chapter 52, title 67, Idaho Code;

(b) Prescribe forms for applications for compensation; and

(c) Determine all matters relating to claims for compensation.

(2) The commission may:

(a) Request and obtain from prosecuting attorneys and law enforcement officers investigations and data to enable the commission to determine whether and the extent to which a claimant qualifies for compensation. A statute providing confidentiality for a claimant's juvenile court records does not apply to proceedings under this chapter;

(b) Subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct hearings, and receive relevant, nonprivileged evidence;

(c) Take notice of judicially cognizable facts and general, technical, and scientific facts within its specialized knowledge;

(d) Require that law enforcement agencies and officials take reasonable care that victims be informed about the existence of this chapter and the procedure for applying for compensation under this chapter; ~~and~~

(e) Require that any person contracting directly or indirectly with an individual formally charged with or convicted of a qualifying crime for any rendition, interview, statement, or article relating to such crime to deposit any proceeds owed to such individual under the terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime or any surviving dependents of the victim, if such individual is convicted of that crime, to be held for such period of time as the commission may determine is reasonably necessary to perfect the claims of the victims or dependents.

If, after all funds due the victim have been paid to the victim under this section, there remain additional funds in the escrow account, such funds shall be returned to the crime victims compensation account; and

(f) Require claimants to sign a release and provide information to determine eligibility for compensation under this chapter. Any information received by the commission pursuant to this subsection shall be kept confidential except as provided in section 72-1007, Idaho Code.

SECTION 4. That Section 72-1007, Idaho Code, be, and the same is hereby amended to read as follows:

72-1007. PUBLIC INSPECTION AND DISCLOSURE OF COMMISSION'S RECORDS. The information and records the commission maintains in its possession in the administration of this chapter ~~are open to public inspection in accordance with the provisions of section 59-1009, Idaho Code, provided that all copies of reports of law enforcement agencies, hospitals, physicians, mental health counselors and any other person providing treatment to the victim shall be subject to disclosure according to chapter 3, title 9, Idaho Code, except that~~ shall be kept confidential and are exempt from public disclosure under chapter 3, title 9, Idaho Code, provided however:

(1) ~~D~~during the commission's regular office hours any claimant, or his attorney or authorized representative, may examine all files maintained by the commission in connection with his application for compensation;

(2) Upon an adequate showing to the court in a separate civil or criminal action that the specific information or records are not obtainable through diligent effort from any independent source, the court may inspect such records in camera to determine whether the public interest in disclosing the records outweighs the public or private interest in maintaining the confidentiality of such records;

(3) Information and records maintained by the commission may be disclosed to public employees and officials in the performance of their official duties; and

(4) Information and records maintained by the commission may be disclosed to health care providers who are:

(a) Treating or examining victims claiming benefits under this chapter; or

(b) Giving medical advice to the commission regarding any claim.

SECTION 5. That Section 72-1014, Idaho Code, be, and the same is hereby amended to read as follows:

72-1014. EVIDENCE OF CONDITION. (1) The commission may require the claimant to supplement the application with any reasonably available medical reports or other documents relating to the injury or condition for which compensation is claimed. Failure to provide the requested supporting documents or reports may result in the denial of the claimant's application for compensation or claim for payment. Health care providers are authorized to submit directly to the commission, pursuant to the claimant's original release as provided in the application for compensation, any information that is required to support a claimant's applica-

tion or that is necessary to process a claim for payment.

(2) If the physical or mental condition of a victim or claimant is material to a claim, the commission may order the victim or claimant to submit from time to time to an examination by a physician or other licensed health professional or may order an autopsy of a deceased victim. The commission shall pay for such examination or autopsy. The order shall specify the time, place, manner, conditions, and scope of the examination or autopsy and the person by whom it is to be made and shall require the person to file with the commission a detailed written report of the examination or autopsy. The report shall set out his findings, including results of all tests made, diagnoses, prognoses, and other conclusions and reports of earlier examinations of the same conditions. On request of the person examined, the commission shall furnish ~~him~~ a copy of the report to him. If the victim is deceased, the commission, on request, shall furnish ~~the--claimant~~ a copy of the report to the claimant.

~~(3)--There--is--no--privilege,--except--privileges--arising-from-the attorney-client-relationship-or--counselor-client--relationship,--as--to communications-or-records-relevant-to-an-issue-of-the-physical-condition of--the--claimant--or-victim-in-a-proceeding-under-this-chapter-in-which that-condition-is-an-element.~~

SECTION 6. That Section 72-1016, Idaho Code, be, and the same is hereby amended to read as follows:

72-1016. LIMITATIONS ON AWARDS. (1) Compensation may not be awarded unless the claim is filed with the commission within one (1) year after the day the criminally injurious conduct occurred causing the injury or death upon which the claim is based. The time for filing a claim may be extended by the commission for good cause shown.

(2) Compensation may not be awarded to a claimant who is the offender or an accomplice of the offender or to any claimant if the award would unjustly benefit the offender or accomplice.

(3) Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two (72) hours after its occurrence or the commission finds there was good cause for the failure to report within that time.

(4) In order to be entitled to benefits under this chapter, a claimant must fully cooperate with all law enforcement agencies and prosecuting attorneys in the apprehension and prosecution of the offender causing the criminally injurious conduct. The commission, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies or prosecuting attorneys, may deny or reconsider and reduce an award of compensation.

(5) Compensation otherwise payable to a claimant shall be reduced or denied to the extent the compensation benefits payable are or can be recouped from collateral sources.

(6) Persons serving a sentence of imprisonment or residing in any other public institution which provides for the maintenance of such person are not entitled to the benefits of this chapter.

(7) (a) Compensation may be denied or reduced if the victim contributed to the infliction of death or injury with respect to which the claim is made. Any reduction in benefits under this subsection

shall be in proportion to what the commission finds to be the victim's contribution to the infliction of death or injury.

(b) Compensation otherwise payable to a claimant shall be reduced by fifty percent (50%) if at the time the injury was incurred claimant was engaged in a felony or was in violation of section 18-8004 or 67-7034, Idaho Code, and compensation otherwise payable may be further reduced pursuant to regulation of the industrial commission if claimant's actions contributed to the injury.

SECTION 7. That Section 72-1019, Idaho Code, be, and the same is hereby amended to read as follows:

72-1019. COMPENSATION BENEFITS. (1) A claimant is entitled to weekly compensation benefits when the claimant has a total actual loss of wages due to injury as a result of criminally injurious conduct. During the time the claimant seeks such weekly benefits, the claimant, as a result of such injury, must have no reasonable prospect of being regularly employed in the normal labor market. The weekly benefit amount is sixty-six and two-thirds percent (66 2/3%) of the wages received at the time of the criminally injurious conduct, subject to a maximum of one hundred seventy-five dollars ($175). Weekly compensation payments shall be made at the end of each two (2) week period. No weekly compensation payments may be paid for the first week after the criminally injurious conduct occurred, but if total actual loss of wages continues for one (1) week, weekly compensation payments shall be paid from the date the wage loss began. Weekly compensation payments shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market.

(2) The commission may order payment of reasonable expenses actually incurred by the claimant for reasonable services by a physician or surgeon, reasonable hospital services and medicines, mental health counseling and care, and such other treatment as may be approved by the commission for the injuries suffered due to criminally injurious conduct. Payment for the costs of forensic and medical examinations of alleged victims of sexual assault performed for the purposes of gathering evidence for possible prosecution, after collections from any third party who has liability, shall be made by the commission. The commission shall establish a procedure for summary processing of such claims.

(3) (a) The dependents of a victim who is killed as a result of criminally injurious conduct are entitled to receive aggregate weekly benefits amounting to sixty-six and two-thirds percent (66 2/3%) of the wages received at the time of the criminally injurious conduct causing the death, subject to a maximum of one hundred seventy-five dollars ($175) per week. Weekly compensation payments shall be made at the end of each two (2) week period.

(b) Benefits under subsection (3)(a) of this section shall be paid to the spouse for the benefit of the spouse and other dependents unless the commission determines that other payment arrangements should be made. If a spouse dies or remarries, benefits under subsection (3)(a) shall cease to be paid to the spouse but shall continue to be paid to the other dependents so long as their dependent status continues.

(4) Reasonable funeral and burial expenses of the victim, not exceeding two thousand five hundred dollars ($2,500), shall be paid if

all other collateral sources have properly paid such expenses but have not covered all such expenses.

(5) (a) Compensation payable to a victim and all of the victim's dependents in cases of the victim's death, because of injuries suffered due to an act or acts of criminally injurious conduct involving the same offender and occurring within a six (6) month period, may not exceed twenty-five thousand dollars ($25,000) in the aggregate.

(b) The limitation of subsection (5)(a) of this section is subject to the further limitation that payments for mental health treatment received as a result of the victim's injury may not exceed two thousand five hundred dollars ($2,500) unless the industrial commission finds extenuating circumstances pursuant to regulation of the industrial commission.

(6) Compensation benefits are not payable for pain and suffering or property damage.

(7) (a) A person who has suffered injury as a result of criminally injurious conduct and as a result of such injury has no reasonable prospect of being regularly employed in the normal labor market, who was employable but was not employed at the time of such injury, may in the discretion of the commission be awarded weekly compensation benefits in an amount determined by the commission not to exceed one hundred fifty dollars ($150) per week. Weekly compensation payments shall continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market or for a shorter period as determined by the commission. The claimant shall be awarded benefits as provided in subsection (2) of this section.

(b) The dependents of a victim who is killed as a result of criminally injurious conduct and who was employable but not employed at the time of death, may, in the discretion of the commission, be awarded, in an aggregate amount payable to all dependents, a sum not to exceed one hundred fifty dollars ($150) per week which shall be payable in the manner and for the period provided by subsection (3)(b) of this section or for such shorter period as determined by the commission. The claimant shall be awarded benefits as provided in subsection (4) of this section.

(c) Compensation payable to a victim or a victim's dependents under this subsection may not exceed twenty thousand dollars ($20,000), and the limitations of subsection (6) of this section apply to compensation under this subsection (7).

(8) Amounts payable as weekly compensation may not be commuted to a lump sum and may not be paid less frequently than every two (2) weeks.

(9) (a) Subject to the limitations in subsection (9)(c) of this section, the spouse, parent, child, brother, or sister of a victim who is killed as a result of criminally injurious conduct is entitled to reimbursement for mental health treatment received as a result of the victim's death.

(b) Subject to the limitations in subsection (9)(c) of this section, the spouse, parent, child, brother or sister of a victim who is sexually assaulted is entitled to reimbursement for mental health treatment received as a result of the crime.

(c) Total payments made under subsections (9)(a) and (9)(b) of this section, may not exceed five hundred dollars ($500) for each person or one thousand five hundred dollars ($1,500) for a family.

(d) With regard to claims filed pursuant to this section, in order for family members of victims of crime to be entitled to benefits, the victim of the crime must also have been awarded benefits for the crime itself.

(10) A claimant or a spouse, parent, child or sibling of a claimant or victim may be reimbursed for his or her expenses for necessary travel incurred in connection with obtaining benefits covered pursuant to this chapter and in accordance with rules of the commission.

Approved March 20, 2002.

CHAPTER 137
(H.B. No. 627)

AN ACT

RELATING TO SPECIAL COURT PROCEEDINGS; AMENDING TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15, TITLE 7, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE AUTHORIZATION, TO PROVIDE FOR APPLICATION OF THE CHAPTER, TO PROVIDE FOR INITIATION OF THE PROCESS, TO PROVIDE A PROCEDURE AND TO PROVIDE FOR MOTIONS FOR REMOVAL FROM EVALUATION, TO AUTHORIZE CERTAIN PERSONS TO ACT AS EVALUATORS, TO PROVIDE FOR APPROVED EVALUATORS, TO PROVIDE FOR THE SELECTION OF EVALUATORS, TO AUTHORIZE THE SUPREME COURT TO PRESCRIBE RULES, STANDARDS AND PROCEDURES AND TO PROVIDE FOR EXEMPTION FROM OPERATION OF THE CHAPTER, TO PROVIDE FOR THE QUALIFICATION, APPOINTMENT AND COMPENSATION OF EVALUATORS, TO PROVIDE AUTHORITY FOR EVALUATORS AND TO PROVIDE A PROCEDURE FOR SERVICE, FILING AND COMPUTATION OF TIME, TO PROVIDE FOR DISCOVERY, TO PROVIDE FOR PREHEARING AND HEARING PROCEDURES, TO PROVIDE FOR EVALUATION DECISIONS AND AWARDS, TO PROVIDE FOR APPEALS, TO PROVIDE FOR TRIAL DE NOVO, TO PROVIDE FOR THE AWARD OF COSTS AND ATTORNEY'S FEES, TO PROVIDE FOR JUDGMENT, TO PROVIDE FOR THE APPLICATION OF OTHER LAWS AND TO PROVIDE FOR JUDGMENT FOR EVALUATOR'S FEES AND COSTS, TO PROVIDE FOR THE RIGHT TO TRIAL BY JURY, TO PROVIDE FOR SEVERABILITY, TO PROVIDE FOR CERTAIN STATISTICAL RECORDS AND TO PROVIDE FOR COMMENCEMENT OF COMPILATION OF EVALUATOR LISTS; TO PROVIDE AN EFFECTIVE DATE, TO PROVIDE FOR APPLICATION AND TO PROVIDE A SUNSET CLAUSE.

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

SECTION 1. That Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 15, Title 7, Idaho Code, and to read as follows:

CHAPTER 15
SMALL LAWSUIT RESOLUTION ACT

7-1501. SHORT TITLE. This chapter shall be referred to as the "Small Lawsuit Resolution Act."

7-1502. AUTHORIZATION. To reduce the cost and expense of litigation and encourage the swift, fair and cost-effective resolution of disputes, the legislature hereby establishes a system to encourage civil litigants

to resolve their disputes through alternative dispute resolution. The procedures to be utilized under this chapter, while based on the alternative dispute resolution processes of arbitration, mediation, and early neutral evaluation, are intended to be as informal as practicable to accomplish these concurrent objectives.

7-1503. ACTIONS TO WHICH THE IDAHO CIVIL EVALUATION OPTION APPLIES -- INITIATION OF PROCESS -- OPTION TO MEDIATE -- MOTIONS FOR REMOVAL FROM EVALUATION. (1) Civil actions in which the sole relief sought is a money judgment in which the parties agree that the total claims for all damages sought by a party do not exceed twenty-five thousand dollars ($25,000) shall be subject to the provisions of this chapter. This chapter shall not apply to appeals from the magistrates division, disputes subject to arbitration under chapter 9, title 7, Idaho Code, proceedings in the small claims division of the district court, cases seeking a punitive damages award, or cases in which this chapter has been previously invoked.

(2) The provisions of this chapter may be initiated by any party by the filing of a notice with the court. The notice shall be filed at least one hundred fifty (150) days prior to a scheduled trial but, without the consent of all parties, may not be filed within forty-five (45) days following the service of a complaint. The trial court shall retain jurisdiction over a case proceeding under this chapter and the case shall remain on the court's active calendar.

(3) The parties shall confer after the filing of the notice to determine if they wish to undertake evaluation or mediation. If they agree to mediate, the parties may agree upon a mediator or utilize as mediator an individual selected pursuant to the evaluator selection provisions of this chapter. If a mediation has been conducted under this chapter, and the mediation has not resulted in the settlement of all claims, within fourteen (14) days following such mediation, the parties shall file a notice with the clerk of the court that a mediation has been completed, that all claims have not been settled and specifying the claims which remain. Within twenty-eight (28) days after the notice is filed, the court shall issue a scheduling order or hold a scheduling conference pursuant to the Idaho rules of civil procedure.

(4) If the parties are not able to agree whether to undertake a mediation or an evaluation under this chapter, a party has seven (7) days after the filing of the notice of the initiation of the provisions of this chapter to file a motion seeking the court to order which form of alternative dispute resolution will be used. The moving party has a right to a hearing pursuant to the Idaho rules of civil procedure. In making its determination on the motion, the court shall consider, among other factors it deems relevant, the nature of the claim(s) and the defense(s), the prior experience, if any, of the parties or their counsel with mediation or evaluation, in this or other cases, the potential likelihood that the facts alleged in a claim, if proven, will lead to liability of one party to another, and the complexity of the case. If the court does not determine that mediation is a preferable means of alternative dispute resolution for the particular case, it shall order the parties to conduct an evaluation under the provisions of this chapter.

(5) Any party may move the court for removal from the evaluation at any stage for good cause. The court shall grant such motion upon its

determination that there has been a substantial change in circumstances or that there is a reasonable potential for the moving party to later seek amendment to its pleadings to allow that party to pursue punitive damages, making the evaluation option an inappropriate method to obtain resolution of the particular dispute.

7-1504. SELECTION OF EVALUATOR -- COURT ADMINISTRATION OF PROCEDURE -- RULES, STANDARDS AND PROCEDURES -- EXEMPTION FROM OPERATION OF THE CHAPTER. (1) All senior and sitting magistrate judges, district judges and appellate court judges and justices are authorized to act as civil litigation evaluators. The supreme court may establish by rule, procedures for the appointment and use, where available, of such judges as evaluators for the purposes of this chapter.

(2) The supreme court shall maintain a list of private civil litigation evaluators who are approved to serve in each district pursuant to this chapter and any rules adopted by the supreme court. Each county's clerk of the court shall from time to time be provided by the supreme court a list of evaluators who are approved to serve in that county pursuant to this chapter and any rules adopted by the supreme court.

(3) Unless a judge is assigned as an evaluator pursuant to court rule, or unless the parties have agreed in advance to the selection of a particular evaluator, upon receipt of a notice of initiation of the provisions of this chapter, the clerk of the court shall provide each party to the case a list containing the names of the same five (5) randomly selected evaluators. If there are more than two (2) parties to the litigation, the clerk will provide ten (10) names.

(4) In every case each party may submit requests for replacement list(s) to the clerk within three (3) days of receipt of a list of evaluators. Upon receipt of such a request, the clerk of the court shall provide each party to the case a new list containing an appropriate number of names of randomly selected evaluators.

(5) Within seven (7) days of receipt of the list, it shall be the duty of the party that filed the notice initiating proceedings under this chapter to initiate contact with the representatives of the other litigants for the purpose of selecting an evaluator. Unless the parties agree on a particular evaluator or a different method of selection, selection of the evaluator will be by alternating strikes. The representative of the initiating party shall strike an evaluator's name, the opposing counsel shall then strike an evaluator's name with the parties alternating until only one (1) name is left. If there are more than two (2) parties, the strikes shall be made in the order the parties' names appear on the case caption commencing with the initiating party. The initiating party shall file notice of the selected evaluator within ten (10) days of the receipt of the list.

(6) If there is any dispute or failure to cooperate with the selection procedures contained in this section, any party may file a motion with the court for assistance in selection of an evaluator. No hearing shall be required and the court shall rule on such motion expeditiously and take whatever steps are necessary to obtain the prompt selection of an evaluator. If the court finds that a party has requested a replacement list of evaluators unreasonably or determines it is otherwise appropriate, the court may appoint a sitting or retired judge or a private lawyer from the list of approved evaluators to serve as evaluator for the case.

(7) Upon application by any party made no sooner than fourteen (14) days after the filing of the notice of request for civil evaluation, the clerk shall assign by random lot any of the individuals identified on the list as the evaluator if no notice of selection or motion for assistance has been filed.

(8) Nothing shall preclude the parties stipulating to the appointment of any individual who agrees to serve as their evaluator under this statute. If the parties stipulate to the appointment of an evaluator different from one on the list provided by the clerk, they shall file a joint statement to that effect with the court.

(9) To the extent it deems necessary, the supreme court may prescribe rules to reduce the costs of evaluation under this chapter. It may also prescribe forms to be used in the evaluation process, and other rules, standards or procedures it deems appropriate to effectuate the purposes of this chapter.

(10) The supreme court may exempt all cases filed in the courts of any county from the operation of this chapter if, following application made by the administrative judge of the judicial district which includes that county, the supreme court determines the county does not have sufficient judicial or other resources to implement and effectuate the purposes of this chapter or for other good cause shown.

7-1505. QUALIFICATIONS, APPOINTMENT AND COMPENSATION OF EVALUATORS. (1) Any individual desiring to be on a list of private civil litigation evaluators under this chapter shall submit a request to the supreme court identifying each district in which the individual wishes to serve. The task of acting as an evaluator under this chapter shall be a service to the judiciary and the legal profession. The legislature encourages members of the bar to accept up to two (2) appointments under this chapter on a pro bono basis each year.

(2) To serve as a private civil litigation evaluator, a person must currently be an active member of the Idaho state bar association and have had such membership for a minimum of seven (7) years or be a retired judge. To the extent it deems them necessary, the supreme court may prescribe by rule additional qualifications for civil litigation evaluators in some or all cases with the purpose of providing the largest pool of individuals with the knowledge and experience to fairly determine claims under this chapter at minimal or no cost to litigants.

(3) Upon appointment in each case, the evaluator must sign an oath to fulfill the duties of the office, including the impartial, unbiased and timely discharge of those duties. He must also affirmatively state that he has no conflict of interest. Challenges to the service of an evaluator shall be made by motion to the trial court and shall be heard expeditiously. Evaluators may decline any appointments for the balance of a calendar year without cause after serving as an evaluator twice during the year. The trial court may otherwise excuse evaluators from an appointment for good cause. If an evaluator declines or is excused from service, a new list shall be requested from the clerk for selection of an evaluator.

(4) Evaluators shall submit their rates of hourly compensation, if any, to the supreme court when submitting their request to be on the list of civil litigation evaluators. The clerk shall include the rate of hourly compensation, if any, for each evaluator in the list of names submitted to the parties. The parties shall each pay an equal portion of

a private evaluator's fee if any is charged as well as an equal portion of any actual costs incurred by the private evaluator. Individuals who wish to serve as private civil litigation evaluators under this chapter other than on a pro bono basis shall agree to serve as an evaluator in exchange for a fee not to exceed one thousand dollars ($1,000) unless the parties agree otherwise. Provided however, that judges assigned as evaluators pursuant to court rule shall not be compensated by the parties.

7-1506. EVALUATOR AUTHORITY — PROCEDURES RELATING TO SERVICE, FILING AND COMPUTATION OF TIME. (1) An evaluator has the authority to:

(a) Decide procedural issues relating to the conduct of the evaluation, including discovery disputes, arising before or during the evaluation process except issues relating to the qualification of the evaluator, which shall be decided by the trial court.

(b) Invite, with reasonable notice, the parties to submit pre-evaluation briefs;

(c) Examine any site or object relevant to the case;

(d) Administer oaths and affirmations to witnesses for the purposes of the evaluation;

(e) Rule on the admissibility of evidence;

(f) Determine the facts, decide the law, issue a decision, and make an award;

(g) Adjust or extend statutory deadlines set forth in this chapter, for good cause shown; and

(h) Take such other acts as are necessary to accomplish the object of a fair, swift, and cost-effective determination of the case.

(2) An evaluator shall not decide motions to dismiss, motions to add or change parties in the case, or motions for summary judgment. Any such motion shall be presented to the trial court for determination.

(3) After the case is assigned to the evaluator, service shall be made consistent with rule 5 of the Idaho rules of civil procedure, except that documents used in the evaluation shall be filed with the evaluator instead of the court.

(4) Time shall be computed pursuant to the Idaho rules of civil procedure.

(5) Except for the authority expressly given to an evaluator by this chapter, all issues shall be determined by the court.

7-1507. DISCOVERY. (1) Unless the evaluator orders otherwise:

(a) A defending party may demand in writing a statement from each claimant setting forth separately the amounts of any special, general or other damages sought in the evaluation. Such statement shall be served on all parties no later than twenty-one (21) days after receipt of the demand;

(b) A party may take the deposition of another party pursuant to the Idaho rules of civil procedure;

(c) If the physical or mental condition of a claimant is at issue, the defending parties may obtain the relevant medical reports of the claimant and one (1) defendant's medical examination of the claimant. The evaluator shall decide any limitations to be placed on the time, place, manner, conditions or scope of the examination if requested. A claimant shall have an absolute right to a copy of any

document created by the examiner or the examiner's employees or agents during or after the examination. Such materials shall be provided to the claimant within fourteen (14) days of the date of the examination and no later than twenty-one (21) days prior to the evaluation hearing date. Failure to timely provide the medical examiner's materials shall be a basis for vacating and rescheduling the hearing or for excluding the evidence in the discretion of the evaluator;

(d) The parties may submit requests for admission to one another pursuant to the Idaho rules of civil procedure.

(2) The conclusions and foundations therefore of any expert opinion testimony that a party intends to offer at the evaluation shall be submitted in writing to the opposing party no later than twenty-one (21) days prior to the evaluation. Medical records are deemed to fulfill the requirements of this subsection. If the opposing party concludes that it needs to take the expert's deposition and the parties cannot reach agreement to do so, the written report shall be submitted to the evaluator who, after hearing the opposing party's reasons for requesting the deposition, may order it to go forward. The evaluator's determination that such discovery will occur shall be based on whether it is necessary to obtain a fair determination of the case. If a party wishes to offer the live testimony of any expert witness at the evaluation, notice of the intent to do so must be given to the other parties no later than twenty-one (21) days prior to the evaluation and the opposing parties shall have the right to depose the expert before the evaluation is conducted.

(3) No additional discovery shall be due or obtained for the purpose of the evaluation unless the parties stipulate thereto or the evaluator has ordered otherwise based on the evaluator's determination that such discovery is necessary to obtain a fair, swift and cost-effective determination of the case.

(4) Costs of all depositions, including fees for expert testimony, and medical examinations shall be paid by the party requesting the examination or testimony.

7-1508. PREHEARING AND HEARING PROCEDURES. (1) The evaluator shall set the time and place of the evaluation hearing and shall give reasonable notice of the hearing to the parties. The parties may agree to hold the hearing by telephone. Except by stipulation among the parties and the evaluator, or for good cause shown, the hearing shall be scheduled to take place no sooner than twenty-eight (28) days, nor later than seventy (70) days, from the date of the assignment of the case to the evaluator. If a case will be heard later than seventy (70) days from the date of assignment, the evaluator shall file a notice with the trial court providing reasons for the delay and informing the court of the date of the hearing.

(2) Except for good cause shown, no party shall be allowed more than three (3) hours for presentation of its case at an evaluation hearing.

(3) Counsel for the parties and the evaluator may issue subpoenas for the hearing in the manner provided in the Idaho rules of civil procedure.

(4) At least fourteen (14) days prior to the date of the evaluation, each party shall file with the evaluator and serve upon all other

parties a prehearing statement containing a list of witnesses the party intends to call at the evaluation hearing and a list of exhibits and documentary evidence a party intends to utilize at the hearing. The document will identify whether the testimony shall be live, presented in a sworn writing, or taken by telephone. Upon request, all written and other tangible evidence identified shall be made available for the opposing party's inspection and copying at least seven (7) days prior to the hearing date. The evaluator shall have the right to exclude any evidence not provided in compliance with this section.

(5) The evaluator shall control the mode and order of proof with the objectives of making the presentation of evidence effective for the ascertainment of facts, avoiding the needless consumption of time, protecting witnesses from harassment and undue embarrassment, and ensuring the fair, swift, and cost-effective determination of the case. Witnesses shall testify under oath administered by the evaluator with the full penalty of law to apply to violation of that oath. The evaluator may allow testimony by telephone or other nontraditional means. The evaluator may question any witness. A party has the right to cross-examine any other party and any witness called by another party.

(6) The hearing may be recorded electronically upon the request of any party, the cost to be borne by that party.

(7) Proceedings shall be under the control of the evaluator and as informal as practicable. The extent to which the formal rules of evidence will be applied shall rest in the discretion of the evaluator. To the extent determined applicable, the evaluator shall construe those rules liberally in order to effectuate a fair, swift and cost-efficient procedure. Expert opinion testimony shall only be allowed if the conclusions and foundations therefore were appropriately disclosed and, if offered live, subjected to the opportunity for deposition pursuant to section 7-1507(2), Idaho Code, and otherwise admissible under the Idaho rules of evidence.

(8) To effectuate the fair, swift and cost-efficient nature of the evaluation, the following documents shall be presumed admissible and may be provided to the evaluator prior to the hearing, provided the documents are disclosed in the prehearing statement and, where relevant, the name, address and telephone number of the author of the document is contained in the document or set forth in the prehearing statement:

(a) Any written contract between the parties;

(b) A copy of any billing statement or invoice prepared in the normal course of business;

(c) Copies of any correspondence between the parties;

(d) Any document that would be admissible under rule 803(6) of the Idaho rules of evidence;

(e) A bill, report, chart, or record of a hospital, doctor, dentist, registered nurse, licensed practical nurse, physical therapist, psychologist or other health care provider, on a letterhead, or billhead or otherwise clearly identifiable as part of the provider's professional record;

(f) A bill for drugs, medical appliances or other related expenses on letterhead, or billhead or otherwise clearly identifiable as part of a provider's professional record;

(g) A bill for, or estimate of, property damage or loss on a letterhead or billhead. In the case of an estimate, the offering party shall notify the adverse party no later than, as part of the

prehearing statement, whether the property was repaired, in full or in part and provide the actual bill showing the cost of repairs;

(h) A police, weather, or wage loss report or standard life expectancy table to the extent it is relevant without need for authentication;

(i) A photograph, videotape, x-ray, drawing, map, blueprint, or similar evidence to the extent it is relevant without the need for authentication;

(j) The written statement of any witness made as part of a police investigation;

(k) The written statement of any witness, including a written report of any expert witness that contains a statement of opinion based on proper qualifications which the witness would be allowed to express if testifying in person;

(l) A document not specifically covered by the foregoing but having equivalent circumstantial guarantees of trustworthiness, the admission of which would help in the swift, fair and cost-effective resolution of the dispute or otherwise serve the interests of justice.

(9) The admission of a document under subsection (8) of this section does not, in any manner, restrict argument or proof relating to the weight of the evidence admitted, nor does it limit the evaluator's discretion to determine the weight of the evidence after hearing all evidence and the arguments of the parties.

(10) The evaluation hearing may proceed, and a decision may issue, in the absence of any party who, after due notice, fails to participate or to obtain a continuance. Continuances shall only be granted for good cause and for the shortest practicable time. If a party is absent, the evaluator may permit any party present to submit evidence supporting such present party's position in the case. In a case involving more than one (1) defendant, the absence of a defendant shall not preclude the evaluator from assessing as part of the award, damages against the defendant or defendants who are absent. The evaluator, for good cause shown, may allow an absent party an opportunity to appear at a subsequent hearing before making an award. A party who fails to participate in the hearing or prehearing process without good cause waives the right to a trial de novo. If it is shown to the trial court by clear and convincing evidence that a party or its counsel has not acted in good faith during the evaluation, the trial court may impose any appropriate sanction against such party or its counsel.

7-1509. EVALUATION DECISION AND AWARD -- APPEALS -- TRIAL DE NOVO -- MISCELLANEOUS. (1) Within fourteen (14) days following the evaluation, the evaluator shall issue a written, signed decision. The evaluator shall determine all issues raised by the pleadings, including a determination of any damages. The evaluator shall apply the applicable law as it exists; however, neither findings of fact nor conclusions of law shall be required. The decision and award shall be served on the parties. The evaluator shall file a notice of issuance of the evaluator's decision with the clerk of the court, together with proof of service of the notice and the decision on the parties. The decision and award shall not be filed with the clerk of the court. No evaluator's award shall exceed twenty-five thousand dollars ($25,000) in total damages to a party. No evaluator's award shall include exemplary or punitive damages. An evaluator may, in addition, award costs and attorney's

fees under the terms of an applicable contract.

(2) Within twenty (20) days after the notice of issuance of the evaluator's decision has been filed with the clerk of the court, any party may file with the clerk a written notice of appeal and request for a trial de novo in the district court on all issues of law and fact. Within twenty-eight (28) days after the request for a trial de novo has been filed, the court shall issue a scheduling order or hold a scheduling conference pursuant to the Idaho rules of civil procedure.

(3) The trial de novo shall proceed as if the evaluation had not occurred. No reference to the evaluation or to the amount of the evaluation award shall be made to the trial court or the jury during any part of the trial de novo. Discovery taken and statements made during the evaluation process may be used at the trial de novo as provided in the Idaho rules of civil procedure and the Idaho rules of evidence; however, no reference shall be made to the fact that any statement was made in an evaluation proceeding. Any dollar amount sought, demanded or awarded during the evaluation, including the parties' agreement that for the purposes of the evaluation the claim is limited to twenty-five thousand dollars ($25,000), shall be treated as an offer of compromise pursuant to the Idaho rules of evidence and shall not be admissible at trial. Any examination made pursuant to the provisions of section 7-1507(1)(c), Idaho Code, shall be subject to rule 35 of the Idaho rules of civil procedure. Any violation of the provisions of this subsection by a party or its representatives shall be subject to appropriate sanctions by the trial court.

(4) The relief sought at trial shall not be limited by the evaluation; provided however, that judgment for damages of more than twenty-five thousand dollars ($25,000), exclusive of costs and fees, may not be entered for a party who has agreed that its claim does not exceed twenty-five thousand dollars ($25,000) for the purposes of initiating alternative dispute resolution under this chapter and shall be reduced by the court unless the claimant establishes the applicability of the factors of rule 60 of the Idaho rules of civil procedure. An evaluator may not be called as a witness at the trial de novo.

(5) The trial court shall assess costs and reasonable attorney's fees against a party who appeals from an evaluation award and fails to improve its position at the trial de novo by at least fifteen percent (15%).

(6) Up to forty-five (45) days following the filing of the notice of issuance of the evaluator's decision, a party may serve upon the other party(ies) a written offer of compromise. If an offer of compromise is not accepted by the other party(ies) within ten (10) days after service thereof, the amount used for determining whether the party appealing the evaluator's award has improved its position shall be the amount of the offer of compromise. Neither the evaluator's decision nor the offer of compromise shall be submitted to the trial court until the verdict or judgment has been rendered in the trial de novo.

(7) The trial court may assess some or all costs and reasonable attorney's fees against a party who withdraws its request for a trial de novo where the withdrawal is not in conjunction with the acceptance of an offer of compromise.

(8) For the purposes of this section "costs and reasonable attorney's fees" means all those provided for by statute or rule as well as all expert witness fees and other expenses the court finds were rea-

sonably incurred after the appeal from the evaluation award was filed.

(9) If no appeal has been filed at the expiration of twenty-one (21) days following the filing of the evaluator's notice of decision, a judgment may be presented to the court by any party accompanied by a copy of the evaluator's award. If the judgment is in conformity with the evaluator's award it shall be entered and shall have the same force and effect as any other judgment in a civil action but shall not be subject to appellate review and may only be set aside pursuant to the provisions of rule 60 of the Idaho rules of civil procedure.

(10) Witness fees and other costs provided for by statute or court rule in district court proceedings shall be awarded by the court upon entry of judgment to the same extent and in the same manner as if the hearing had been held in court.

(11) The provisions of this chapter do not affect or preclude the application of any other statute or rule regarding fees or costs including, but not limited to, those in title 7 or 12, Idaho Code, section 41-1839, Idaho Code, or the Idaho rules of civil procedure. Awards of damages and of attorney's fees and costs, when made to opposing parties, shall be set off against one another and judgment shall be entered for the net amount to the party(ies) entitled thereto.

(12) An evaluator may obtain a judgment for his fees and costs in the pending litigation against any party that refuses to pay its share. Judgment shall be obtained by motion to the trial court which shall only be granted after the party failing to pay has had the opportunity to be heard and object.

7-1510. RIGHT TO TRIAL BY JURY. The intent of this chapter is to maintain the right to a jury trial and the provisions of this statute shall be construed to uphold that right.

7-1511. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

7-1512. STATISTICAL RECORDS -- COMPILATION OF EVALUATOR LIST. (1) The supreme court shall keep statistical records of the number of requests for evaluation filed pursuant to the provisions of this chapter, the number of appeals from evaluation awards hereunder, the number of instances in which a party improves its position by at least fifteen percent (15%) on appeal.

(2) Commencing no later than July 1, 2002, the supreme court shall begin compiling the names of individuals desiring to serve as civil litigation evaluators in each judicial district.

SECTION 2. This act shall be in full force and effect on and after January 1, 2003, and shall apply to all cases for which initial complaints are filed on or after January 1, 2003. This act shall be null, void and of no force and effect on and after June 30, 2006, provided, however, that the provisions of the act shall continue to apply to all applicable cases in which initial complaints are filed on or before June 30, 2006.

Approved March 20, 2002.

CHAPTER 138
(H.B. No. 628)

AN ACT

RELATING TO FEES OF THE STATE BAR ASSOCIATION; AMENDING SECTION 3-409, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO REVISE LICENSING FEES OF THE IDAHO STATE BAR ASSOCIATION FOR THE YEAR 2003 AND EACH YEAR THEREAFTER.

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

SECTION 1. That Section 3-409, Idaho Code, be, and the same is hereby amended to read as follows:

3-409. LICENSE FEES AND APPROPRIATIONS. Every person practicing, or holding himself out as practicing law within this state, or holding himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, except state and United States judges of the courts of record within this state, shall, prior to so doing and no later than February 1 of each year pay to the board of commissioners of the Idaho state bar as a license fee the following amounts:

~~For the year 1999: For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred dollars ($100); For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: sixty dollars ($60.00); Each year for the next three (3) calendar years following the calendar year of admission: two hundred five dollars ($205); Each year after the third full year of admission: two hundred seventy five dollars ($275); Each year following the calendar year of the lawyer's seventy-second birthday: fifty dollars ($50.00); Affiliate members for each calendar year: one hundred five dollars ($105).~~

For the year 2000 and each year thereafter: For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred fifteen dollars ($115); For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: sixty-five dollars ($65.00); Each year for the next three (3) calendar years following the calendar year of admission: two hundred thirty dollars ($230); Each year after the third full year of admission three hundred fifteen dollars ($315); Each year following the calendar year of the lawyer's seventy-second birthday: fifty-five dollars ($55.00); Affiliate members for each calendar year one hundred twenty dollars ($120).

For the year 2003 and each year thereafter: For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred forty dollars ($140); For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: ninety dollars ($90.00); Each year for the next three (3) calendar years following the calendar year of admission: two hundred fifty-five dollars ($255); Each year after the third full year of admission three hundred forty dollars ($340); Each year following the calendar year of the lawyer's seventy-second birthday: fifty-five dollars ($55.00); Affiliate members for each calendar year one hundred twenty dollars ($120).

The moneys thus collected, together with other revenues shall be administered under the direction of the board of commissioners of the Idaho state bar for the purpose of administering the Idaho state bar, encouraging local bar associations, promoting legal education seminars, fostering relations between the public and the bar and for the purpose of establishing and maintaining a clients' security fund which shall be administered by the Idaho state bar commissioners under rules approved by the supreme court, provided that the clients' security fund shall be funded by assessment of the members of the Idaho state bar not to exceed ten dollars ($10.00) per member per year, independent of the license fee. All moneys received and expended by the commissioners of the Idaho state bar shall be audited annually by a certified public accountant.

Approved March 20, 2002.

CHAPTER 139
(H.B. No. 631)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1002, IDAHO CODE, TO CLARIFY THAT NO LOCAL JURISDICTION SHALL HAVE AUTHORITY TO REQUIRE A STATE LICENSEE TO PAY FEES TO THE LOCAL JURISDICTION IN ORDER TO ENGAGE IN THE ELECTRICAL CONSTRUCTION TRADE WITHIN THAT LOCAL JURISDICTION.

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 or special 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 electrician's license pursuant to this chapter may act as a journeyman electrician.

(3) It shall be unlawful for any person to act as a specialty electrician in this state until such person shall have received a license as a specialty 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 electrician's license or a journeyman electrician's license pursuant to this act may act as a specialty electrician.

(4) Licensure of electrical contractors, journeyman electricians, master electricians, specialty electricians, specialty electrical contractors and registration of apprentice 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 require payment of any fees in order for any licensee to engage in the electrical construction trade within the local jurisdiction 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.

Approved March 20, 2002.

CHAPTER 140
(H.B. No. 640, As Amended)

AN ACT

RELATING TO LICENSURE AND REGULATION OF FOOD ESTABLISHMENTS; AMENDING SECTIONS 11 AND 12, CHAPTER 194, LAWS OF 1997, AS AMENDED BY SECTIONS 1 AND 2, CHAPTER 176, LAWS OF 2000, TO MOVE THE SUNSET CLAUSE AHEAD FIVE YEARS; AND AMENDING SECTION 39-1607, IDAHO CODE, TO INCREASE THE MAXIMUM FEE THAT MAY BE CHARGED FOR LICENSING A FOOD ESTABLISHMENT BY THE DEPARTMENT OF HEALTH AND WELFARE.

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

SECTION 1. That Section 11, Chapter 194, Laws of 1997, as amended by Section 1, Chapter 176, Laws of 2000, be, and the same is hereby amended to read as follows:

SECTION 11. Section 7 of this act shall be null, void and of no force and effect on and after July 1, 200~~2~~7.

SECTION 2. That Section 12, Chapter 194, Laws of 1997, as amended by Section 2, Chapter 176, Laws of 2000, be, and the same is hereby amended to read as follows:

SECTION 12. Sections 9 and 10 of this act shall be in full force and effect on and after July 1, 200~~2~~7.

SECTION 3. That Section 39-1607, Idaho Code, be, and the same is hereby amended to read as follows:

39-1607. LICENSE FEE. A fee may be charged by the department of health and welfare for licensing a food establishment. The fee shall not exceed ~~fifty~~sixty-five dollars ($~~5~~65.00) per establishment per year.

Fees collected for licensing a food establishment shall be deposited in the food safety fund and shall be used for funding a portion of the food safety inspection program.

Approved March 20, 2002.

CHAPTER 141
(H.B. No. 643, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE EQUIPMENT; AMENDING CHAPTER 9, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-967, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR ANY PERSON TO SELL OR TRANSFER OWNERSHIP OF A VEHICLE WITHOUT GIVING PRIOR WRITTEN NOTICE TO THE PURCHASER OR TRANSFEREE IF THE PERSON KNOWS OR SHOULD REASONABLY KNOW THAT ANY AIR BAG OR THE AIR BAG SYSTEM IS INOPERABLE AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. That Chapter 9, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-967, Idaho Code, and to read as follows:

49-967. AIR BAGS AND AIR BAG SYSTEMS — DISCLOSURE IF INOPERABLE. (1) It shall be unlawful for any person to sell or otherwise transfer ownership of a vehicle without giving prior written notice to the purchaser or transferee if the person knows or should reasonably know that any air bag or the air bag system is inoperable.

(2) The provisions of this section shall apply only to vehicles originally equipped with factory-installed air bags or an air bag system.

(3) The provisions of this section shall not apply to a vehicle in which a deployed air bag is visible in its deployed condition or to a vehicle from which an air bag has been cut or torn away and that fact is plainly visible.

Approved March 20, 2002.

CHAPTER 142
(H.B. No. 648)

AN ACT

RELATING TO MUNICIPAL ELECTIONS; AMENDING CHAPTER 4, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-479, IDAHO CODE, TO PROVIDE FOR APPLICATION OF PERSUASIVE POLL REQUIREMENTS TO CERTAIN MUNICIPAL ELECTIONS.

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

SECTION 1. That Chapter 4, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-479, Idaho Code, and to read as follows:

50-479. APPLICATION OF PERSUASIVE POLL REQUIREMENTS. The provisions of section 67-6629, Idaho Code, requiring that the identity of a person or entity paying for a persuasive poll must be disclosed, are hereby made applicable to all elections for mayor and councilman in cities of sixteen thousand (16,000) or more population.

Approved March 20, 2002.

CHAPTER 143
(H.B. No. 653)

AN ACT

RELATING TO URBAN RENEWAL; AMENDING SECTION 50-2006, IDAHO CODE, TO ESTABLISH A FISCAL YEAR AND AUDIT REQUIREMENTS, TO REQUIRE COMPLIANCE WITH PUBLIC RECORDS LAW, OPEN MEETING LAW, COMPETITIVE BIDDING REQUIREMENTS AND ETHICS IN GOVERNMENT LAW AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-2903, IDAHO CODE, TO DEFINE ADDITIONAL TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-2904, IDAHO CODE, TO ADD A CONDITION GOVERNING THE DURATION OF A REVENUE ALLOCATION FINANCING PROVISION; AMENDING SECTION 50-2905, IDAHO CODE, TO REQUIRE STATEMENTS OF TERMINATION DATE AND DISPOSITION AND RETENTION OF ASSETS UPON TERMINATION TO BE INCLUDED IN AN URBAN RENEWAL PLAN; AMENDING SECTION 50-2909, IDAHO CODE, TO REQUIRE FINANCING OBLIGATIONS TO BE SATISFIED BEFORE ALLOCATIONS CEASE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-301A, IDAHO CODE, TO ADD A VALUE WHICH MAY BE INCLUDED ON A NEW CONSTRUCTION ROLL; AMENDING SECTION 63-803, IDAHO CODE, TO DEFINE TAXABLE VALUE TO INCLUDE INCREMENT VALUE WHEN REVENUE IS SUFFICIENT TO COVER EXPENSES; AND AMENDING SECTION 63-1312, IDAHO CODE, TO INCLUDE INCREMENT VALUE IN TAXABLE VALUE WHEN REVENUE IS SUFFICIENT TO COVER EXPENSES.

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

SECTION 1. That Section 50-2006, Idaho Code, be, and the same is hereby amended to read as follows:

50-2006. URBAN RENEWAL AGENCY. (a) There is hereby created in each municipality an independent public body corporate and politic to be known as the "urban renewal agency" for the municipality~~:~~; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless the local governing body has made the findings prescribed in section 50-2005, Idaho Code.

(b) Upon the local governing body making such findings, the urban renewal agency is authorized to transact the business and exercise the powers hereunder by a board of commissioners to be appointed or designated as follows:

(1) The mayor, by and with the advice and consent of the local gov-

erning body, shall appoint a board of commissioners of the urban renewal agency which shall consist of not less than three (3) commissioners nor more than nine (9) commissioners. In the order of appointment, the mayor shall designate the number of commissioners to be appointed, and the term of each, provided that the original term of office of no more than two (2) commissioners shall expire in the same year. The commissioners shall serve for terms not to exceed five (5) years, from the date of appointment, except that all vacancies shall be filled for the unexpired term. For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearings and have had an opportunity to be heard in person or by counsel.

(2) By enactment of an ordinance, the local governing body may appoint and designate itself to be the board of commissioners of the urban renewal agency, in which case all the rights, powers, duties, privileges and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the local governing body, who shall, in all respects when acting as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended.

(3) By enactment of an ordinance, the local governing body may terminate the appointed board of commissioners and thereby appoint and designate itself as the board of commissioners of the urban renewal agency.

(c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws shall require a larger number.

The mayor may appoint a chairman, a cochairman, or a ~~vice-chairman~~ vice chairman for a term of office of one (1) year from among the commissioners, thereafter the commissioners shall elect the chairman, cochairman or ~~vice-chairman~~ vice chairman for a term of one (1) year from among their members. An agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this act shall file, with the local governing body, on or before March 31 of each year a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets,

liabilities, income and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk or county recorder and in the office of the agency.

(d) An urban renewal agency shall have the same fiscal year as a municipality and shall be subject to the same audit requirements as a municipality. An urban renewal agency shall be required to prepare and file with its local governing body an annual financial report and shall prepare, approve and adopt an annual budget for filing with the local governing body, for informational purposes. A budget means an annual estimate of revenues and expenses for the following fiscal year of the agency.

(e) An urban renewal agency shall comply with the public records law pursuant to chapter 3, title 9, Idaho Code, open meetings law pursuant to chapter 23, title 67, Idaho Code, the ethics in government law pursuant to chapter 7, title 59, Idaho Code, and the competitive bidding provisions of section 50-341, Idaho Code.

SECTION 2. That Section 50-2903, Idaho Code, be, and the same is hereby amended to read as follows:

50-2903. DEFINITIONS. The following terms used in this chapter shall have the following meanings, unless the context otherwise requires:

(1) "Act" or "this act" means this revenue allocation act.

(2) "Agency" or "urban renewal agency" means a public body created pursuant to section 50-2006, Idaho Code.

(3) "Authorized municipality" or "municipality" means any county or incorporated city which has established an urban renewal agency, or by ordinance has identified and created a competitively disadvantaged border community.

(4) "Base assessment roll" means the equalized assessment rolls, for all classes of taxable property, on January 1 of the year in which the local governing body of an authorized municipality passes an ordinance adopting or modifying an urban renewal plan containing a revenue allocation financing provision, except that the base assessment roll shall be adjusted as follows: the equalized assessment valuation of the taxable property in a revenue allocation area as shown upon the base assessment roll shall be reduced by the amount by which the equalized assessed valuation as shown on the base assessment roll exceeds the current equalized assessed valuation of any taxable property located in the revenue allocation area, and by the equalized assessed valuation of taxable property in such revenue allocation area that becomes exempt from taxation subsequent to the date of the base assessment roll. The equalized assessed valuation of the taxable property in a revenue allocation area as shown on the base assessment roll shall be increased by the equalized assessed valuation, as of the date of the base assessment roll, of taxable property in such revenue allocation area that becomes taxable after the date of the base assessment roll.

(5) "Budget" means an annual estimate of revenues and expenses for the following fiscal year of the agency. An agency shall, by September 1 of each calendar year, adopt and publish, as described in section

50-1002, Idaho Code, a budget for the next fiscal year. An agency may amend its adopted budget using the same procedures as used for adoption of the budget. For the fiscal year that immediately predates the termination date for an urban renewal plan involving a revenue allocation area or will include the termination date, the agency shall adopt and publish a budget specifically for the projected revenues and expenses of the plan and make a determination as to whether the revenue allocation area can be terminated before the January 1 of the termination year pursuant to the terms of section 50-2909(4), Idaho Code. In the event that the agency determines that current tax year revenues are sufficient to cover all estimated expenses for the current year and all future years, by September 1 the agency shall adopt a resolution advising and notifying the local governing body, the county auditor, and the state tax commission and recommending the adoption of an ordinance for termination of the revenue allocation area by December 31 of the current year and declaring a surplus to be distributed as described in section 50-2909, Idaho Code, should a surplus be determined to exist. The agency shall cause the ordinance to be filed with the office of the county recorder and the Idaho state tax commission as provided in section 63-215, Idaho Code. Upon notification of revenues sufficient to cover expenses as provided herein, the increment value of that revenue allocation area shall be included in the net taxable value of the appropriate taxing districts when calculating the subsequent property tax levies pursuant to section 63-803, Idaho Code. The increment value shall also be included in subsequent notification of taxable value for each taxing district pursuant to section 63-1312, Idaho Code, and subsequent certification of actual and adjusted market values for each school district pursuant to section 63-315, Idaho Code.

(6) "Clerk" means the clerk of the municipality.

(~~6~~7) "Competitively disadvantaged border community area" means a parcel of land consisting of at least forty (40) acres which is situated within the jurisdiction of a county or an incorporated city and within twenty-five (25) miles of a state or international border, which the governing body of such county or incorporated city has determined by ordinance is disadvantaged in its ability to attract business, private investment, or commercial development, as a result of a competitive advantage in the adjacent state or nation resulting from inequities or disparities in comparative sales taxes, income taxes, property taxes, population or unique geographic features.

(~~7~~8) "Deteriorated area" means:

(a) Any area, including a slum area, in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(b) Any area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe

conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, results in economic underdevelopment of the area, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use.

(c) Any area which is predominately open and which because of obsolete platting, diversity of ownership, deterioration of structures or improvements, or otherwise, results in economic underdevelopment of the area or substantially impairs or arrests the sound growth of a municipality. The provisions of section 50-2008(d), Idaho Code, shall apply to open areas.

(d) Any area which the local governing body certifies is in need of redevelopment or rehabilitation as a result of a flood, storm, earthquake, or other natural disaster or catastrophe respecting which the governor of the state has certified the need for disaster assistance under any federal law.

(e) Any area which by reason of its proximity to the border of an adjacent state is competitively disadvantaged in its ability to attract private investment, business or commercial development which would promote the purposes of this chapter.

(~~8~~9) "Facilities" means land, rights in land, buildings, structures, machinery, landscaping, extension of utility services, approaches, roadways and parking, handling and storage areas, and similar auxiliary and related facilities.

(10) "Increment value" means the total value calculated by summing the differences between the current equalized value of each taxable property in the revenue allocation area and that property's current base value on the base assessment roll, provided such difference is a positive value.

(~~9~~11) "Local governing body" means the city council or board of county commissioners of a municipality.

(1~~0~~2) "Plan" or "urban renewal plan" means a plan, as it exists or may from time to time be amended, prepared and approved pursuant to section 50-2008, Idaho Code, and any method or methods of financing such plan, which methods may include revenue allocation financing provisions.

(1~~1~~3) "Project" or "urban renewal project" or "competitively disadvantaged border areas" may include undertakings and activities of a municipality in an urban renewal area for the elimination of deteriorated or deteriorating areas and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:

(a) Acquisition of a deteriorated area or a deteriorating area or portion thereof;

(b) Demolition and removal of buildings and improvement;

(c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, open space, off-street parking facili-

ties, public facilities, public recreation and entertainment facilities or buildings and other improvements necessary for carrying out, in the urban renewal area or competitively disadvantaged border community area, the urban renewal objectives of this act in accordance with the urban renewal plan or the competitively disadvantaged border community area ordinance.

(d) Disposition of any property acquired in the urban renewal area or the competitively disadvantaged border community area (including sale, initial leasing or retention by the agency itself) or the municipality creating the competitively disadvantaged border community area at its fair value for uses in accordance with the urban renewal plan except for disposition of property to another public body;

(e) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;

(f) Acquisition of real property in the urban renewal area or the competitively disadvantaged border community area which, under the urban renewal plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property;

(g) Acquisition of any other real property in the urban renewal area or competitively disadvantaged border community area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or to prevent the spread of blight or deterioration, or to provide land for needed public facilities or where necessary to accomplish the purposes for which a competitively disadvantaged border community area was created by ordinance;

(h) Lending or investing federal funds; and

(i) Construction of foundations, platforms and other like structural forms.

(124) "Project costs" includes, but is not limited to:

(a) Capital costs, including the actual costs of the construction of public works or improvements, facilities, buildings, structures, and permanent fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures, and permanent fixtures; the acquisition of equipment; and the clearing and grading of land;

(b) Financing costs, including interest during construction and capitalized debt service or repair and replacement or other appropriate reserves;

(c) Real property assembly costs, meaning any deficit incurred from the sale or lease by a municipality of real or personal property within a revenue allocation district;

(d) Professional service costs, including those costs incurred for architectural, planning, engineering, and legal advice and services;

(e) Direct administrative costs, including reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan;

(f) Relocation costs;

(g) Other costs incidental to any of the foregoing costs.

(135) "Revenue allocation area" means that portion of an urban

renewal area or competitively disadvantaged border community area the equalized assessed valuation (as shown by the taxable property assessment rolls) of which the local governing body has determined, on and as a part of an urban renewal plan, is likely to increase as a result of the initiation of an urban renewal project or competitively disadvantaged border community area. The base assessment roll or rolls of revenue allocation area or areas shall not exceed at any time ten percent (10%) of the current assessed valuation of all taxable property within the municipality.

(~~14~~6) "State" means the state of Idaho.

(~~15~~7) "Tax" or "taxes" means all property tax levies upon taxable property.

(~~16~~8) "Taxable property" means taxable real property, personal property, operating property, or any other tangible or intangible property included on the equalized assessment rolls.

(~~17~~9) "Taxing district" means a taxing district as defined in section 63-201, Idaho Code, as that section now exists or may hereafter be amended.

(20) "Termination date" means a specific date no later than twenty-four (24) years from the effective date of an urban renewal plan or as described in section 50-2904, Idaho Code, on which date the plan shall terminate. Every urban renewal plan shall have a termination date that can be modified or extended subject to the twenty-four (24) year maximum limitation. Provided however, the duration of a revenue allocation financing provision may be extended as provided in section 50-2904, Idaho Code.

SECTION 3. That Section 50-2904, Idaho Code, be, and the same is hereby amended to read as follows:

50-2904. AUTHORITY TO CREATE REVENUE ALLOCATION AREA. An authorized municipality is hereby authorized and empowered to adopt, at any time, a revenue allocation financing provision, as described in this chapter, as part of an urban renewal plan or competitively disadvantaged border community area ordinance. A revenue allocation financing provision may be adopted either at the time of the original adoption of an urban renewal plan or the creation by ordinance of a competitively disadvantaged border community area or thereafter as a modification of an urban renewal plan or the ordinance creating the competitively disadvantaged border community area. Urban renewal plans existing prior to the effective date of this section may be modified to include a revenue allocation financing provision. Except as provided below, no revenue allocation provision of an urban renewal plan or competitively disadvantaged border community area ordinance, including all amendments thereto, shall have a duration exceeding twenty-four (24) years from the date the ordinance is approved by the municipality. The duration of the revenue allocation financing provision may be extended if:

(1) The maturity date of any bonds issued to provide funds for a specific project in the revenue allocation area and payable from the revenue allocation financing provision exceeds the duration of the revenue allocation financing provision, provided such bond maturity is not greater than thirty (30) years; or

(2) The urban renewal agency determines that it is necessary to refinance outstanding bonds payable from the revenue allocation financ-

ing provision to a maturity exceeding the twenty-four (24) year duration of the revenue allocation financing provision in order to avoid a default on the bonds; ~~and~~ or

(3) The local governing body has adopted an urban renewal plan or competitively disadvantaged border community area ordinance or an amendment to an urban renewal plan or competitively disadvantaged border community area ordinance prior to July 1, 2000, in which is defined the duration of the plan beyond a period of twenty-four (24) years, in which case the revenue allocation provision shall have a duration as described in such urban renewal plan or competitively disadvantaged border community ordinance; and

(4) During the extensions set forth in subsections (1) and (2) of this section, any revenue allocation revenues exceeding the amount necessary to repay the bonds during the period exceeding the twenty-four (24) year maturity of the revenue allocation financing provision shall be returned to the taxing districts in the revenue allocation area on a pro rata basis.

SECTION 4. That Section 50-2905, Idaho Code, be, and the same is hereby amended to read as follows:

50-2905. RECOMMENDATION OF URBAN RENEWAL AGENCY. In order to implement the provisions of this chapter, the urban renewal agency of the municipality shall prepare and adopt a plan for each revenue allocation area and submit the plan and recommendation for approval thereof to the local governing body. The plan shall include a statement listing:

(1) The kind, number, and location of all proposed public works or improvements within the revenue allocation area;

(2) An economic feasibility study;

(3) A detailed list of estimated project costs;

(4) A fiscal impact statement showing the impact of the revenue allocation area, both until and after the bonds are repaid, upon all taxing districts levying taxes upon property on the revenue allocation area; and

(5) A description of the methods of financing all estimated project costs and the time when related costs or monetary obligations are to be incurred.

(6) A termination date for the plan and the revenue allocation area as provided for in section 50-2903(20), Idaho Code. In determining the termination date, the plan shall recognize that the agency shall receive allocation of revenues in the calendar year following the last year of the revenue allocation provision described in the urban renewal plan.

(7) A description of the disposition or retention of any assets of the agency upon the termination date. Provided however, nothing herein shall prevent the agency from retaining assets or revenues generated from such assets as long as the agency shall have resources other than revenue allocation funds to operate and manage such assets.

SECTION 5. That Section 50-2909, Idaho Code, be, and the same is hereby amended to read as follows:

50-2909. ISSUANCE OF BONDS -- BOND PROVISIONS. (1) If the local governing body of an authorized municipality has enacted an ordinance adopting a revenue allocation financing provision as part of an urban

renewal plan, the urban renewal agency established by such municipality is hereby authorized and empowered:

(a) To apply the revenues allocated to it pursuant to section ~~8 of this act~~ 50-2908, Idaho Code, for payment of the projected costs of any urban renewal project located in the revenue allocation area;

(b) To borrow money, incur indebtedness and issue one (1) or more series of bonds to finance or refinance, in whole or in part, the urban renewal projects authorized pursuant to such plan within the limits established by paragraph (c) ~~below~~ of this subsection; and

(c) To pledge irrevocably to the payment of principal of and interest on such ~~monies~~ moneys borrowed, indebtedness incurred or bonds issued by the agency the revenues allocated to it pursuant to section ~~8 of this act~~ 50-2908, Idaho Code.

All bonds issued under this section shall be issued in accordance with section 50-2012, Idaho Code, except that such bonds shall be payable solely from the special fund or funds established pursuant to section ~~8 of this act~~ 50-2908, Idaho Code.

(2) The agency shall be obligated and bound to pay such borrowed moneys, indebtedness, and bonds as the same shall become due, but only to the extent that the moneys are available in a special fund or funds established under section ~~8 of this act~~ 50-2908, Idaho Code; and the agency is authorized to maintain an adequate reserve therefor from any moneys deposited in such a special fund or funds.

(3) Nothing in this chapter shall in any way impair any powers an urban renewal agency may have under subsection (a) of section 50-2012, Idaho Code.

(4) When the revenue allocation area plan budget described in section 50-2903(5), Idaho Code, estimates that all financial obligations have been provided for, the principal of and interest on such moneys, indebtedness and bonds have been paid in full, or when deposits in the special fund or funds created under this chapter are sufficient to pay such principal and interest as they come due, and to fund reserves, if any, or any other obligations of the agency funded through revenue allocation proceeds shall be satisfied and the agency has determined no additional project costs need be funded through revenue allocation financing, the allocation of revenues under section ~~8 of this act~~ 50-2908, Idaho Code, shall thereupon cease; any moneys in such fund or funds in excess of the amount necessary to pay such principal and interest shall be distributed to the affected taxing districts in which the revenue allocation area is located in the same manner and proportion as the most recent distribution to the affected taxing districts of the taxes on the taxable property located within the revenue allocation area; and the powers granted to the urban renewal agency under section ~~9 of this act~~ 50-2909, Idaho Code, shall thereupon terminate.

SECTION 6. That Section 63-301A, Idaho Code, be, and the same is hereby amended to read as follows:

63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

(a) The name of the taxpayer;

(b) The description of the new construction, suitably detailed to meet the requirements of the individual county;

(c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;

(d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission.

(3) The value shown on the new construction roll may include the value increase from:

(a) Construction of any new structure that previously did not exist; or

(b) Additions or alterations to existing nonresidential structures; or

(c) Installation of new or used manufactured housing that did not previously exist within the county; or

(d) Change of land use classification; or

(e) Property newly taxable as a result of loss of the exemption provided by section 63-602W, Idaho Code; or

(f) Increases in value over the base value of property on the base assessment roll within an urban renewal revenue allocation area that has been terminated pursuant to section 50-2909(4), Idaho Code, to the extent that this increment has not been previously included on any new construction rolls, provided however, the increased value during the existence of the revenue allocation area is due to changes identified in subsections (a) through (e) of this subsection.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation.

SECTION 7. That Section 63-803, Idaho Code, be, and the same is hereby amended to read as follows:

63-803. CERTIFICATION OF BUDGETS IN DOLLARS. (1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the dis-

trict to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section 21-807(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. The certification to the county commissioners required in this section shall be made not later than the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than one (1) week. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district, which when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) For the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. When the county auditor is notified of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

SECTION 8. That Section 63-1312, Idaho Code, be, and the same is hereby amended to read as follows:

63-1312. MUNICIPAL PROPERTY TAXES -- NOTIFICATION OF VALUATION. (1) Prior to the fourth Monday of March of the current year the county auditor must notify every taxing district or authority and the state board of education of the total taxable valuation of all the taxable property situated within such districts for the preceding calendar year for the purpose of assisting such governing authorities in their determination of tax rates to be levied for the current year and other informational purposes.

(2) Prior to the first Monday in August the auditor of each county in the state shall notify the state tax commission and the clerk of each taxing unit in his county of the taxable valuation of all the taxable property situated within that taxing district from the property roll for the current year, from the operating property roll for the previous year, from the prior year's actual or current year's estimated subse-

quent property roll and missed property roll, and the amount of value subject to occupancy tax notwithstanding exemptions authorized in chapter 6, title 63, Idaho Code, for the previous year.

(3) The auditor shall furnish the valuation from the current operating property roll upon receipt from the state tax commission.

(4) Subsequent to the notification of the county auditor of revenues sufficient to cover expenses as provided in section 50-2903(5), Idaho Code, taxable value as used in this section shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area.

Approved March 20, 2002.

CHAPTER 144
(H.B. No. 658)

AN ACT

RELATING TO RULES OF THE DEPARTMENT AND BOARD OF ENVIRONMENTAL QUALITY; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-107D, IDAHO CODE, TO PROVIDE PROCEDURES IF RULES OF THE DEPARTMENT OR BOARD OF ENVIRONMENTAL QUALITY ARE MORE STRINGENT THAN FEDERAL LAW OR REGULATIONS OR PROPOSE TO REGULATE AN ACTIVITY NOT REGULATED BY THE FEDERAL GOVERNMENT.

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

SECTION 1. That Chapter 1, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-107D, Idaho Code, and to read as follows:

39-107D. RULES OF DEPARTMENT OR BOARD. (1) The legislature directs that any rule formulated and recommended by the department to the board which is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

(2) Any rule promulgated or adopted by the board which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, submitted to the standing committee of the legislature pursuant to section 7-5297, Idaho Code, shall include a notice by the board identifying the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government.

(3) Nothing provided herein is intended to alter the scope or effect of sections 39-105(3)(g)(v), 39-118B, 39-3601, 39-4404, 39-6205,

39-7210 and 39-7404, Idaho Code, or any other provision of state law which limits or prohibits agency action or rulemaking that is broader in scope or more stringent than federal law or regulations.

Approved March 20, 2002.

CHAPTER 145
(H.B. No. 660)

AN ACT

RELATING TO BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS; AMENDING SECTION 26-2701, IDAHO CODE, TO PROVIDE THAT BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS ARE NOT LIMITED TO MEETING THE FINANCING AND MANAGEMENT ASSISTANCE NEEDS OF BUSINESS FIRMS LOCATED ONLY IN THIS STATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 26-2707, 26-2709 AND 26-2711, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-2714, IDAHO CODE, TO LIMIT USES TO WHICH A BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATION MAY APPLY PUBLIC MONEYS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-2716, IDAHO CODE, TO PROVIDE THAT BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS MAY ENTER INTO MANAGEMENT ASSISTANCE CONTRACTS THAT SHALL BE IN WRITING AND THAT SUCH CONTRACTS SHALL GOVERN ALL ASPECTS OF THE BUSINESS RELATIONSHIP BETWEEN THE BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATION AND THE BUSINESS FIRM REGARDING THE MANAGEMENT ASSISTANCE PROVIDED AND TO CORRECT A CODIFIER'S ERROR; AMENDING SECTION 26-2718, IDAHO CODE, TO REMOVE THE LIMITATION THAT BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS HOLD CONTROL OF CORPORATIONS WITH OFFICES LOCATED ONLY IN IDAHO AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-2720, IDAHO CODE, TO CLARIFY THAT A POTENTIAL CONFLICT OF INTEREST INVOLVING CERTAIN TRANSACTIONS SHALL BE DISCLOSED IN THE FINANCING OR OTHER APPROPRIATE DOCUMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-2723, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT A HEARING BE HELD PRIOR TO THE DIRECTOR'S ISSUANCE OF A CEASE AND DESIST ORDER, TO CLARIFY THAT A PERSON TO WHOM AN ORDER IS DIRECTED MAY PETITION FOR JUDICIAL REVIEW OF THE ORDER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-2724, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT A HEARING BE HELD PRIOR TO THE DIRECTOR'S ISSUANCE OF AN ORDER REMOVING A SUBJECT PERSON OF A LICENSEE FROM HIS OFFICE, TO CLARIFY THAT A PERSON TO WHOM AN ORDER IS DIRECTED MAY APPLY TO THE DIRECTOR TO MODIFY OR RESCIND THE ORDER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-2725, IDAHO CODE, TO CLARIFY THAT A PERSON TO WHOM AN ORDER IS DIRECTED IS SUBJECT TO AN ORDER OF SUSPENSION OR REMOVAL FROM OFFICE, AND HAS CERTAIN RIGHTS UNDER THAT SECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-2727, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR MAY ISSUE AN ORDER DIRECTING A BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATION TO REFRAIN FROM PROVIDING MANAGEMENT ASSISTANCE TO BUSINESS FIRMS AND TO CLARIFY THAT A PERSON TO WHOM AN ORDER IS DIRECTED MAY APPLY TO THE DIRECTOR TO MODIFY OR RESCIND THE ORDER; AMENDING SECTION 26-2729, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT A HEARING BE HELD PRIOR TO THE DIRECTOR IMPOSING A CIVIL PENALTY FOR VIOLATION OF LAW AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 26-2731, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 26-2701, Idaho Code, be, and the same is hereby amended to read as follows:

26-2701. PURPOSE OF CHAPTER. The purposes of this chapter are to:

(1) Promote economic development by encouraging the formation of business and industrial development corporations, a new type of private institution, to help meet the financing assistance and management assistance needs of business firms. ~~in the state.~~

(2) Provide for a system of licensing, regulation, and enforcement that will enable business and industrial development corporations to satisfy eligibility requirements to participate, if they so choose, in the program of the small business administration pursuant to section 7(a) of the small business act, Public Law 85-536, 15 U.S.C. section 636(a), and other programs for which they may be eligible.

(3) Provide for a system of licensing, regulation, and enforcement designed to prevent fraud, conflict of interest, and mismanagement, and to promote competent management, accurate ~~record-keeping~~ recordkeeping, and appropriate communication with shareholders~~;~~ in order to provide the following:

(a) Comfort to prospective shareholders ~~so as~~ in order to facilitate equity investments in business and industrial development corporations;

(b) Comfort to prospective debt sources ~~so as~~ in order to facilitate the borrowing of money by business and industrial development corporations; and

(c) Protection of the general reputation of business and industrial development corporations as a type of institution in order to increase the confidence of prospective equity investors in and prospective debt sources for those institutions.

It is hereby further declared that all of the foregoing are public purposes and uses for which public moneys may be expended or granted and that such activities are governmental functions and serve a public purpose in improving or otherwise benefiting the people of this state; that the necessity of enacting the provisions hereinafter set forth is in the public interest and is hereby so declared as a matter of express legislative determination.

SECTION 2. That Section 26-2707, Idaho Code, be, and the same is hereby amended to read as follows:

26-2707. ANNUAL REPORT TO LEGISLATURE REQUIRED. (1) The director shall publish annually and provide to the house business committee and senate commerce and labor committee, or the appropriate germane legislative committees, information on the impact of this chapter in promoting economic development in this state. At ~~the~~ a minimum, the information shall include aggregate statistics on each of the following:

(a) The number and dollar amount of provisions of financing assistance made by licensees to business firms.

(b) The number and dollar amount of provisions of financing assistance made by licensees to business firms classified in broad categories of industry such as divisions of the standard industrial classification manual.

(c) The number and dollar amount of provisions of financing assistance made by licensees to minority owned business firms and to woman owned business firms.

(d) Estimates of the number of jobs created or retained.

(e) Estimates of the number and dollar amount of any financial assistance provided to licensed BIDCO's, or investments in individual licensed BIDCO's, for the purpose of fostering economic development by any state or federal agency, or by public or quasi-public entities, including the public employee retirement system.

SECTION 3. That Section 26-2709, Idaho Code, be, and the same is hereby amended to read as follows:

26-2709. REQUIREMENTS FOR LICENSURE. (1) An Idaho corporation may apply to the director for licensure as a BIDCO. A person other than an Idaho corporation shall not apply for a license.

(2) After a review of information regarding the directors, officers, and controlling persons of the applicant, a review of the applicant's business plan, including at least three (3) years of detailed financial projections and other relevant information, and a review of additional information considered relevant by the director, the director shall approve an application for a license if, and only if, the director determines all of the following:

(a) The applicant has a net worth, or firm financing commitments which demonstrate that the applicant will have a net worth when the applicant begins transacting business as a BIDCO, in liquid form available to provide financing assistance, that is adequate for the applicant to transact business as a BIDCO as determined under subsection (3) of this section.

(b) Each director, officer, and controlling person of the applicant is of good character and sound financial standing~~.~~; each director and officer of the applicant is competent to perform his or her functions with respect to the applicant; and the directors and officers of the applicant are collectively adequate to manage the business of the applicant as a BIDCO.

(c) It is reasonable to believe that the applicant, if licensed, will comply with this chapter.

(d) The applicant has reasonable promise of being a viable, ongoing BIDCO and of satisfying the basic objectives of its business plan.

(3) In determining if the applicant has a net worth or firm financing commitments adequate to transact business as a BIDCO, the director shall consider the types and variety of financing assistance that the applicant plans to provide; the experience that the directors, officers, and controlling persons of the applicant have in providing financing and managerial assistance to business firms; the financial projections and other relevant information from the applicant's business plan; and whether the applicant intends to operate as a profit or nonprofit corporation. Except as otherwise provided in this chapter, the director shall require a minimum net worth of not less than one million dollars ($1,000,000) and not more than ten million dollars ($10,000,000). The director may require a minimum net worth of less than one million dollars ($1,000,000), but not less than five hundred thousand dollars ($500,000), if, in the context of the applicant's business plan, the initial capitalization amount is adequate for the applicant to transact

business as a BIDCO because of special circumstances including, but not limited to, funded overhead, low overhead, or specialized opportunities.

(4) For the purposes of subsection (2) of this section, the director may find any of the following:

(a) That a director, officer, or controlling person of an applicant is not of good character if the director, officer, or controlling person, or a director or officer of a controlling person, has been convicted of, entered a plea of guilty to, has been found guilty of, or has pleaded nolo contendere to a crime involving fraud or dishonesty.

(b) That it is not reasonable to believe that an applicant, if licensed, will comply with this chapter, if the applicant has been convicted of, entered a plea of guilty to, has been found guilty of, or has pleaded nolo contendere to a crime involving fraud or dishonesty.

(5) For purposes of subsection (2) of this section, subsection (4) of this section shall not be considered to be the only grounds upon which the director may find that a director, officer, or controlling person of an applicant is not of good character or that it is not reasonable to believe that an applicant, if licensed, will comply with the provisions of this chapter.

SECTION 4. That Section 26-2711, Idaho Code, be, and the same is hereby amended to read as follows:

26-2711. USE OF BIDCO NAME RESTRICTED -- EXCEPTION. (1) Except as otherwise provided in subsection (2) of this section, a person transacting business in this state, other than a licensee, shall not use a name or title which indicates that the person is a business and industrial development corporation including, but not limited to, use of the term "BIDCO,"~~;~~ and shall not otherwise represent that the person is a business and industrial development corporation or a licensee.

(2) Before being issued a license under this chapter, an Idaho corporation that proposes to apply for a license or that applies for a license may perform, under a name that indicates that the corporation is a business and industrial development corporation, the acts necessary to apply for and obtain a license and to otherwise prepare to commence transacting business as a licensee. Such a corporation shall not represent that it is a licensee until after the license has been obtained. A licensee shall not misrepresent the meaning or effect of its license.

SECTION 5. That Section 26-2714, Idaho Code, be, and the same is hereby amended to read as follows:

26-2714. CORPORATE NAME — DIRECTORS — DIVIDENDS -- RESTRICTION ON USE OF PUBLIC MONEYS. (1) The corporate name of each licensee may include the phrase "Business and Industrial Development Corporation" or may include the word "BIDCO."~~.~~ A licensee shall not transact business under a name other than its corporate name.

(2) The board of directors of each licensee shall consist of not less than seven (7) directors. The board of directors of each licensee shall hold a meeting not less than once each calendar quarter.

(3) Within thirty (30) days after the death, resignation, or removal of a director or officer; the election of a director; or the

appointment of an officer, the licensee shall notify the director in writing of the event and shall provide any additional information which the director may require.

(4) A licensee shall not pay, or obligate itself to pay, a cash dividend or dividend in kind to its shareholders, unless that payment is consistent with a dividend policy which has been adopted by the licensee and approved by the director. In reviewing dividend policies under this section, the director shall be flexible in recognizing the special characteristics of BIDCOs and the diverse range of potentially appropriate dividend policies for BIDCOs, while at the same time protecting against unsafe or unsound acts which could threaten the viability of the licensee as an ongoing BIDCO. The director may at any time withdraw any previous approval of a dividend policy if the director determines that the withdrawal is necessary to prevent unsafe or unsound acts.

(5) Without the prior approval of the director, a licensee shall not buy back, or obligate itself to buy back a share of stock from a shareholder.

(6) Any public moneys received by a licensee shall be applied by the licensee solely to providing financing assistance or management assistance to business firms with a home office in Idaho.

SECTION 6. That Section 26-2716, Idaho Code, be, and the same is hereby amended to read as follows:

26-2716. BUSINESS ACTIVITIES — CORPORATE POWERS. (1) The business of a licensee shall be the business of providing financing assistance and management assistance to business firms. A licensee shall not engage in a business other than the business of providing financing assistance and management assistance to business firms.

(2) In addition to the powers and privileges provided to a licensee by this chapter, a licensee has all powers and privileges conferred by its incorporating statute which are not inconsistent with or limited by this chapter. The powers of a licensee include, but are not limited to, all of the following:

(a) To borrow money and otherwise incur indebtedness for its purposes, including issuance of corporate bonds, debentures, notes, or other evidence of indebtedness. A licensee's indebtedness may be secured or unsecured, and may involve equity features including, but not limited to, provisions for conversion to stock and warrants to purchase stock.

(b) To make contracts. Such contracts may include contracts to provide management assistance to business firms, which contracts shall be in writing, and the terms of which shall govern all aspects of the relationship between the licensee and the business firm regarding the management assistance provided by the licensee.

(c) To incur and pay necessary and incidental operating expenses.

(d) To purchase, receive, hold, lease, or otherwise acquire, or to sell, convey, mortgage, lease, pledge, or otherwise dispose of, real or personal property, together with rights and privileges that are incidental and appurtenant to these transactions of real or personal property, if the real or personal property is for the licensee's use in operating its business or if the real or personal property is acquired by the licensee from time to time in satisfaction of debts or enforcement of obligations.

(e) To make donations for charitable, educational, research, or similar purposes.
(f) To implement a reasonable and prudent policy for conserving and investing its money before the money is used to provide financing assistance to business firms ~~or~~ or to pay the expenses of the licensee.

SECTION 7. That Section 26-2718, Idaho Code, be, and the same is hereby amended to read as follows:

26-2718. BIDCO ACQUIRING ANOTHER FIRM -- APPLICATION -- REQUIREMENTS. (1) Either by itself or in concert with a director, officer, principal shareholder, or affiliate; another licensee; or a director, officer, principal shareholder, or affiliate of another licensee, a licensee shall not hold control of a business firm, except as follows:
(a) If and to the extent necessary to protect the licensee's interest as creditor of, or investor in, the business firm, a licensee that had provided financing assistance to a business firm may acquire and hold control of that business firm. Unless the director approves a longer period, a licensee holding control of a business firm under this subdivision shall divest itself of the interest which constitutes holding control as soon as practicable or within three (3) years after acquiring that interest, whichever is sooner.
(b) With the approval of the director, a licensee may acquire and hold control of a corporation ~~which has offices located only in this state and~~ which is licensed as a small business investment company under the small business investment act of 1958, Public Law 85-699, 72 Stat. 689 or any successor statute.
(c) With the approval of the director, a licensee may acquire and hold control of a company ~~located in this state~~ which is a local development company in accordance with the small business investment act of 1958, whether or not such a development company is or may become certified by the small business administration under section 503 of the small business investment act of 1958, 15 U.S.C. section 697 or any successor statute.
(d) With the approval of the director, a licensee may acquire and hold control of another business firm ~~with offices only in this state~~ which is engaged in no business other than the business of providing financing assistance and management assistance to business firms.
(e) With the approval of the director, a licensee may acquire and hold control of a business firm not referred to in paragraphs (a) through (d) of this subsection. The director shall not approve an application under this subdivision unless the director determines that such an approval will not cause the amount of the licensee's investments in business firms covered by this subdivision to exceed fifteen percent (15%) of the amount of the assets of the licensee and that in the director's judgment such an approval will promote the purposes of this chapter. An approval by the director under this subdivision shall be for a period of not more than three (3) years, except that in a particular case the director may subsequently extend the period beyond three (3) years if the director determines that a longer period is needed and is consistent with the purposes of this chapter.

(2) If the director fails to issue an order approving or denying an application under subsection (1)(b) or (c) of this section, within forty-five (45) days from receipt by the director of an application which complies with section 26-2704, Idaho Code, the application shall be considered approved by the director.

(3) For the purposes of subsection (1) of this section, "hold control" means ownership, directly or indirectly, of record or beneficially, ~~or~~ of voting securities greater than:

(a) For a business firm with outstanding voting securities held by fewer than fifty (50) shareholders, forty percent (40%) of the outstanding voting securities.

(b) For a business firm with outstanding voting securities held by fifty (50) or more shareholders, twenty-five percent (25%) of the outstanding voting securities.

(4) If a licensee anticipates acquiring and holding control of a business firm under subsection (1)(a) of this section, the licensee shall file with the director a plan for acquiring and holding control of the business firm that shall include at least all of the following:

(a) The reasons it is necessary for the licensee to acquire and hold control of the business firm.

(b) The percentage of outstanding voting securities of the business firm the licensee plans to own.

(c) The licensee's proposed course of action upon obtaining control of the business firm.

(d) The length of time the licensee anticipates it will be necessary to hold control of the business firm.

(5) The director may require the licensee to demonstrate the necessity for the licensee to hold control of a business firm under subsection (1)(a) of this section.

SECTION 8. That Section 26-2720, Idaho Code, be, and the same is hereby amended to read as follows:

26-2720. CONFLICT OF INTEREST — DEFINED. (1) For purposes of this section:

(a) "Associate" means that term as defined ~~as~~ in section 26-2702, Idaho Code.

(b) "Relative" means parent, child, sibling, spouse, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law, sister-in-law, grandparent, grandchild, nephew, niece, uncle, or aunt.

(2) If a licensee provides financing assistance to a business firm or engages in another business transaction, and if that financing assistance or transaction involves a potential conflict of interest, the terms and conditions under which the licensee provides the financing assistance or engages in the transaction shall not be less favorable to the licensee than the terms and conditions that would be required by the licensee in the ordinary course of business if the transaction did not involve a potential conflict of interest. Each person who participates in the decision of the licensee relating to a transaction described in this section and has knowledge of a potential conflict of interest involving that transaction shall ~~take care that~~ disclose the potential conflict of interest ~~is disclosed~~ in the financing documents of the transaction or, for a business transaction not involving financing assistance, in another appropriate document.

(3) For the purposes of subsection (2) of this section, transactions engaged in by a licensee which involve a potential conflict of interest include, but are not limited to, the following:

(a) Providing financing assistance to a principal shareholder of the licensee, to a person controlled by a principal shareholder of the licensee, or to a director, officer, partner, relative, controlling person, or affiliate of a principal shareholder of the licensee.

(b) Providing financing assistance to a business firm to which a principal shareholder of the licensee: a director, officer, partner, relative, controlling person, or affiliate of a principal shareholder of a licensee, or a person controlled by a principal shareholder of the licensee provides or plans to provide contemporaneous financing assistance.

(c) Providing financing assistance to a business firm which has or is expected to have a substantial business relationship with another business firm which has a director, officer, or controlling person who is also a director, officer, or controlling person of the licensee or who is the spouse of a director, officer, or controlling person of the licensee.

(d) Providing financing assistance to a business firm if that business firm, or a director, officer, or controlling person of that business firm, contemporaneously has lent or will lend money to an associate of the licensee.

(e) Providing financing assistance for the purchase of property of an associate or principal shareholder of the licensee.

(f) Selling or otherwise transferring any of its assets to an associate or principal shareholder of the licensee.

(4) Nothing in this section or in any other section of this chapter limits the authority of the director to determine that an act involves a conflict of interest and therefore is an unsafe or unsound act.

(5) Except with the approval of the director, a licensee shall not provide a lien on or security interest in any of its property for the purpose of securing an obligation of, or an obligation incurred for the benefit of, another person.

SECTION 9. That Section 26-2723, Idaho Code, be, and the same is hereby amended to read as follows:

26-2723. VIOLATION OF CHAPTER -- DIRECTOR'S POWERS -- HEARINGS -- CEASE AND DESIST. (1) If in the opinion of the director, a person violates, or there is reasonable cause to believe that a person is about to violate the provisions of this chapter, the director may bring an action in the district court to enjoin the violation or to enforce compliance with the provisions of this chapter. Upon a showing that a person has engaged in or is about to engage in, an act or practice constituting a violation of the provisions of this chapter, a restraining order, preliminary or permanent injunction, or writ of mandamus shall be granted, and a receiver or a conservator may be appointed for the defendant or the defendant's assets.The court shall not require the director to post a bond in an action brought under this chapter.

(2) If the director finds that a person has violated or that there is reasonable cause to believe that a person is about to violate the provisions of section 26-2711, Idaho Code, the director may order the

person to cease and desist from the violation unless and until the person is issued a license.

(3) Within thirty (30) days after an order is issued under subsection (2) of this section, the person to whom the order is directed may file with the director an application for a hearing on the order. If the director fails to commence a hearing within fifteen (15) business days after that application is filed or within a longer period to which the person consents, the order shall be considered rescinded. Upon the conclusion of the hearing, the director shall affirm, modify, or rescind the order. A person to whom an order is ~~issued~~ directed under subsection (2) of this section may petition for judicial review of the order in conformance with the provisions of chapter 52, title 67, Idaho Code.

(4) If, after notice and the opportunity for a hearing, the director determines that a licensee or a subject person of a licensee has violated or is violating, or that there is reasonable cause to believe that a licensee or subject person of a licensee is about to violate~~,~~ this chapter or another applicable law, or that a licensee or subject person of a licensee has engaged or participated or is engaging or participating, or that there is a reasonable cause to believe that a licensee or subject person of a licensee is about to engage or participate~~,~~ in an unsafe or unsound act with respect to the business of that licensee, the director may order that licensee or subject person to cease and desist from the action or violation. The order may require the licensee or subject person to take affirmative action to correct any condition resulting from the action or violation.

(5) If the director determines that any of the factors set forth in subsection (4) of this section are true with respect to a licensee or subject person of a licensee and that the action or violation is likely to cause the insolvency of or substantial dissipation of the assets or earnings of the licensee; is likely to seriously weaken the condition of the licensee; or is likely to otherwise seriously prejudice the interests of the licensee before the completion of proceedings conducted under subsection (4) of this section, the director may order the licensee or subject person to cease and desist from that action or violation. The order may require the licensee or subject person to take affirmative action to correct any condition resulting from the action or violation.

(6) Within thirty (30) days after an order is issued under subsection (5) of this section, the licensee or subject person of a licensee to whom the order is directed may file with the director an application for a hearing on the order. If the director fails to commence a hearing within fifteen (15) business days after the application is filed or within a longer period to which the licensee or subject person consents, the order shall be considered rescinded. Upon the hearing, the director shall affirm, modify, or rescind the order. A licensee or subject person to whom an order is ~~issued~~ directed under subsection (5) of this section may petition for judicial review of the order pursuant to chapter 52, title 67, Idaho Code.

(7) If the director finds that a licensee has failed to comply with the provisions of section 26-2717(5), Idaho Code, the director shall revoke the certification of eligible equity investment and shall so notify the licensee promptly.

SECTION 10. That Section 26-2724, Idaho Code, be, and the same is hereby amended to read as follows:

26-2724. VIOLATION OF CHAPTER -- REMOVAL OF SUBJECT PERSON. (1) The director may issue an order removing a subject person of a licensee from his office, if any, with the licensee and prohibiting the subject person from further participating in any manner in the conduct of the business of the licensee, if, after notice and the opportunity for a hearing, the director determines all of the following are true:

(a) The subject person has violated the provisions of this chapter or another applicable law; the subject person has engaged or participated in an unsafe or unsound act with respect to the business of the licensee; or the subject person has engaged or participated in an act which constitutes a breach of the subject person's fiduciary duty.

(b) The act, violation, or breach of fiduciary duty has caused or is likely to cause substantial financial loss or other damage to the licensee or has seriously prejudiced or is likely to seriously prejudice the interests of the licensee, or the subject person has received financial gain by reason of the act, violation, or breach of fiduciary duty.

(c) The act, violation, or breach of fiduciary duty either involves dishonesty on the part of the subject person or demonstrates the subject person's gross negligence with respect to the business of the licensee or a willful disregard for the safety and soundness of the licensee.

(2) The director may issue an order removing the subject person from his office with the licensee, if any, and prohibiting the subject person from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the director, if, after notice and the opportunity for a hearing, the director determines that, by engaging or participating in an act with respect to a financial or other business institution which resulted in substantial financial loss or other damage, the subject person of a licensee has demonstrated both of the following:

(a) Dishonesty or willful or continuing disregard for the safety and soundness of the financial or other business institution.

(b) Unfitness to continue as a subject person of the licensee or to participate in conducting the business of the licensee.

(3) If the director determines that the factors set forth in subsection (1) or (2) of this section are true with respect to a subject person of a licensee, and that it is necessary for the protection of the interest of the licensee or for the protection of the public interest that the director immediately suspend the subject person from his or her office, if any, with the licensee and prohibit the subject person from further participating in any manner in conducting the business of the licensee, the director may issue an order suspending the subject person from his or her office, if any, with the licensee and prohibiting the subject person from further participating in any manner in conducting the business of the licensee, except with the consent of the director.

(4) Within thirty (30) days after an order is issued under subsection (3) of this section, the subject person of a licensee to whom the order is directed may file with the director an application for a hearing on the order. If the director fails to begin a hearing within fifteen (15) business days after the application is filed or within a longer period to which the subject person consents, the order shall be considered rescinded. Upon the conclusion of the hearing, the director

shall affirm, modify, or rescind the order. A subject person of a licensee to whom an order is issued under subsection (3) of this section may petition for judicial review of the order pursuant to chapter 52, title 67, Idaho Code.

(5) A person to whom an order is ~~issued~~ directed under this section may apply to the director to modify or rescind the order. The director shall not modify or rescind the order unless the director determines that it is in the public interest to do so and that it is reasonable to believe that the person, if and when he or she becomes a subject person of a licensee, will comply with this chapter.

(6) As used in this section, "office,"~~,~~ if used with respect to a licensee, means the position of director, officer, or employee of the licensee or of a subsidiary of the licensee.

SECTION 11. That Section 26-2725, Idaho Code, be, and the same is hereby amended to read as follows:

26-2725. INDICTMENT OR CONVICTION OF A CRIME — REMOVAL OF SUBJECT PERSON. (1) If the director determines that a subject person of a licensee has been indicted by a grand jury or has been bound over for trial by a court for a crime involving dishonesty or breach of trust, and that the fact that the person continues to be a subject person of the licensee may threaten the interests of the licensee or may threaten to impair public confidence in the licensee, the director may issue an order suspending the subject person from his office, if any, with the licensee and prohibiting the subject person from further participating in any manner in the conduct of the business of the licensee, except with the consent of the director.

(2) If the director determines that a subject person or former subject person of a licensee to whom an order was ~~issued~~ directed under subsection (1) of this section, or another subject person of a licensee, has been convicted of, entered a plea of guilty to, has been found guilty of a crime which is punishable by imprisonment for a term of not less than one (1) year and which involves dishonesty or breach of trust, and that the fact that the person continues to be or will resume to be a subject person of the licensee may threaten the interests of the licensee or may threaten to impair public confidence in the licensee, the director may issue an order suspending or removing the subject person or former subject person from his office, if any, with the licensee and prohibiting the subject person from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the director.

(3) Within thirty (30) days after an order is issued under subsection (1) or (2) of this section, the subject person of a licensee to whom the order is directed may file with the director an application for a hearing on the order. If the director fails to commence a hearing within fifteen (15) business days after the application is filed or within a longer period to which the subject person consents, the order shall be considered rescinded. Upon the conclusion of the hearing, the director shall affirm, modify, or rescind the order. A subject person or former subject person of a licensee to whom an order is ~~issued~~ directed under subsection (1) or (2) of this section may petition for judicial review of the order pursuant to chapter 52, ~~T~~title 67, Idaho Code.

(4) The fact that a subject person of a licensee charged with a

crime involving dishonesty or breach of trust is not convicted of the crime shall not preclude the director from issuing an order ~~to~~ concerning the subject person under any other provision of this chapter.

(5) A person to whom an order is ~~issued~~ directed under this section may apply to the director to modify or rescind the order. The director shall not modify or rescind the order unless the director determines that it is in the public interest to do so and that it is reasonable to believe that the person, if and when he or she becomes a subject person of a licensee, will comply with this chapter.

(6) As used in this section, "office," ~~,~~ if used with respect to a licensee, means the position of director, officer, or employee of the licensee or of a subsidiary of the licensee.

SECTION 12. That Section 26-2727, Idaho Code, be, and the same is hereby amended to read as follows:

26-2727. ORDER TO REFRAIN FROM OFFERING FINANCIAL ASSISTANCE -- CONDITIONS -- HEARING. (1) The director may issue an order directing a licensee to refrain from providing any additional financing assistance and management assistance to business firms if, in the opinion of the director, the order is necessary to protect the interest of the licensee or the public interest, and if, after notice and a hearing, the director determines that any of the following are true:

(a) The licensee or a controlling person, subsidiary, or affiliate of the licensee has violated the provisions of this chapter or another applicable law.

(b) The licensee is conducting its business in an unsafe and unsound manner.

(c) The licensee is in a condition that makes it unsafe or unsound for the licensee to transact business.

(d) The licensee has ceased to transact business as a business and industrial development corporation.

(e) The licensee is insolvent.

(f) The licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.

(g) The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under a bankruptcy, reorganization, insolvency, or moratorium law, or that a person has applied for such relief under such a law against a licensee and the licensee has by any affirmative act approved of or consented to the action or such relief has been granted.

(h) A fact or condition exists which would have been grounds for denying the application if the fact or condition had existed at the time the licensee applied for its license.

(2) If the director determines that any of the factors set forth in subsection (1) of this section are true with respect to a licensee and that it is necessary for the protection of the interests of the licensee or the public interest that the director immediately issue an order directing the licensee to refrain from providing any additional financing assistance and management assistance to business firms, the director may issue such an order without a hearing. Within thirty (30) days after an order is issued under this subsection, the licensee to whom the order

is directed may file with the director a request for a hearing on the order. If the director fails to commence a hearing within fifteen (15) business days after the request is filed or within a longer period to which the licensee consents, that order shall be considered rescinded. Upon the conclusion of the hearing, the director shall affirm, modify, or rescind the order.

(3) With the consent of the director, a licensee which has been the subject of an order under subsection (1) or (2) of this section may resume providing financing assistance and management assistance to business firms under such conditions as the director may prescribe.

(4) A person to whom an order is ~~issued~~ directed under subsection (1) or (2) of this section may apply to the director to modify or rescind the order. The director shall not grant the application unless the director determines that it is in the public interest to do so and that it is reasonable to believe that the person, if and when the order is modified or rescinded, will comply with this chapter.

SECTION 13. That Section 26-2729, Idaho Code, be, and the same is hereby amended to read as follows:

26-2729. VIOLATION OF CHAPTER -- CIVIL PENALTIES. (1) If, after notice and the opportunity for a hearing, the director finds that a person has violated the provisions of this chapter, he may order that person to pay to the director a civil penalty in the amount the director specifies. However, the amount of the civil penalty shall not exceed one thousand dollars ($1,000) for each violation, or in the case of a continuing violation, one thousand dollars ($1,000) for each day ~~for~~ during which the violation continues. Money collected for a civil penalty under this section shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

(2) The provisions of this section do not apply to any act committed or omitted in good faith in conformity with an order, rule, declaratory ruling, or written interpretative opinion of the director, notwithstanding that the order, rule, declaratory ruling, or written interpretative opinion is later amended, rescinded, or repealed, or determined by judicial or other authority to be invalid for any reason.

(3) The provisions of subsection (1) of this section are additional to, and not alternative to, other provisions of this chapter which authorize the director to issue orders or to take other action on account of a violation of the provisions of this chapter.

SECTION 14. That Section 26-2731, Idaho Code, be, and the same is hereby amended to read as follows:

26-2731. CONSTRUCTION — PROMULGATION OF RULES — APPLICABILITY OF CHAPTER. This chapter shall be liberally construed to accomplish its purposes.

A proceeding to promulgate rules or a proceeding regarding civil penalties under section 26-2729, Idaho Code, shall be subject to the administrative procedures act contained in chapter 52, title 67, Idaho Code.

Except as otherwise provided in this section, the provisions of a licensee's incorporating statute apply to the licensee. If a provision of the licensee's incorporating statute conflicts with any provision of this chapter, this chapter controls.

Approved March 20, 2002.

CHAPTER 146
(H.B. No. 662)

AN ACT
RELATING TO DECORATION DAY; AMENDING SECTIONS 46-802, 67-5302 AND 73-108, IDAHO CODE, TO CHANGE REFERENCES FROM DECORATION DAY TO MEMORIAL DAY.

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

SECTION 1. That Section 46-802, Idaho Code, be, and the same is hereby amended to read as follows:

46-802. UNORGANIZED ASSOCIATIONS PROHIBITED -- PARADES PROHIBITED -- EXCEPTIONS. No body of men, other than the regularly organized national guard, the unorganized militia when called into service of the state, or of the United States, and except such as are regularly recognized and provided for by the laws of the state of Idaho and of the United States, shall associate themselves together as a military company or organization, or parade in public with firearms in any city or town of this state.

No city or town shall raise or appropriate any money toward arming or equipping, uniforming, or in any other way supporting, sustaining or providing drill rooms or armories for any such body of men; but associations wholly composed of soldiers honorably discharged from the service of the United States or members of the orders of Sons of Veterans, or of the Boy Scouts, may parade in public with firearms on ~~Decoration~~ Memorial Day or upon the reception of any regiment or companies of soldiers returning from such service, and for the purpose of escort duty at the burial of deceased soldiers; and students in educational institutions where military science is taught as a prescribed part of the course of instruction, may with the consent of the governor, drill and parade with firearms in public, under the superintendence of their teachers. This section shall not be construed to prevent any other organization authorized by law parading with firearms, nor to prevent parades by the national guard of any other state or territory.

SECTION 2. 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 administrator of the division of human resources.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "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.

(4) "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.

(5) "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.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Department" means any department, agency, institution or office of the state of Idaho.

(9) "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.

(10) "Earned administrative leave" means hours which exceed the regularly scheduled hours but do not result in overtime. These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) work week.

(11) "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.

(12) "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 administrator.

(13) "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 administrator.

(14) "Full-time employee" means any employee working a forty (40) hour work week.

(15) "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~~ Memorial 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.

(16) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays, and shall not include vacation or sick leave or other approved leave of absence.

(17) "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.

(18) "Normal work week" means any forty (40) hours worked during a particular one hundred sixty-eight (168) hour period as previously established by the employee's appointing authority.

(19) "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.

(20) "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.

(21) "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.

(22) "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.

(23) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(24) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(25) "Political organization" means a party which sponsors candidates for election to political office.

(26) "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.

(27) "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 administrator.

(28) "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.

(29) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(30) "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 administrator.

(31) "Seasonal appointment" means an appointment to a position which is permanent in nature, but which has intermittent work periods throughout the year.

(32) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(33) "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 administrator of the division of human resources 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.

(34) "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.

(35) "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 3. That Section 73-108, Idaho Code, be, and the same is hereby amended to read as follows:

73-108. HOLIDAYS ENUMERATED. Holidays, within the meaning of these compiled laws, are:

Every Sunday;
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~~ Memorial 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 Day);
December 25 (Christmas);
Every day appointed by the President of the United States, or by the governor of this state, for a public fast, thanksgiving, or holiday.

Any legal holiday that falls on Saturday, the preceding Friday shall be a holiday and any legal holiday enumerated herein other than Sunday that falls on Sunday, the following Monday shall be a holiday.

Approved March 20, 2002.

CHAPTER 147
(H.B. No. 668)

AN ACT

RELATING TO THE IDAHO SCHOOL BOND GUARANTY ACT; AMENDING SECTION 57-728, IDAHO CODE, TO PROVIDE THAT THE AMOUNT OF DEBT GUARANTEED BY THE CREDIT ENHANCEMENT PROGRAM WILL NOT BE GREATER THAN TWO TIMES THE AMOUNT MADE AVAILABLE BY THE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 57-728, Idaho Code, be, and the same is hereby amended to read as follows:

57-728. CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICT BONDS. (1) The endowment fund investment board shall administer a school district bond credit enhancement program in accordance with this section and in conjunction with chapter 53, title 33, Idaho Code, and may promulgate rules to implement it. This program applies to voter approved bonds issued by school districts. The program is intended to benefit school districts by purchasing notes issued by the state of Idaho, whereby the state may guarantee payment of school district bonded indebtedness in order to avoid an imminent default, providing lower interest rates at which the bonds may be issued.

(2) A school district that seeks the guarantee of bonds under this program shall apply to the state treasurer pursuant to section 33-5304, Idaho Code. The state treasurer shall transmit all approved applications to the board. The board may challenge an approved application within three (3) business days of their receipt of the same. If no challenge is issued within three (3) business days the application shall be deemed approved by the board. In the event of a challenge in writing to the state treasurer, the treasurer and the board shall have ten (10) busi-

ness days to mutually approve the application. If after a challenge by the board, the application is not mutually approved within the ten (10) business days, the application shall be deemed rejected. Nothing contained herein shall prohibit a school district from reapplying following a rejected application.

(3) Upon approval of the credit enhancement program under this section, the following shall be in effect in the event moneys from the sales tax account or from the provisions of section 33-5309, Idaho Code, are insufficient to pay the principal of and interest on the notes issued by the state pursuant to section 33-5308, Idaho Code, the endowment fund shall purchase new notes from the state, in accordance with section 33-5308, Idaho Code, the proceeds of which shall be sufficient to pay the principal of and the interest on the original notes as they become due pursuant to section 33-5308, Idaho Code. The new notes shall be subject to the following terms and conditions:

(a) The notes shall bear interest at a rate equal to an annual rate ten percent (10%) higher than the average interest earned on the investments of the public school permanent endowment fund in the four (4) calendar quarters preceding the quarter in which the loan occurred and if this figure is not equal to the percentage return of the fund's highest category of investments in its portfolio, then the interest rate shall equal that percentage return on investment, plus all additional administrative costs related to these investments;

(b) The notes, including principal and interest, shall be repaid from the district's next payments pursuant to chapter 8, title 33, Idaho Code, as collected by the state treasurer;

(c) The state may make additional payments on the note;

(d) The endowment fund investment board may require the state treasurer to compel the school district to modify its fiscal practices and its general operations if the board determines that there is a substantial likelihood that the district will not be able to make future payments required under this section.

(4) The provisions of this section shall not be deemed to interfere with the state treasurer's ability in chapter 53, title 33, Idaho Code, to obtain repayment of a delinquent obligation.

(5) For purposes of administering the provisions of this section, the board shall make available the sum of at least one hundred million dollars ($100,000,000) from the public school permanent endowment fund, for purposes of purchasing notes as authorized by this section. The amount of debt guaranteed by the credit enhancement program shall not be greater than two (2) times the amount made available by the public school permanent endowment fund.

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

Approved March 20, 2002.

CHAPTER 148
(H.B. No. 669)

AN ACT

RELATING TO THE IDAHO BOND BANK AUTHORITY; AMENDING SECTION 67-8702, IDAHO CODE, TO FURTHER DEFINE "MUNICIPAL BOND" TO INCLUDE LOANS; AMENDING SECTION 67-8710, IDAHO CODE, TO PROVIDE THAT THE AUTHORITY MAY AUTHORIZE CERTAIN AGREEMENTS WITH CORPORATE TRUSTEES IN ORDER TO ESTABLISH RESERVES AND OTHER FUNDS OR ACCOUNTS IN ADDITION TO OR IN LIEU OF SPECIFIED RESERVE FUNDS IN ORDER TO SECURE BONDS ISSUED BY THE AUTHORITY UNLESS THE AUTHORITY PROVIDES OTHERWISE; AMENDING SECTION 67-8713, IDAHO CODE, TO PROVIDE THAT MUNICIPAL BONDS OR ANY RESERVE SURETY POLICY OR SIMILAR CREDIT ENHANCEMENT OBTAINED TO SECURE BONDS OF THE AUTHORITY SHALL BE DEPOSITED OR TRANSFERRED INTO THE RESERVE FUND, TO PROVIDE THAT MONEYS IN THE RESERVE FUND ARE PLEDGED, TO PROVIDE REFERENCE TO MONEYS OF THE AUTHORITY THAT ARE PLEDGED TO PAY INTEREST AND PRINCIPAL, TO PROVIDE REFERENCE TO LEGISLATIVE APPROPRIATION AND TO PROVIDE THAT THE AUTHORITY MAY ESTABLISH SUBACCOUNTS IN THE RESERVE FUND; AMENDING SECTION 67-8716, IDAHO CODE, TO MAKE A GRAMMATICAL CHANGE, TO PROVIDE REFERENCES TO CODE SECTIONS AND TO REVISE PROVISIONS RELATING TO THE TRANSFER OF MONEYS FROM THE STATE SALES TAX ACCOUNT; AMENDING SECTION 67-8725, IDAHO CODE, TO PROVIDE REFERENCE TO OUTSTANDING UNPAID MUNICIPAL BONDS, TO PROVIDE THAT THE PAYING AGENT MAY BE THE TRUSTEE FOR THE BONDS OF THE AUTHORITY THAT ARE SECURED BY MUNICIPAL BONDS, TO REVISE PROVISIONS RELATING TO THE NONPAYMENT OF SCHEDULED DEBT SERVICE PAYMENTS AND TRANSFERS OF MONEYS FROM THE RESERVE FUND, TO PROVIDE THAT PAYMENT BY THE STATE TREASURER OF MONEYS APPROPRIATED BY THE LEGISLATURE SHALL DISCHARGE CERTAIN OBLIGATIONS AND TRANSFER CERTAIN RIGHTS FROM BONDHOLDERS TO THE STATE, TO PROVIDE THAT IF PAYMENTS ON BONDS ARE MADE BY THE STATE TREASURER FROM MONEYS IN THE RESERVE FUND AS APPROPRIATED BY THE LEGISLATURE, THE STATE TREASURER SHALL IMMEDIATELY INTERCEPT PAYMENTS FROM RECEIPTS OF PROPERTY TAX PAYMENTS OR SALES TAX MONEYS THAT WOULD BE DISTRIBUTED, TO PROVIDE REFERENCES TO MUNICIPAL BONDS, TO PROVIDE THAT THE STATE TREASURER SHALL APPLY THE INTERCEPTED PAYMENTS TO REIMBURSE THE STATE FOR PAYMENTS MADE BY THE STATE FOR THE BONDS BY DEPOSIT TO THE RESERVE FUND, TO CLARIFY MONEYS FOR WHICH A MUNICIPALITY MAY BE RESPONSIBLE, TO PROVIDE THAT A MUNICIPALITY MAY BE COMPELLED TO LEVY AND PROVIDE TAX OR OTHER REVENUES TO PAY DEBT SERVICE ON MUNICIPAL BONDS WHEN DUE AND TO MAKE A GRAMMATICAL CHANGE; AND AMENDING CHAPTER 87, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-8727, IDAHO CODE, TO SET FORTH AN ALTERNATIVE INTERCEPT PROCEDURE.

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

SECTION 1. That Section 67-8702, Idaho Code, be, and the same is hereby amended to read as follows:

67-8702. DEFINITIONS. As used in this chapter:

(1) "Authority" or "bond bank authority" means the Idaho bond bank authority.

(2) "Bonds" means bonds, notes or other obligations of the authority issued under this chapter.

(3) "Municipal bond" means a bond, note or other obligation, including a loan, lease or installment sale agreement, issued or undertaken by a municipality for any purpose authorized by law.

(4) "Municipality" means any county, city, municipal corporation, school district, irrigation district, sewer district, water district, highway district or other special purpose district or political subdivision of the state established by law.

SECTION 2. That Section 67-8710, Idaho Code, be, and the same is hereby amended to read as follows:

67-8710. ISSUANCE OF BONDS -- FORM OF ISSUANCE -- SALE PRICE -- PAYMENT OR REFUNDING OF BONDS -- TERMS OF AGREEMENT WITH BONDHOLDER. (1) The authority may issue its bonds from time to time in principal amounts that it considers necessary to provide funds for any purpose under this chapter, including, without limitations, to purchase municipal bonds, to fund reserves or to pay costs of issuance, refunding, including redemption premium, credit enhancement, or other matters related to the purpose, structure or marketing of the bonds.

(2) Bonds shall be authorized by resolution of the authority and shall bear the date, mature at the time or times, bear interest at the rate or rates of fixed or variable interest, payable at the times, be in the denominations, be in the forms, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources in the medium of payment at the place or places inside or outside the state, and be subject to the terms of redemption, with or without premium, rights of holders to tender for purchase and other terms and conditions as the resolution of the authority provides.

(3) Bonds of the authority may be issued in one (1) or more series.

(4) Bonds of the authority may be sold at public or private sale at the price or prices the authority determines.

(5) The authority may, from time to time, issue its bonds under this chapter and pay and retire, or fund or refund previously issued bonds from proceeds of refunding bonds, or from other funds or money of the authority available for that purpose.

(6) By resolution, the authority may authorize entering into an indenture or trust agreement with a corporate trustee located within or outside the state in order:

(a) To provide for the issuance of the bonds with such terms, including without limitation those terms referred to in subsection (2) of this section, as the authority may determine;

(b) To pledge or assign to the trustee for the benefit of holders of the bonds all or any part of the proceeds of the bonds, any municipal bonds purchased from municipalities, any other assets or revenues of or received by or pledged to the authority, and the income or other proceeds from any or all of the foregoing;

(c) To provide for the establishment of reserves and any other funds or accounts that the authority determines to be necessary or appropriate, in addition to or in lieu of the reserve fund established pursuant to section 67-8713, Idaho Code, which will secure all bonds issued by the authority unless the resolution of the authority providing for issuance of the bonds provides otherwise;

(d) To provide for the custody, safekeeping and enforcement of the municipal bonds acquired;

(e) To provide for the right to sell or otherwise dispose of property of any kind, including municipal bonds;
(f) To provide for the investment of bond proceeds or other moneys held by the trustee in such securities or obligations as may be described in the indenture or trust agreement;
(g) To provide for amending the indenture or trust agreement, with or without the consent of the holders of the bonds;
(h) To provide for the replacement of lost, stolen, destroyed or mutilated bonds;
(i) To provide for the issuance or limitations on issuance of additional bonds;
(j) To provide for the rights, liabilities, powers and duties arising upon the breach of any covenant, condition or obligation, to limit the rights of bondholders to enforce covenants, conditions or obligations, and to prescribe the events of default and the terms and conditions upon which any or all of the bonds become or may be declared due and payable before maturity, and the terms and conditions upon which the declaration and its consequences may be waived;
(k) To appoint and to provide for the duties and obligations of a paying agent or agents or other fiduciaries inside or outside the state;
(l) To make covenants to do or refrain from doing acts, including to enter into any contract, and to provide any other terms and conditions which the authority may determine to be necessary or appropriate in order to better secure the bonds or improve their marketability; and
(m) To intercept certain payments, and to impose interest and penalties, as provided in section 67-8725, Idaho Code.

SECTION 3. That Section 67-8713, Idaho Code, be, and the same is hereby amended to read as follows:

67-8713. RESERVE FUND -- ADDITIONAL FUNDS AND ACCOUNTS. (1) There is hereby created in the state treasury a fund to be known as the "Idaho Municipal Bond Bank Authority Reserve Fund" (hereinafter referred to as "reserve fund") in which there shall be deposited or transferred:
(a) All proceeds of bonds or municipal bonds or any reserve surety policy or similar credit enhancement obtained to secure bonds of the authority that the authority may require, ~~municipalities,~~ by contract with the municipality or by a resolution of the authority, to be deposited in the reserve fund; and
(b) All moneys appropriated by the legislature for the purpose of the fund.
(2) Moneys in the reserve fund shall be maintained by the authority and are pledged and shall be held and applied solely to the payment of the interest on and principal of bonds, pursuant to the provisions of section 67-8725, Idaho Code, as the interest and principal become due and payable. Moneys may not be withdrawn from the reserve fund if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, as herein defined, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other than moneys of the authority pledged to pay such interest and principal are not then available. As

used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution of the authority.

(3) For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution of the authority. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the moneys or investments in the reserve fund.

(4) Moneys in the reserve fund in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions of any agreement with the holders of any bonds.

(5) In order to assure the maintenance of the required debt service reserve in the reserve fund, the legislature may annually appropriate to the authority for deposit in the reserve fund the sum, certified by the chairman of the authority to the legislature, that is necessary to restore the fund to an amount equal to the required debt service reserve. The chairman of the authority, annually before December 1, shall make and deliver to the legislature his certificate stating the sum required to restore the funds to that amount. Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(6) All amounts received on account of moneys appropriated by the state to the reserve fund shall be held and applied in accordance with this section; provided however, at the end of each fiscal year, if the amount in the reserve fund derived from amounts appropriated by the legislature exceeds the required debt service reserve, any amount representing earnings or income received on account of moneys appropriated to the reserve fund by the legislature that exceed the expenses of the authority for that fiscal year shall be transferred to the general fund of the state.

(7) The authority may establish subaccounts in the reserve fund, additional reserves or other funds or accounts as may be, in its discretion, necessary or appropriate to further the accomplishment of its purposes or to comply with the provisions of any of its agreements or resolutions.

SECTION 4. That Section 67-8716, Idaho Code, be, and the same is hereby amended to read as follows:

67-8716. UNLIMITED SALES TAX ACCOUNT PLEDGE. (1) If moneys expected to be intercepted pursuant to section 67-8725, Idaho Code, are expected to be insufficient to reimburse the state for its payments ~~on~~ in respect of the municipal bonds, the state treasurer shall certify to and give notice to the state tax commission of the amount of the deficiency.

(2) After receipt of the certified notice from the state treasurer pursuant to section 67-8727, Idaho Code, or subsection (1) of this section, the state tax commission shall:

(a) Immediately fix the amount necessary and in the amount of the deficiency stated in the notice; and

(b) Cause moneys to be transferred from the state sales tax account pursuant to section 63-3638, Idaho Code, and deposited in the bond bank authority fund, which is hereby statutorily created in the

state treasury; provided however, that in no event shall a transfer of moneys from the state sales tax account under the provisions of this chapter impede or otherwise affect the payment of sales tax moneys pledged for the payment on other ~~outstanding~~ state bonds outstanding on the effective date of this act or subsequently issued as tax anticipation notes pursuant to section 63-3202. Idaho Code.

(3) Moneys transferred from the state sales tax account to the bond bank authority fund pursuant to subsection (2) of this section shall be deposited in the reserve fund as replacement moneys for amounts withdrawn from the reserve fund to pay debt service on the bonds pursuant to section 67-8725, Idaho Code, to the extent such moneys are derived from amounts appropriated to the reserve fund by the legislature, or shall be used to pay debt service when due on bonds for which other moneys available pursuant to section 67-8727, Idaho Code, are insufficient.

(4) The state of Idaho pledges to and agrees with the holders of any bonds that the state will not alter, impair or limit the rights vested by the sales tax account pledge provided in this section and in section 63-3638, Idaho Code, with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(~~4~~5) To the extent that other legally available revenues and funds of the state are sufficient to meet the certified deficiency, the transfer of moneys from the sales tax account in section 63-3638, Idaho Code, is abated.

SECTION 5. That Section 67-8725, Idaho Code, be, and the same is hereby amended to read as follows:

67-8725. PAYMENT TRANSFER -- NOTICE OF NONPAYMENT -- STATE FINANCIAL ASSISTANCE INTERCEPT MECHANISM -- STATE TREASURER DUTIES -- INTEREST AND PENALTY PROVISIONS.

(1) (a) Each municipality with outstanding unpaid municipal bonds as set forth in this chapter shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds. The paying agent may~~, if instructed to do so by the municipality, invest the moneys at the risk and~~ be the trustee for the ~~benefit~~ bonds of the ~~municipality until the payment date~~ authority that are secured by those municipal bonds.

(b) A municipality which is unable to transfer the scheduled debt service payment to the paying agent at least fifteen (15) days before the scheduled payment date shall immediately notify the paying agent and the state treasurer by:

(i) Telephone;

(ii) A writing sent by facsimile transmission; and

(iii) A writing sent by first-class United States mail.

(c) If sufficient funds are not transferred to the paying agent as required by this subsection, the paying agent shall notify the authority and the state treasurer of that failure in writing at least ten (10) days before the scheduled debt service payment date by:

(i) Telephone;

(ii) A writing sent by facsimile transmission; and

(iii) A writing sent by first-class United States mail.

(d) If sufficient moneys to pay the schedule debt service payment

have not been transferred to the paying agent~~, the state treasurer shall, on or~~ at least ten (10) days before the scheduled payment date, ~~transfer~~ the authority or the state treasurer shall cause sufficient moneys to be transferred from the reserve fund as provided in section 67-8713, Idaho Code, to the paying agent to make the scheduled debt service payment.

(e) To the extent moneys transferred from the reserve fund are derived from moneys appropriated to the reserve fund by the legislature, t~~T~~he payment by the state treasurer:

(i) Discharges the obligation of the issuing municipality to its bondholders for the payment; and

(ii) Transfers the rights represented by the general obligation of the municipality from the bondholders to the state.

(2) (a) If one (1) or more payments on bonds are made by the state treasurer from moneys in the reserve fund that are derived from moneys appropriated to the reserve fund by the legislature, due to the failure of the municipality to make payment on its bonds in a timely manner, the state treasurer shall:

(i) Immediately intercept any payments from:

(A) The receipts of any payment of property taxes; or

(B) Sales tax moneys that would be distributed pursuant to section 63-3638, Idaho Code; or

(C) Any other source of operating moneys provided by the state to the municipality that issued the municipal bonds that would otherwise be paid to the municipality by the state; and

(ii) Apply the intercepted payments to reimburse the state for payments made by the state for the bonds by deposit to the reserve fund up to the amount withdrawn from the reserve fund for such purpose until all obligations of the municipality to the state arising from those payments, including interest and penalties, are paid in full.

(b) The state has no obligation to the municipality or to any person or entity to replace any moneys intercepted under the authority of this subsection.

(3) The municipality that issued municipal bonds for which the state has made all or part of a debt service payment, either from amounts in the reserve fund that are derived from moneys appropriated by the legislature or from moneys transferred from the state sales tax account pursuant to section 67-8716, Idaho Code, shall:

(a) Reimburse all moneys drawn by the state treasurer on its behalf;

(b) Pay interest to the state on all moneys paid by the state from the date the moneys are drawn to the date they are repaid at a rate not less than the average prime rate for national money center banks plus five percent (5%); and

(c) Pay all penalties required by this chapter.

(4) (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the municipality on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payments on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the municipality to make payment on

its bonds in a timely manner, impose on the municipality a penalty of not more than five percent (5%) of the amount paid by the state for each instance in which a payment by the state is made.

(5)(a)(i) If the state treasurer determines that amounts obtained under this section will not reimburse the state in full within one (1) year from the state's payment of a municipality's scheduled debt service payment, the state treasurer shall pursue any legal action, including mandamus, against the municipality to compel it to:

(A) Levy and provide tax or other revenues to pay debt service on its municipal bonds when due; and

(B) Meet its repayment obligations to the state.

(ii) In pursuing its rights under paragraph (a) of this subsection, the state shall have the same substantive and procedural rights as would a holder of the bonds of a municipality.

(b) The attorney general shall assist the state treasurer in these duties.

(c) The municipality shall pay the attorney's fees, expenses and costs of the state treasurer and the attorney general.

(6) (a) Except as provided in paragraph (c) of this subsection, any municipality whose operating funds were intercepted under this section may replace those funds from other municipal moneys or from property taxes, subject to the limitations provided in this subsection.

(b) A municipality may use property taxes or other moneys to replace intercepted funds only if the property taxes or other moneys were derived from:

(i) Taxes originally levied to make the payment but which were not timely received by the municipality;

(ii) Taxes from a supplemental levy made to make the missed payment or to replace the intercepted moneys;

(iii) Moneys transferred from the undistributed reserve, if any, of the municipality; or

(iv) Any other source of money on hand and legally available.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection, a municipality may not replace operating funds intercepted by the state with moneys collected and held to make payments on bonds if that replacement would divert moneys from the payment of future debt service on the bonds and increase the risk that the state would be called upon an additional time to make payments on the bonds.

SECTION 6. That Chapter 87, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-8727, Idaho Code, and to read as follows:

67-8727. ALTERNATIVE INTERCEPT PROCEDURE. Notwithstanding any other provision of law to the contrary, to the extent that any bonds are not secured by moneys appropriated by the legislature to the reserve fund established pursuant to section 67-8713, Idaho Code, or such moneys are insufficient to pay debt service when due on the bonds, in lieu of the provisions set forth in section 67-8725, Idaho Code, the following provisions shall apply, provided that the provisions of section 67-8725, Idaho Code, shall continue to apply with respect to transfers of amounts

in the reserve fund derived from moneys appropriated by the legislature:

(1) (a) Each municipality with outstanding unpaid municipal bonds as set forth in this chapter shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds. The paying agent may be the trustee for the bonds of the authority that are secured by those municipal bonds.

(b) A municipality which is unable to transfer the scheduled debt service payment to the paying agent at least fifteen (15) days before the scheduled payment date shall immediately notify the paying agent, the authority and the state treasurer by:

(i) Telephone;

(ii) A writing sent by facsimile transmission; and

(iii) A writing sent by first-class United States mail.

(c) If sufficient funds are not transferred to the paying agent as trustee for the bonds of the authority that are secured by those municipal bonds at least ten (10) days before the scheduled debt service payment date of those bonds, the trustee shall transfer any available funds pledged to secure payment of the bonds held in any reserve fund or other pledged fund, or draw on any reserve surety policy securing the bonds, sufficient amounts to make up any shortfall in the amount necessary to pay debt service on the bonds on the scheduled payment date and deposit such amount in the debt service payment fund for those bonds.

(d) If, as a result of the failure of the municipality to make payment on its municipal bonds in a timely manner, the trustee is required to transfer funds pursuant to paragraph (c) of this subsection to pay debt service on the bonds or there are not sufficient funds available pursuant to paragraph (c) of this subsection to make up for any shortfall in the amount necessary to pay debt service on the bonds, at least ten (10) days before the scheduled debt service payment date of the bonds, the trustee shall notify the authority and the state treasurer by:

(i) Telephone;

(ii) A writing sent by facsimile transmission; and

(iii) A writing sent by first-class United States mail.

(e) Upon the notice provided in subsection (1)(d) of this section, the state treasurer shall:

(i) Immediately intercept any payments from:

(A) The receipts of any payment of property taxes; or

(B) Sales tax moneys that would be distributed pursuant to section 63-3638, Idaho Code; or

(C) Any other source of operating moneys provided by the state to the municipality that issued the municipal bonds that would otherwise be paid to the municipality by the state; and

(ii) Transfer the intercepted payments in the following order of priority:

(A) To the trustee for the bonds for deposit in the debt service payment fund for the bonds until there are sufficient amounts on deposit to pay debt service on the bonds on the scheduled payment date; provided that if the state treasurer will be unable to transfer sufficient intercepted payments for such purpose, the state treasurer

shall give notice to the state tax commission, certifying the amount of the deficiency, at least five (5) days prior to the scheduled payment date of the bonds;

(B) To the trustee for the bonds to reimburse any amounts transferred from a reserve or other pledged fund or surety policy pursuant to paragraph (c) of this subsection up to the required balance in such fund or required reimbursement of such surety; and

(C) To the state for the reimbursement of any moneys transferred from the state sales tax account pursuant to section 67-8716, Idaho Code, to pay debt service on the bonds on the scheduled payment date, together with any interest or penalties established pursuant to section 67-8725, Idaho Code.

(f) The state has no obligation to the municipality or to any person or entity to replace any moneys intercepted under the authority of this subsection.

(2) (a) The municipal bonds or the agreement for purchase of the municipal bonds by the authority may provide for payment of interest and penalties and other terms for reimbursement of any amounts drawn from reserve funds, pledged funds, reserve surety policies or other credit enhancement to pay debt service on the bonds due to the failure of the municipality to make payment on its municipal bonds in a timely manner. To the extent that debt service on the bonds is paid from the state sales tax account pursuant to section 67-8716, Idaho Code, the provisions of sections 67-8725(3), (4) and (5), Idaho Code, shall apply.

(b) If the authority determines that amounts obtained under this section will not fully make up any amounts which a municipality has failed to pay on its municipal bonds when due, together with any interest and penalties established pursuant to this section, within one (1) year from the payment of the municipality's scheduled debt service payment, the authority or the trustee for the bonds may pursue any legal action, including mandamus, against the municipality to compel the municipality to:

(i) Levy and provide tax or other revenues to pay debt service on its municipal bonds when due; and

(ii) Meet its repayment obligations, under its municipal bonds or otherwise, to the authority.

(c) In pursuing their rights under this subsection, the authority and the trustee shall have the same substantive and procedural rights as a holder of the bonds of a municipality.

(d) The attorney general shall assist the authority in carrying out its duties under this subsection.

(e) The municipality shall pay the attorney's fees, expenses and costs of the authority, the trustee and the attorney general.

(4) (a) Except as provided in paragraph (c) of this subsection, any municipality whose operating funds were intercepted under this section may replace those funds from other municipal moneys or from property taxes, subject to the limitations provided in this subsection.

(b) A municipality may use property taxes or other moneys to replace intercepted funds only if the property taxes or other moneys were derived from:

(i) Taxes originally levied to make the payment but which were not timely received by the municipality;
(ii) Taxes from a supplemental levy made to make the missed payment or to replace the intercepted moneys;
(iii) Moneys transferred from the undistributed reserve, if any, of the municipality; or
(iv) Any other source of money on hand and legally available.

(c) Notwithstanding the provisions of subsections (4)(a) and (b) of this section, a municipality may not replace operating funds intercepted by the state with moneys collected and held to make payments on bonds if that replacement would divert moneys from the payment of future debt service on the bonds and increase the risk that the state would be called upon an additional time to make payments on the bonds.

Approved March 20, 2002.

CHAPTER 149
(H.B. No. 671)

AN ACT

RELATING TO INDIVIDUAL DEVELOPMENT ACCOUNTS; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 11, TITLE 56, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE LEGISLATIVE FINDINGS, TO PROVIDE GUIDELINES AND CRITERIA FOR PERSONS QUALIFYING AS ACCOUNT HOLDERS, TO PROVIDE FOR APPROVED PURPOSES OF INDIVIDUAL DEVELOPMENT ACCOUNTS, TO PROVIDE FOR WITHDRAWALS FROM THE ACCOUNT AND TO PROVIDE FOR REMOVAL FROM THE PROGRAM, TO PROVIDE FOR REQUIRED ACCOUNT FEATURES AND TO PROVIDE FOR CERTAIN RESTRICTIONS RELATING TO MATCHING MONEYS, TO PROVIDE FOR THE INDIVIDUAL DEVELOPMENT ACCOUNT ADVISORY BOARD, TO PROVIDE FOR THE AUTHORITY AND DUTIES OF FIDUCIARY ORGANIZATIONS AND TO EXCLUDE CERTAIN MONEYS FROM CONSIDERATION IN PUBLIC ASSISTANCE ELIGIBILITY DETERMINATIONS.

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

SECTION 1. That Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 11, Title 56, Idaho Code, and to read as follows:

CHAPTER 11
IDAHO FAMILY ASSET BUILDING INITIATIVE

56-1101. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Account holder" means a member of a low-income household who is the named depositor of an individual development account.

(2) "Board" means the individual development account advisory board as established pursuant to the provisions of this chapter.

(3) "Fiduciary organization" means a nonprofit, fundraising organiation that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, approved by the state,including any Indian tribe

as defined in section 4(12) of the native American housing assistance and self-determination act of 1996 (25 U.S.C. section 4103(12)) and any tribal subsidiary, subdivision, or other wholly owned tribal entity.

(4) "Financial institution" means any state bank, national bank, savings bank, savings and loan association, credit union, insurance company, brokerage firm or other similar entity that insures the deposits of its investors and is authorized to do business in this state.

(5) "Individual development account" means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into the financial institution by the fiduciary organization from private and public contributions made to the fiduciary organization for such purpose, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(6) "Low-income household" means a single person or family whose adjusted annual income is less than two hundred percent (200%) of the annual federal poverty guideline.

56-1102. LEGISLATIVE FINDINGS. The legislature finds that:

(1) The problem of poverty will not be solved solely by government programs and income subsidies.

(2) It is in the best interest of all Idahoans to structure incentives in a way that will result in a greater likelihood that low-income and working-poor individuals will attain self-sufficiency.

(3) It is in the best interest of all Idahoans to encourage low-income individuals, neighborhoods and communities to benefit from the developments achieved through the growth in assets and investments.

(4) Achieving self-sufficiency and assessing economic opportunity for low-income and working-poor individuals can be addressed through public policy that invests in asset accumulation and is supported by private sector philanthropy.

(5) Providing a structured savings situation for low-income and working-poor individuals enhances their chances of fulfilling major life goals and opportunities and incorporates them into the economic mainstream.

(6) The state has an opportunity to take advantage of private and public resources by making the transition to an asset-based antipoverty strategy. Those resources include, but are not limited to, the assets for independence act (42 U.S.C. section 604) and the workforce investment act (P.L. 105-220).

(7) Investment through an individual development account program will help lower-income households obtain the assets they need to succeed. Communities and this state will experience resultant economic and social benefits accruing from the promotion of job training and higher education, home ownership and small business development.

(8) It is desirable for this state to enact legislation that enables an authorized fiduciary organization sufficient flexibility to receive private, state and federal moneys for individual development accounts. The legislature should periodically review the provisions of this chapter to ensure that this state maximizes the receipt of available federal moneys for individual development accounts.

56-1103. PERSONS QUALIFYING AS ACCOUNT HOLDERS. (1) A person who qualifies to become an account holder may enter into an agreement with a fiduciary organization for the establishment of an individual development account.

(2) A person is qualified to become an account holder if the person is a member of a low-income household.

(3) A person applying to establish an account must enroll in a personal development plan developed by the person and the fiduciary organization. The plan must provide the person with financial training and counseling, career or business planning and other services designed to increase the independence of the person and the person's household through achievement of the account's approved purpose.

56-1104. APPROVED PURPOSE OF ACCOUNT -- EMERGENCY WITHDRAWAL -- REMOVAL OF ACCOUNT HOLDER FROM PROGRAM. (1) A person may establish an individual development account only for a purpose approved by a fiduciary organization. Disbursements from an account for an approved purpose shall be made directly by the fiduciary organization on behalf of the account holder but in no event shall the fiduciary organization make a disbursement for an approved purpose directly to the account holder. Purposes that the fiduciary organization may approve are:

(a) Educational costs for any family member eighteen (18) years of age or older, at an accredited institution of postsecondary education.

(b) The purchase of a primary residence. In addition to payment on the purchase price of the residence, account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs. The account holder must not have owned or held any interest in a residence during the three (3) years prior to making the purchase. However, this three (3) year period shall not apply to displaced homemakers or other individuals who have lost home ownership as a result of divorce.

(c) The capitalization of a small business. Account moneys may be used for capital, plant, equipment and inventory expenses or for working capital pursuant to a business plan. The business plan must have been developed through a financial institution, nonprofit microenterprise program or other qualified agent demonstrating business expertise and have been approved by the fiduciary organization. The business plan must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

(2) (a) If an emergency occurs, an account holder may withdraw all or part of the account holder's deposits to an individual development account for a purpose not described in subsection (1) of this section. As used in this paragraph, an approved emergency includes making payments for necessary medical expenses, to avoid eviction of the account holder from the account holder's residence and for necessary living expenses following a loss of employment.

(b) The account holder must reimburse the account for the amount withdrawn under this subsection within twelve (12) months after the date of the withdrawal. Failure of an account holder to make a timely reimbursement to the account is grounds for removing the account holder from the individual development account program. Until the reimbursement has been made in full, an account holder

shall not be approved for matching funds or accrued interest on matching funds.

(3) If an account holder withdraws, or directs the withdrawal, of moneys from an individual development account for other than an approved purpose, the fiduciary organization may remove the account holder from the program.

(4) If an account holder moves from the area where the program is conducted or is otherwise unable to continue in the program, the fiduciary organization may remove the account holder from the program.

(5) If an account holder is removed from the program under subsection (2), (3) or (4) of this section, the account holder shall retain moneys he or she deposited in the account, including interest earned. In the event of the death of the account holder, moneys deposited in the account by the account holder and interest earned on those deposits shall be distributed to the designated beneficiary of the account and, if there is none, then according to the laws of the state of Idaho as moneys of the estate of the account holder. If the account holder is removed from the program or in the event of the account holder's death, all matching deposits in the account and all interest earned on matching deposits shall revert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a source of matching deposits for other accounts.

56-1105. REQUIRED ACCOUNT FEATURES -- MATCHING MONEYS. (1) The fiduciary organization shall structure the accounts to have the following features:

(a) The fiduciary organization matches amounts deposited by the account holder according to a formula established by the fiduciary organization. The fiduciary organization shall deposit not less than one dollar ($1.00) nor more than five dollars ($5.00) into the account for each one dollar ($1.00) deposited by the account holder.

(b) The matching deposits by the fiduciary organization to the individual development account are placed in a savings account that is controlled by the fiduciary organization and held separately from the savings account of the account holder.

(2) Deposits by a fiduciary organization to an account shall not exceed three thousand dollars ($3,000) in any twelve (12) month period.

(3) The total amount paid into an individual development account during its existence, including amounts from deposits, matching deposits and interest or investment earnings, may not exceed twenty thousand dollars ($20,000).

(4) Nothing in this chapter shall be construed to create an entitlement to matching moneys. The number of individuals who may receive disbursement of matching philanthropic moneys by sponsoring organizations pursuant to the provisions of this chapter shall necessarily be limited by the amount of philanthropic moneys available in any given year for such purpose.

56-1106. INDIVIDUAL DEVELOPMENT ACCOUNT ADVISORY BOARD -- POWERS AND DUTIES. There is hereby created the individual development account advisory board. The board shall consist of the administrator of the division of financial management or his designee who shall serve as chair, the director of the department of finance or designee, the director of the department of health and welfare or designee, the director of

the department of commerce or designee, the chairman of the Idaho state tax commission or designee, and the superintendent of public instruction or designee. A quorum shall be necessary to transact business. Members of the board shall be compensated by their appointing entity. The individual development account board shall:

(1) Develop and administer the individual development account program in a manner consistent with this chapter through the adoption of guidelines and procedures, and rules adopted in compliance with chapter 52, title 67, Idaho Code;

(2) Retain professional services, if necessary, including accountants, auditors, consultants and other experts;

(3) Seek rulings and other guidance, as necessary, from the United States department of the treasury, the internal revenue service and the state tax commission relating to the program;

(4) Make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by section 529 of the Internal Revenue Code of 1986, as amended.

(5) Interpret, in rules, policies, guidelines and procedures, the provisions of this chapter broadly in light of its purpose and objectives; and

(6) Approve fiduciary organizations to implement the individual development account program and administer moneys for individual development account purposes. In making the selections, the board shall consider factors including, but not limited to:

(a) The ability of the fiduciary organization to implement and administer the individual development account program, including the ability to verify account holder eligibility, certify that matching deposits are used only for approved purposes and exercise general fiscal accountability;

(b) The capacity of the fiduciary organization to provide or raise matching funds for the deposits of account holders;

(c) The capacity of the fiduciary organization to provide financial counseling and other related services to account holders;

(d) The links that the fiduciary organization has to other activities and programs designed to increase the independence of this state's lower-income households through education and training, home ownership and small business development; and

(e) The ability to meet criteria established by the federal government relating to individual development account programs.

56-1107. FIDUCIARY ORGANIZATIONS -- AUTHORITY AND DUTIES. (1) Subject to rules of the individual development account advisory board, a fiduciary organization has sole authority over, and responsibility for, the administration of individual development accounts. The responsibility of the fiduciary organization extends to all aspects of the account program, including marketing to participants, soliciting matching contributions, counseling account holders, providing financial training, and conducting required verification and compliance activities. The fiduciary organization may establish program provisions as the organization believes necessary to ensure account holder compliance with the provisions of this chapter.

(2) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, nonprofit organizations, community development corporations, community action programs,

housing authorities and congregations to assist in the fulfillment of fiduciary organization responsibilities under this chapter.

(3) A fiduciary organization may use a reasonable portion of moneys allocated to the individual development account program for administration, operation and evaluation purposes.

(4) A fiduciary organization selected to administer moneys for individual development account purposes or to receive tax deductible contributions shall provide the board with an annual report of the fiduciary organization's individual development account program activity. The report shall be filed no later than ninety (90) days after the end of the fiscal year of the fiduciary organization, or November 1 of each year, whichever occurs first. The report shall include, but not be limited to, the following information for the preceding year:

(a) The number of individual development accounts administered by the fiduciary organization;

(b) The amount of deposits and matching deposits for each account;

(c) The purpose of each account;

(d) The amount of withdrawals made for approved purposes, and the amount of withdrawals made for nonapproved purposes;

(e) The determination of whether certain donors are corporations; and

(f) Any other information the board may require for the purpose of making a return on investment analysis.

56-1108. PUBLIC ASSISTANCE -- ELIGIBILITY DETERMINATION. Moneys in an individual development account established pursuant to the provisions of this chapter, or moneys withdrawn from an individual development account on behalf of an account holder for an approved purpose, shall not be counted as an asset of the account holder for the purpose of eligibility determination for any public assistance offered by the state of Idaho or a political subdivision of the state of Idaho.

Approved March 20, 2002.

CHAPTER 150
(H.B. No. 679)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-602EE, IDAHO CODE, TO PROVIDE THAT MACHINERY AND EQUIPMENT USED IN THE PRODUCTION OF OR CARING FOR NURSERY STOCK IS EXEMPT FROM TAXATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-602EE, Idaho Code, be, and the same is hereby amended to read as follows:

63-602EE. PROPERTY EXEMPT FROM TAXATION -- CERTAIN TANGIBLE PERSONAL PROPERTY. The following property is exempt from taxation: class 2 property that is agricultural machinery and equipment and exclusively used in agriculture during the immediately preceding tax year. For purposes of this section:

(1) "Agricultural machinery and equipment" shall mean any machinery and equipment that is used in:

(a) Production of field crops including, but not limited to, grains, feed crops, fruits and vegetables or the production of or caring for nursery stock as defined in section 22-2302, Idaho Code; or

(b) The grazing, feeding or raising of livestock, fur-bearing animals, fish, fowl and bees to be sold or used as part of a net profit-making agricultural enterprise or dairy.

(2) Buildings shall not be considered to be agricultural machinery and equipment.

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, 2002.

Approved March 20, 2002.

CHAPTER 151
(H.B. No. 680)

AN ACT

RELATING TO REPLACEMENT OF CERTAIN PERSONAL PROPERTY TAXES TO SCHOOL DISTRICTS; AMENDING SECTION 63-3067, IDAHO CODE, TO PROVIDE THAT FOR SCHOOL DISTRICTS, BEGINNING JANUARY 1, 2002, ONLY THE PORTION OF PROPERTY TAX REPLACEMENT RECEIVED TO REPLACE PROPERTY EXEMPT FROM TAXATION PURSUANT TO SECTION 63-602EE, IDAHO CODE, BASED ON THE YEAR 2000 TAX CHARGES FOR MAINTENANCE AND OPERATION AS LIMITED BY SECTIONS 33-802 2. AND 33-1002D, IDAHO CODE, ON PROPERTY EXEMPT FROM TAXATION PURSUANT TO SECTION 63-602EE, IDAHO CODE, SHALL NOT BE SUBTRACTED FROM MAXIMUM SCHOOL DISTRICT MAINTENANCE AND OPERATION PROPERTY TAXES PERMITTED IN ACCORDANCE WITH SECTION 33-802 2., IDAHO CODE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3067. REVENUE RECEIVED -- STATE REFUND ACCOUNT. (1) A sum equal to the amount withheld under section 63-3035A, Idaho Code, shall be distributed fifty percent (50%) to the public school income fund to be utitized to facilitate and provide substance abuse programs in the public school system, and fifty percent (50%) shall be distributed to the counties to be utilized for county juvenile probation services. These funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a hole.

(2) All moneys except as provided in subsection (1) of this section, and except as hereinafter provided, received by the state of Idaho under this act shall be deposited by the state tax commission, as

received by it, with the state treasurer and shall be placed in and become a part of the general account under the custody of the state treasurer. Providing however, that an amount equal to twenty percent (20%) of the amount deposited with the state treasurer shall be placed in the "state refund account" which is hereby created for the purpose of repaying overpayments, for the purpose of remitting to counties and taxing districts for personal property exempt from taxation pursuant to section 63-602EE, Idaho Code, as provided in subsection (3) of this section, for the purpose of depositing in the trust accounts specified in section 63-3067A, Idaho Code, such amounts as may be designated by individuals for the purpose of depositing in the Idaho ag in the classroom account an amount as may be designated by the individual receiving a refund for such overpayment, and for the purpose of paying any other erroneous receipts illegally assessed or collected, penalties collected without authority and taxes and licenses unjustly assessed, collected or which are excessive in amount. Whenever necessary for the purpose of making prompt payment of refunds, the board of examiners, upon request from the state tax commission, and after review, may authorize the state tax commission to transfer any additional specific amount from income tax collections to the "state refund account." There is appropriated out of the state refund account so much thereof as may be necessary for the payment of the refunds herein provided. Claims for, and payment of refunds under the provisions of this section shall be made in the same manner as other claims against the state of Idaho.

(3) The state tax commission shall calculate the amount that each county assessed in taxes in tax year 2000 on property that is exempt from taxation pursuant to section 63-602EE, Idaho Code, and shall remit to the county treasurer for distribution to each taxing district in the county one hundred six percent (106%) of the amount calculated as follows:

The county commissioners in each county shall certify to the state tax commission by July 1, 2001, the year 2000 tax charge, applicable to the property exempt from taxation pursuant to section 63-602EE, Idaho Code, provided that such property was categorized in year 2000 as farm machinery, tools and equipment pursuant to rules of the state tax commission, for the portion of each taxing district or unit within the county. For nonschool districts the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county beginning in October 2001. For school districts the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district beginning in October 2001. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section 63-602EE, Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dis-

solved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying the sum of the year 2000 school district levy plus .001 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section 63-602EE, Idaho Code. For school districts, beginning January 1, 2002, only the portion of property tax replacement received to replace property exempt from taxation pursuant to section 63-602EE, Idaho Code, based on the year 2000 tax charges for maintenance and operation as limited by sections 33-802 2. and 33-1002D, Idaho Code, on property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall not be subtracted from maximum school district maintenance and operation property taxes permitted in accordance with section 33-802 2., Idaho Code. For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as property tax replacement for property exempt from taxation pursuant to section 63-602EE, Idaho Code, shall be treated as property tax revenues.

(4) Any unencumbered balance remaining in the state refund account on June 30 of each and every year in excess of the sum of one million five hundred thousand dollars ($1,500,000) shall be transferred to the general fund and the state controller is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

SECTION 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, 2002.

Approved March 20, 2002.

CHAPTER 152
(H.B. No. 681)

AN ACT

RELATING TO UNCLAIMED PROPERTY LAW; AMENDING SECTION 14-505, IDAHO CODE, TO CHANGE THE HOLDING PERIOD FROM SEVEN YEARS TO FIVE YEARS FOR CHECKS, DRAFTS AND SIMILAR INSTRUMENTS ISSUED OR CERTIFIED BY BANKING AND FINANCIAL ORGANIZATIONS; AMENDING SECTION 14-506, IDAHO CODE, TO CHANGE THE HOLDING PERIOD FROM SEVEN YEARS TO FIVE YEARS FOR BANK DEPOSITS AND FUNDS IN FINANCIAL ORGANIZATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 14-512, IDAHO CODE, TO CHANGE THE HOLDING PERIOD FROM SEVEN YEARS TO FIVE YEARS FOR PROPERTY HELD BY AGENTS AND FIDUCIARIES; AMENDING SECTION 14-516, IDAHO CODE, TO CHANGE THE HOLDING PERIOD FROM SEVEN YEARS TO FIVE YEARS FOR CONTENTS OF A SAFE DEPOSIT BOX OR OTHER SAFEKEEPING REPOSITORY;

AMENDING SECTION 14-517, IDAHO CODE, TO DELETE THE SPECIAL REPORTING PERIOD FOR INSURANCE COMPANIES AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 14-505, Idaho Code, be, and the same is hereby amended to read as follows:

14-505. CHECKS, DRAFTS AND SIMILAR INSTRUMENTS ISSUED OR CERTIFIED BY BANKING AND FINANCIAL ORGANIZATIONS. (1) Any sum payable on a check, draft, or similar instrument, except those subject to section 14-504, Idaho Code, on which a banking or financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than ~~seven~~ five (~~7~~5) years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within ~~seven~~ five (~~7~~5) years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee thereof.

(2) A holder may not deduct from the amount of any instrument subject to this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.

SECTION 2. That Section 14-506, Idaho Code, be, and the same is hereby amended to read as follows:

14-506. BANK DEPOSITS AND FUNDS IN FINANCIAL ORGANIZATIONS. (1) Any demand, savings, or matured time deposit with a banking or financial organization, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization is presumed abandoned unless the owner, within ~~seven~~ five (~~7~~5) years, has:

(a) In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(b) Communicated in writing with the banking or financial organization concerning the property;

(c) Otherwise established that the owner is currently aware of his interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization describing the activity of the owner which establishes that the owner is currently aware of his interest in the property stating the date of such activity and the address of the owner as of that date;

(d) Owned other property to which paragraph (a), (b)~~,~~ or (c) of this subsection applies and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at

the address to which communications regarding the other property regularly are sent; or

(e) Had another relationship with the banking or financial organization concerning which the owner has:

1. Communicated in writing with the banking or financial organization; or

2. Otherwise established that the owner is currently aware of his interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization describing the activity of the owner which establishes that the owner is currently aware of his interest, stating the date of such activity and the address of the owner as of that date.

(2) For purposes of subsection (1) of this section, property includes interest and dividends.

(3) A holder may not impose with respect to property described in subsection (1) of this section any charge due to dormancy or inactivity or cease payment of interest unless:

(a) There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest;

(b) For property in excess of two dollars ($2.00), the holder, no more than three (3) months before the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease, but the notice provided in this section need not be given with respect to charges imposed or interest ceased before the effective date of this chapter; and

(c) The holder regularly imposes such charges or ceases payment of interest and does not regularly reverse or otherwise cancel them or retroactively credit interest with respect to the property.

(4) Any property described in subsection (1) of this section that is automatically renewable is matured for purposes of subsection (1) of this section upon the expiration of its initial time period, but in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in section 14-519, Idaho Code, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

SECTION 3. That Section 14-512, Idaho Code, be, and the same is hereby amended to read as follows:

14-512. PROPERTY HELD BY AGENTS AND FIDUCIARIES. (1) Intangible property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within ~~seven~~ five ~~(7)~~ years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal ~~or income~~, or communicated concerning the property.

(2) Amounts due and payable from property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, is presumed abandoned three (3) years after the earlier of the date of the required distribution as stated in the documents governing the account or plan, or the date, if determinable by the holder, specified in the income tax law of the United States by which distribution of the property must begin in order to avoid a tax penalty, but excluding property in any such account or plan if the documents governing the account or plan provide a method for the treatment of the account balance of an account holder or plan participant or beneficiary who cannot be located.

(3) For the purposes of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association alone, unless the agreement between him and the business association provides otherwise.

(4) For the purposes of this chapter, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

SECTION 4. That Section 14-516, Idaho Code, be, and the same is hereby amended to read as follows:

14-516. CONTENTS OF SAFE DEPOSIT BOX OR OTHER SAFEKEEPING REPOSITORY. All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than ~~seven~~ five (~~7~~5) years after the lease or rental period on the box or other repository has expired, are presumed abandoned.

SECTION 5. That Section 14-517, Idaho Code, be, and the same is hereby amended to read as follows:

14-517. REPORT OF ABANDONED PROPERTY. (1) A person holding property tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the administrator concerning the property as provided in this section.

(2) The report must be verified and must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property presumed abandoned under this chapter;

(b) In the case of unclaimed funds of fifty dollars ($50.00) or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

(c) In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected

by the administrator and any amounts owing to the holder;

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due;

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property; and

(f) Other information the administrator prescribes by rule as necessary for the administration of the provisions of this chapter.

(3) If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed his name while holding the property, he shall file with his report all known names and addresses of each previous holder of the property.

(4) The report must be filed before November 1 of each year as of June 30 next preceding~~, but the report of any insurance company must be filed before May 1 of each year as of December 31 next preceding~~. On written request by any person required to file a report, the administrator may postpone the reporting date.

(5) All holders of property presumed abandoned under this section that know the whereabouts of the owner of such property shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. Not more than one hundred twenty (120) days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this chapter if the holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate.

(6) The written notice required under this section shall include the name and address of the apparent owner, the nature and amount of the property presumed abandoned in the holder's possession, the name and address of the holder of the property presumed abandoned, a request that the apparent owner identify whether the property presumed abandoned is or is not unclaimed property under this chapter, and the reasons therefor, and any other criteria the administrator deems appropriate.

(7) If the apparent owner completes and returns the written notice described in subsection (6) of this section to the holder, and the apparent owner indicates a claim to the property presumed abandoned or indicates that the property identified in the written notice is not abandoned property, the holder need not pay or deliver the property to the administrator, and the property shall not be considered abandoned.

(8) In the event a holder receives a written notice as described in subsection (7) of this section demonstrating that certain property is not abandoned, a new presumption of abandonment may arise for such property due to the passage of time. The date the holder receives the written notice shall be deemed the date such property became payable or distributable for the purposes of calculating whether a presumption of abandonment has arisen.

(9) A report filed pursuant to this section shall be presumed accurate if the holder has maintained adequate records sufficient to establish by a preponderance of evidence that each item on the report is accurate and correct.

SECTION 6. This act shall be in full force and effect on and after January 1, 2003.

Approved March 20, 2002.

CHAPTER 153
(H.B. No. 685, As Amended)

AN ACT

RELATING TO MINES AND MINING; AMENDING TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 18, TITLE 47, IDAHO CODE, TO PROVIDE THE PURPOSE OF THE CHAPTER, TO PROVIDE APPLICABILITY TO MINE OPERATORS WHO ARE REQUIRED TO PROVIDE ALTERNATIVE FINANCIAL ASSURANCE, TO PROVIDE FOR FINANCIAL ASSURANCE AND TO CREATE THE RECLAMATION FUND, TO PROVIDE FOR RECOVERY OF COSTS, AND TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS SHALL NOT APPROVE CERTAIN OPERATIONS UNDER SPECIFIED CONDITIONS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 47, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 18, Title 47, Idaho Code, and to read as follows:

CHAPTER 18
FINANCIAL ASSURANCE

47-1801. PURPOSE. The purpose of this chapter is to provide an alternative form of performance bond or financial assurance for mining operations and mineral leases as required by the state board of land commissioners.

47-1802. APPLICABILITY. Mine operators who are working under the requirements of title 47, Idaho Code, may be required to provide alternative financial assurance, and if so required, shall provide such alternative financial assurance in accordance with the provisions of this chapter.

47-1803. RECLAMATION FUND CREATED -- FINANCIAL ASSURANCE. (1) The state treasurer shall be the custodian of an interest-bearing, dedicated fund known as the "Reclamation Fund" which is hereby created. The reclamation fund shall be funded by payments from applicable parties, interest and cost recoveries initiated by the state board of land commissioners. All payments, interest and cost recoveries shall be established by the state board of land commissioners.

(2) An operator's commitment to reclaim affected lands and operator's payments to the reclamation fund shall be documented on a department of lands form requiring that the operator shall faithfully perform the requirements of the approved plan and comply with all administrative rules and policy governing the operation.

(3) Moneys accruing to or received by the fund shall be expended by

the department of lands, after approval by the state board of land commissioners and upon legislative appropriation, for reclamation of mines subject to the provisions of this chapter. Moneys in excess of those needed for reclamation liabilities shall be utilized, after approval of the state board of land commissioners, for mine administration, abandoned mine land reclamation or educational purposes. The state board of land commissioners shall adopt policy to determine an appropriate minimum balance to be maintained in the reclamation fund for reclamation liabilities.

47-1804. COST RECOVERY. If an operator fails to provide financial assurance as required by the provisions of this chapter, or has forfeited moneys from the reclamation fund and has not repaid those moneys, the state board of land commissioners shall be authorized to file liens against personal property and equipment of the operator to recover costs. The operator shall be liable for the actual cost of the required financial assurance, reclamation costs and administrative costs incurred by the department of lands.

47-1805. OPERATIONS NOT APPROVED. The state board of land commissioners shall not approve any application for a reclamation plan, placer permit, mineral lease, or approve an amendment of any such document filed by a company, individual, corporate officer or operator who is not in compliance with applicable mining or leasing statutes or administrative rules, or who has forfeited reclamation funds and has not fully reimbursed the department of lands for the reclamation and administrative costs incurred by the state board of land commissioners, or who has not paid the required financial assurance.

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 May 1, 2002.

Approved March 20, 2002.

CHAPTER 154
(H.B. No. 687)

AN ACT

RELATING TO ALTERNATIVE SECONDARY SUMMER SCHOOL PROGRAMS; AMENDING SECTION 33-1002C, IDAHO CODE, TO CLARIFY THE CALCULATION OF EDUCATIONAL SUPPORT UNITS FOR ALTERNATIVE SECONDARY SUMMER SCHOOL PROGRAMS.

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

SECTION 1. That Section 33-1002C, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002C. SUMMER SCHOOL PROGRAM SUPPORT UNITS -- ALTERNATIVE SECONDARY SCHOOL -- JUVENILE DETENTION FACILITY. (1) Alternative secondary summer schools programs of not less than two hundred twenty-five (225) hours of instruction, which shall be included in the educational support

units calculated as provided in section 33-1002, Idaho Code, may be established as approved by the state board of education. ~~may establish a summer school program of not less than two hundred twenty five (225) hours of instruction which shall be included in the educational support units calculated as provided in section 33-1002, Idaho Code.~~ The average daily attendance divided by forty (40) shall determine the number of allowable support units which shall be included in the alternative school secondary support units calculated for the school district for the succeeding school term.

(2) Districts which educate pupils placed by court order in a juvenile detention facility may establish a summer school program which shall be included in the educational support units calculated as provided in section 33-1002, Idaho Code. The average daily attendance divided by forty (40) shall determine the number of allowable support units which shall be included in the exceptional education school support units calculated for the school district for the succeeding school term.

Approved March 20, 2002.

CHAPTER 155
(H.B. No. 688)

AN ACT

RELATING TO LIBRARY DISTRICTS; AMENDING SECTION 33-2724, IDAHO CODE, TO PROVIDE AUTHORITY FOR A CAPITAL ASSETS REPLACEMENT AND REPAIR FUND AND GOVERN ITS MANAGEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2728, IDAHO CODE, TO REQUIRE A TWO-THIRDS MAJORITY VOTE FOR PASSAGE OF CERTAIN BOND ISSUES AND TO LIMIT USE OF BOND PROCEEDS; AND AMENDING SECTION 33-2729, IDAHO CODE, TO PROVIDE LIMITS ON THE USE OF LIBRARY PLANT FACILITIES RESERVE FUND AND LEVY.

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

SECTION 1. That Section 33-2724, Idaho Code, be, and the same is hereby amended to read as follows:

33-2724. TAXES FOR THE SUPPORT OF LIBRARY DISTRICT -- TAX ANTICIPATION LOANS -- CARRY OVER AUTHORITY -- CAPITAL ASSETS REPLACEMENT AND REPAIR FUND. (1) Any tax levied for library district purposes shall be a lien upon the property against which the tax is levied. The board of trustees shall determine and levy a tax upon each dollar of assessed valuation of property within the district for the ensuing fiscal year as shall be required to satisfy all maturing bond, bond interest, and judgment obligations. For the maintenance and operation of the library district, the board of trustees may also levy upon the taxable property within the district a tax not to exceed six hundredths ~~per cent~~ percent (.06%) of market value for assessment purposes. These levies shall be certified to the board of county commissioners of each county in which the district may lie, not later than the second Monday in September of each year.

(2) In the first year after establishment, the board of a district

may, for the purpose of organization and to finance general preliminary expenses of the district and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to six hundredths ~~per cent~~ percent (.06%) on each one dollar ($1.00) of market value for assessment purposes of all taxable property within the district. To repay the organization indebtedness incurred, the board shall have authority to levy and collect an additional tax not to exceed two hundredths ~~per cent~~ percent (.02%) per annum on each one dollar ($1.00) of market value for assessment purposes of all taxable property within the district. This additional levy shall not be used for any purpose other than repayment of the organizational indebtedness and interest thereon. This additional levy may be imposed for three (3) years.

(3) Library districts may accumulate fund balances at the end of a fiscal year and carry over these fund balances into the ensuing fiscal year, sufficient to achieve or maintain library district operations on a cash basis. A fund balance is the excess of the assets of a fund over its liabilities and reserves.

(4) The board of trustees of a library district may establish a capital assets replacement and repair fund within the library district budget for which district moneys may be budgeted and carried over from year to year. Disbursements from the fund may be made as the board may determine to maintain, repair, or replace the capital assets of the district to remodel or repair any existing library building; to furnish and equip any existing library building; and to purchase or replace major appliances and vehicles necessary to maintain and operate the services of the district. Moneys from the capital assets replacement and repair fund may not be used for the purchase of land or to build new library facilities or to build additions to current library facilities. Moneys in the fund may be invested in the manner provided in section 57-127, Idaho Code. In any year in which there is a capital assets replacement and repair fund in a library district, the amount held in the fund shall be reported in the library district's budget hearing announcement, along with a list of capital items which may eventually be replaced or repaired with moneys from the fund. The fund shall be included in the annual report filed with the state library board and in the audit required in section 33-2726, Idaho Code.

SECTION 2. That Section 33-2728, Idaho Code, be, and the same is hereby amended to read as follows:

33-2728. BOND ELECTION. (1) The purposes for which bonds may be issued shall be: To acquire, purchase, or improve a library site or sites; to build a library or libraries, or other building or buildings; to demolish or remove buildings; to add to, remodel or repair any existing building; to furnish and equip any building or buildings, including all facilities and appliances necessary to maintain and operate the buildings of the library; and to purchase motor vehicles for use as bookmobiles.

The library district may issue bonds in an amount not to exceed four-tenths percent (.4%) of the market value for assessment purposes of property within the district, less any aggregate outstanding indebtedness.

The board of trustees of any library district, upon approval of a majority thereof, may call a bond election on the question as to whether

the board shall be empowered to issue bonds of the district in an amount and for a period of time to be stated in the notice of election. The notice of bond elections, the qualification of bond electors, the conduct of the election, and the canvass of election and determination of the result of election shall be in accordance with chapter 14, title 34, Idaho Code, and with the general election laws of the state of Idaho. The majority required to pass a bond issue shall be two-thirds (2/3) of those voting in the election. The issuance of bonds, the expenditure of bond proceeds and the repayment of the bonds shall all be as specified in school district law.

(2) District library bond funds may not be used to purchase or expand a building for a contracting agency providing library services unless the district library gains an ownership share in the building proportional to the percentage of district bond funds used to purchase or expand the building.

SECTION 3. That Section 33-2729, Idaho Code, be, and the same is hereby amended to read as follows:

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

District library facilities plant facilities reserve funds may not be used to purchase or expand a building for a contracting agency providing library services unless the district library gains an ownership share in the building proportional to the percentage of district bond funds used to purchase or expand the building.

Approved March 20, 2002.

CHAPTER 156
(H.B. No. 701)

AN ACT

RELATING TO A BALANCED STATE BUDGET FOR FISCAL YEAR 2002; STATING FINDINGS OF THE LEGISLATURE REGARDING THE FINANCIAL SITUATION FOR FISCAL YEAR 2002; TRANSFERRING MONEYS FROM THE CAPITOL ENDOWMENT INCOME FUND TO THE GENERAL FUND; DIRECTING THE STATE TREASURER TO DEPOSIT THE TOBACCO SETTLEMENT PAYMENT INTO THE GENERAL FUND; AUTHORIZING THE BOARD OF EXAMINERS TO ACCESS PERMANENT BUILDING FUNDS AND REQUIRING ANY MONEYS REMAINING IN THE PERMANENT BUILDING FUND AFTER AUTHORIZED TRANSFERS TO BE EXPENDED IN ACCORDANCE WITH THE GOVERNOR'S RECOMMENDED CONTINGENCY PLAN; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Legislature finds that the current economic situation facing the state of Idaho, and underscored by revenue collections thus far in the fiscal year, warrants certain prudent and necessary steps to ensure a balanced budget for fiscal year 2002.

SECTION 2. Notwithstanding the provisions of Section 67-1611, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of $22,000,000 from the Capitol Endowment Income Fund to the General Fund.

SECTION 3. Notwithstanding the provisions of Section 67-1801, Idaho Code, the State Treasurer is hereby directed to deposit into the General Fund the next scheduled tobacco payment distributed to the state of Idaho pursuant to the Master Settlement Agreement. Such payment is estimated to be $18,000,000.

SECTION 4. Notwithstanding the provisions of Section 57-1108, Idaho Code, the Idaho State Board of Examiners is hereby authorized to transfer moneys from the Permanent Building Fund to the General Fund as may be necessary to balance General Fund revenues with General Fund expenditures for the period July 1, 2001, through June 30, 2002. Any transfers from the Permanent Building Fund for the purposes of this section shall not exceed $80,000,000. Moneys remaining in the Permanent Building Fund after any transfers authorized by this section, shall be expended, as moneys allow, for approved projects in priority order in accordance with the Governor's recommended contingency plan.

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

Approved March 20, 2002.

CHAPTER 157
(S.B. No. 1431, As Amended)

AN ACT

RELATING TO THE SCHOOL SAFETY AND HEALTH REVOLVING LOAN AND GRANT FUND; AMENDING SECTION 33-1017, IDAHO CODE, TO EXTEND CONDITIONS FOR APPLICATION TO INCLUDE AUTHORITY TO DRAW UPON THE SCHOOL SAFETY AND HEALTH REVOLVING LOAN AND GRANT FUND FOR GRANTS FOR INDEBTEDNESS INCURRED FOR THE ABATEMENT OF UNSAFE OR UNHEALTHY CONDITIONS, TO PROVIDE FOR THE METHOD FOR DETERMINATION OF PRESENT VALUE, TO REVISE THE TERMINATION DATE AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1017, Idaho Code, be, and the same is hereby amended to read as follows:

33-1017. SCHOOL SAFETY AND HEALTH REVOLVING LOAN AND GRANT FUND. (1) Fund created. There is hereby created a fund in the state treasury to be known as the school safety and health revolving loan and grant fund to which shall be credited all moneys that may be appropriated, apportioned, allocated and paid back to that fund. Moneys in this fund shall be used exclusively as provided in this section, except that

moneys in this fund shall be returned to the budget stabilization fund as provided in this section.

(2) Approval of loan or grant. A school district that does not have the financial resources to abate unsafe or unhealthy conditions identified pursuant to section 33-1613, Idaho Code, and which is eligible to seek additional funds under subsection (5)(b)(ii) of section 33-1613, Idaho Code, may apply to the state treasurer for a loan and, if eligible, a grant from the safety and health revolving loan and grant fund. A school district that has borrowed money from the Idaho safe school facilities loan program may apply for a grant of interest from the safety and health revolving loan and grant fund. The loan or grant shall be approved if the school district's application meets the criteria of section 33-1613, Idaho Code, and of this section. If the board of examiners finds that existing and anticipated loans or grants under this section have depleted the school safety and health revolving loan and grant fund to an extent that the fund does not have available sufficient moneys to loan to an eligible school district, the board of examiners shall declare that additional loans may be made from the budget stabilization fund in section 57-814, Idaho Code, up to any limits of the use of that fund provided by statute or declared by the governor in time of general revenue shortfalls or major disaster.

(3) Conditions of loan or grant -- Repayment of loan.

(a) The school district's application shall identify the unsafe or unhealthy conditions that would be abated with the proceeds of the loan or grant and, if a loan, shall propose a method of and timetable for abating those conditions and for repaying the loan.

(b) The state treasurer shall review the application to determine whether the application is for abatement of unsafe or unhealthy conditions as described in section 33-1613, Idaho Code, and to determine whether the estimated costs of abatement and proposed plan of abatement ~~are~~ is reasonable. In reviewing the application, the state treasurer may call upon the assistance of the state division of building safety, the state fire marshal, the state department of administration, the state board of education, the state department of education, or other knowledgeable persons to determine whether conditions identified to be abated meet the criteria of section 33-1613, Idaho Code, and to determine whether the plan of abatement, estimated costs of abatement and proposed methods of abatement are reasonable. The state treasurer shall process the application for a loan or grant within thirty-five (35) days after its receipt.

(i) If the state treasurer determines that the application has not identified unsafe or unhealthy conditions as described in section 33-1613, Idaho Code, the state treasurer shall return the application with a written statement that contains reasons why the loan or grant application does not meet the criteria of this section and of section 33-1613, Idaho Code.

(ii) If the state treasurer determines that the application has identified unsafe or unhealthy conditions as described in section 33-1613, Idaho Code, the state treasurer shall then determine whether the application has proposed reasonable methods of and reasonable estimates of costs of abatement. The state treasurer shall approve the plan of abatement if the school district has proposed a reasonable method of abatement and if its estimated costs of abatement are reasonable; other-

wise, the state treasurer shall return the application with a written statement how the application can be amended to qualify.

(c) If the application is for a loan, the state treasurer may accept the school district's proposed method of and timetable for repaying the loan or may impose reasonable alternative or substitute methods of and timetables for repayment consistent with this subsection, which alternative or substitute methods shall be binding on the school district. At a minimum, the school district shall be required to repay in each fiscal year succeeding the year of the loan an amount no less than the lottery proceeds that the school district would otherwise receive for that fiscal year and additional foundation support moneys, if any, accruing as a result of an initial overestimation of state average daily attendance support units and later distribution of residual amounts resulting from fewer support units than originally estimated. The loan shall provide for the school safety and health revolving loan and grant fund, or the budget stabilization fund, to the extent that it was the source of the loan, to intercept the lottery proceeds that would otherwise go to the school district until the loan is fully repaid. In addition, the state treasurer may impose reasonable fiscal conditions on the school district during the term of loan repayment including, but not limited to, restrictions in use of otherwise unrestricted school district moneys to assist in repayment of the loan or in abatement of unsafe or unhealthy conditions, the declaration of a financial emergency during some or all of the term of repayment of the loan, or interception by the school safety and health revolving loan and grant fund of a portion of the state foundation program payments under chapter 10, title 33, Idaho Code, that would otherwise go to the school district to repay the loan. The initial term of the loan shall not exceed ten (10) years, but may be extended in the state treasurer's discretion for another ten (10) years.

(d) If a loan is approved, the state treasurer shall establish a line of credit for the school district and monthly reimburse the school district for costs incurred to abate the unsafe or unhealthy conditions identified as the reason for the loan. The state treasurer may prescribe forms and procedures for administration of this line of credit.

(e) A school district may repay its loan or any portion of its loan in advance at any time without penalty.

(4) Interest. Loans to school districts under this section shall bear interest at the average rate of interest that would be available to the state treasury were the loan funds retained in the state treasury, as determined by the state treasurer.

(5) Certification of loan funds spent. If a school district obtains a loan pursuant to this section, the board of trustees shall certify the total expenditures of loaned funds that were actually spent to abate unsafe and unhealthy conditions.

(6) Excess funds. If any funds loaned pursuant to this section were not spent on abatement of unsafe and unhealthy conditions, they must be returned to the school safety and health loan and grant fund or the budget stabilization fund, as the case may be. This subsection shall be judicially enforceable by the state treasurer, and any amounts due for repayment under this subsection may be recovered by offset from state

foundation program moneys that would otherwise be paid to the school district.

(7) Eligibility for grant. After complying with the provisions of section 33-1613, Idaho Code, school districts that borrow money from the Idaho safe schools facilities loan program pursuant to section 33-804A, Idaho Code, or that refinance through the Idaho safe schools facilities loan program loans for money borrowed under this section or that finance abatement of unsafe and unhealthy conditions through indebtedness pursuant to chapter 11, title 33, Idaho Code, may apply for a grant from the school safety and health revolving loan and grant fund to pay for eligible interest costs incurred on loan proceeds used to abate unsafe and unhealthy conditions. If the school district's application for a grant is accepted, then the school district will qualify for a grant of the present value of the qualifying percentage of the interest costs of the loan associated with abating unsafe and unhealthy conditions as follows:

(a) If the school district is participating in the Idaho safe schools facilities loan program, within seven (7) days after the approved school district receives loan proceeds from the Idaho safe schools facilities loan fund, the state treasurer shall provide funds to the school district in the amount of the qualifying percentage of the present value of the interest costs associated with abating unsafe and unhealthy conditions.

(b) If a school district has obtained a loan from the school health and safety revolving loan and grant fund and has refinanced its loan through the Idaho safe schools facilities program and prepays the outstanding principal of its loan, the school district shall be eligible for a grant of the qualifying percentage of the present value of the outstanding interest costs associated with the prepaid principal.

(c) If the school district has financed the abatement of unsafe or unhealthy conditions through indebtedness pursuant to chapter 11, title 33, Idaho Code, within seven (7) days after the school district receives bond proceeds, the state treasurer shall provide funds to the school district in the amount of the qualifying percentage of the present value of the interest costs associated with abating unsafe and unhealthy conditions.

(8) Present value. The present value of the interest costs associated with money borrowed under the Idaho safe schools facilities loan program shall be calculated by the state treasurer using a method of equal annual loan payments and a discount rate of the interest rate prescribed in subsection (4) of this section on the date that the school district receives funds from the Idaho safe schools facilities loan fund. The present value of the unpaid interest costs for principal prepayments to the school safety and health revolving loan and grant fund shall be calculated by the state treasurer by summing the unpaid interest that would be paid without the principal prepayment and discounting it at the interest rate prescribed in subsection (4) of this section on the date that the treasurer receives the prepayment. The present value of the interest costs associated with money borrowed by a school district in a bond issue shall be calculated by the state treasurer using the school district's actual schedule for making interest payments on the bonds and discounting those interest payments by the interest rate prescribed in subsection (4) of this section on the date that the school district receives funds from the bond issue.

(9) Qualifying percentage. The qualifying percentage of the interest costs of a school district applying for a grant of interest under this section shall be determined as follows: For a school district borrowing money under the Idaho safe schools facilities loan program or refinancing a loan made under this section with money borrowed under the Idaho safe schools facilities program or incurring bonded indebtedness for safe and healthy schools, the state treasurer shall express:

(a) the total of the bond and plant facilities levies imposed by the school district (including the levy for which the application is made), and

(b) the total levies imposed by the school district (including the levy for which the application is made)

as a fraction of assessed value for the most recent assessment against which the school district's existing levies are made.

The qualifying percentage of interest granted under this section shall be the higher of the amounts shown in the following tables:

Table 1 - Bond and Plant Facilities Levies

Bond Plus Plant Facilities Levy	Qualifying Percentage
Less than .0019	10%
More than .0019 and less than .0029	20%
More than .0029 and less than .0039	30%
More than .0039	40%

Table 2 - Total Levies

Total Levy	Qualifying Percentage
Less than .0060	0%
More than .0060 and less than .0072	25%
More than .0072 and less than .0084	50%
More than .0084 and less than .0096	75%
More than .0096	100%

(10) Interest costs for abatement of unsafe and unhealthy conditions. The interest costs for abatement of unsafe and unhealthy conditions shall be calculated by determining the percentage of the loan proceeds or prepayment of the loan that will be used to abate unsafe and unhealthy conditions.

(11) Procedures. The state treasurer may prescribe forms for applying for a loan or grant under this section. No actions taken under this section are contested cases or rulemaking subject to chapter 52, title 67, Idaho Code, and none of the contested case or rulemaking procedures of chapter 52, title 67, Idaho Code, apply to actions taken under this section.

(12) The state treasurer's authority to accept applications for and to approve grants of interest from the school safety and health revolving loan and grant fund shall cease on July 1, 2004~~2~~3.

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

Approved March 21, 2002.

CHAPTER 158
(S.B. No. 1434, As Amended in the House)

AN ACT

RELATING TO ABATEMENT OF SERIOUS SAFETY HAZARDS IN SCHOOL BUILDINGS; AMENDING SECTION 33-1613, IDAHO CODE, TO CLARIFY REQUIREMENTS FOR ABATEMENT OF UNSAFE OR UNHEALTHY CONDITIONS; AMENDING SECTION 39-8004, IDAHO CODE, TO DEFINE AN ADDITIONAL TERM; AMENDING SECTION 39-8008, IDAHO CODE, TO PROVIDE FOR A RESPONSE TO A SERIOUS SAFETY HAZARD WITHIN THE TIME SPECIFIED AND FOR AN APPEAL OF THE FINDING; AMENDING SECTION 39-8009, IDAHO CODE, TO AUTHORIZE INJUNCTIVE RELIEF FOR FAILURE TO COMPLY WITH A NOTICE OR ORDER RELATING TO A SERIOUS SAFETY HAZARD; AND AMENDING SECTION 39-8011, IDAHO CODE, TO PROVIDE PENALTIES FOR VIOLATIONS RELATED TO A SERIOUS SAFETY HAZARD.

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

SECTION 1. That Section 33-1613, Idaho Code, be, and the same is hereby amended to read as follows:

33-1613. SAFE PUBLIC SCHOOL FACILITIES REQUIRED. (1) Definition. As used in this section, "public school facilities" means the physical plant of improved or unimproved real property owned or operated by a school district, a charter school, or a school for children in any grades kindergarten through twelve (12) that is operated by the state of Idaho, including school buildings, administration buildings, playgrounds, athletic fields, etc., used by schoolchildren or school personnel in the normal course of providing a general, uniform and thorough system of public, free common schools, but does not include areas, buildings or parts of buildings closed from or not used in the normal course of providing a general, uniform and thorough system of public, free common schools. The aspects of a safe environment conducive to learning as provided by section 33-1612, Idaho Code, that pertain to the physical plant used to provide a general, uniform and thorough system of public, free common schools are hereby defined as those necessary to comply with the safety and health requirements set forth in this section.

(2) Inspection. It is the duty of the board of trustees of every school district and the governing body for other schools described in subsection (1) of this section at least once in every school year to require an independent inspection of the school district's or other entity's school facilities to determine whether those school facilities comply with codes addressing safety and health standards for facilities, including electrical, plumbing, mechanical, elevator, fire safety, boiler safety, life safety, structural, snow loading, and sanitary codes, adopted by or pursuant to the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code, adopted by the state fire marshal, adopted by generally applicable local ordinances, or adopted by rule of the state board of education and applicable to school facilities. The inspection shall be done pursuant to chapter 80, title 39, Idaho Code, or by an independent inspector professionally qualified to conduct inspections under the applicable code. The results of the inspection shall be presented to the administrator of the division of

building safety and the board of trustees or other governing body for its review and consideration.

(3) Abatement required -- Reporting. ~~The board of trustees or other governing body shall, in its sole discretion, accept or reject the results of the inspection in whole or in part and in so doing shall identify any unsafe or unhealthy conditions in the school district or other entity.~~ The board of trustees or other governing body shall require that the unsafe or unhealthy conditions be abated and shall instruct the school district's or other entity's personnel to take necessary steps to abate unsafe or unhealthy conditions. The board of trustees or other governing body must issue a report in the same school year in which the inspections are made declaring whether any unsafe or unhealthy conditions identified have not been abated. The state board of education ~~may~~ shall, by rule, provide for uniform reporting of unsafe and unhealthy conditions and for uniform reporting of abatement or absence of abatement of unsafe and unhealthy conditions. Copies of such reports shall be provided to the administrator of the division of building safety and the board of trustees of the school district.

(4) Costs of and plan of abatement. If the school district or other entity described in subsection (1) of this section can abate all unsafe or unhealthy conditions identified with the funds available to the school district or other entity, it shall do so, and it need not separately account for the costs of abatement nor segregate funds expended for abatement. If the school district or other entity cannot abate all unsafe or unhealthy conditions identified with the funds available to it, the board of trustees or other governing body shall direct that a plan of abatement be prepared. The plan of abatement shall provide a timetable that shall begin no later than the following school year and that shall provide for abatement with all deliberate speed of unsafe and unhealthy conditions identified. The abatement plan shall be submitted to the administrator of the division of building safety. The school district or other entity shall immediately begin to implement its plan of abatement and must separately account for its costs of abatement of unsafe and unhealthy conditions and separately segregate funds for the abatement of unsafe and unhealthy conditions as required by subsection (5) of this section.

(5) Special provisions for implementation of plan of abatement.

(a) Notwithstanding any other provisions of law concerning expenditure of lottery moneys distributed to the school district or other entity, all lottery moneys provided to the school district or other entity for a school year in which the school district cannot abate unsafe or unhealthy conditions identified and not legally encumbered to other uses at the time and all lottery moneys for following school years shall be segregated and expended exclusively for abatement of unsafe and unhealthy conditions identified until all of the unhealthy and unsafe conditions identified are abated, provided, if the school district has obtained a loan from the safety and health revolving loan and grant fund, the provisions of section 33-1017, Idaho Code, and the conditions of the loan shall determine the use of the school district's lottery moneys during the term of the loan.

(b) If the lottery moneys referred to in paragraph (a) of this subsection will, in the board of trustees' or other governing bodies' estimation, be insufficient to abate the unsafe and unhealthy conditions identified, the plan of abatement shall identify additional

sources of funds to complete the abatement of the unsafe and unhealthy conditions. The board of trustees may choose from among the following sources, or from other sources of its own identification, but the plan of abatement must identify sufficient sources of funds for abatement.

(i) If the school district is not levying under chapter 8, title 33, Idaho Code, at the maximum levies allowed by law for levies that may be imposed by a board of trustees without an election, the board of trustees may increase any of those levies as allowed by law for the school year following the school year in which it was unable to abate unsafe or unhealthy conditions identified.

(ii) If the school district is levying under chapter 8, title 33, Idaho Code, at the maximum levies allowed by law for levies that may be imposed by the board of trustees without an election; or, if after increasing those levies to the maximum levies allowed by law for levies that may be imposed by the board of trustees without an election, there will still be insufficient funds to abate unsafe or unhealthy conditions identified, the school district, after giving notice and conducting a hearing, may declare a financial emergency and/or may apply for a loan or, if eligible, an interest grant from the safety and health revolving loan and grant fund as provided in section 33-1017, Idaho Code, to obtain funds to abate the unsafe or unhealthy conditions identified.

(iii) Upon the declaration of a financial emergency, the board of trustees shall have the power to impose a reduction in force, to freeze some or all salaries in the school district, and/or to suspend some or all contracts that may be legally suspended upon the declaration of a financial emergency; provided, that when a board of trustees declares a financial emergency, or when a declaration of a financial emergency is imposed by the state treasurer pursuant to section 33-1017, Idaho Code, and there is a reduction in force, some or all salaries are frozen, or some contracts are suspended, the payments to the school district under the foundation program of chapter 10, title 33, Idaho Code, and in particular the staff allowances under that chapter, shall not be reduced during the duration of the financial emergency as a result of a reduction in force, frozen salaries, or suspended salaries from what the staff allowance would be without the reduction in force, frozen salaries or suspended contracts.

(c) All costs of abatement for a program implementing plans of abatement under subsection (5) of this section must be separately accounted for and documented with regard to abatement of each unsafe or unhealthy condition identified. Funds obtained under section 33-1017, Idaho Code, must be used exclusively to abate unsafe or unhealthy conditions identified. Funds obtained pursuant to section 33-1017, Idaho Code, in excess of funds necessary to abate unsafe or unhealthy conditions identified must be returned as provided in section 33-1017, Idaho Code. Return of these funds shall be judicially enforceable as provided in section 33-1017, Idaho Code.

SECTION 2. That Section 39-8004, Idaho Code, be, and the same is hereby amended to read as follows:

39-8004. DEFINITIONS. As used in this act:

(1) "Administrator" means the administrator of the division of building safety or his designated representative.

(2) "Day" shall mean a calendar day unless otherwise specified.

(3) "Imminent safety hazard" means a condition that presents an unreasonable risk of death or serious bodily injury to occupants of a building.

(4) "Licensed professional" means a person licensed by the state of Idaho as an architect or an engineer.

(5) "Local government" means any city or county of this state.

(6) "Serious safety hazard" means a condition that presents an unreasonable health risk or risk of injury to occupants of a building.

SECTION 3. That Section 39-8008, Idaho Code, be, and the same is hereby amended to read as follows:

39-8008. ADDITIONAL DUTIES OF ADMINISTRATOR -- RIGHT OF INSPECTION -- POSTING. (1) The administrator shall have authority to enter all public school facilities covered by this chapter at reasonable times and inspect such facilities for compliance with the Idaho uniform school building safety code.

(2) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes does not constitute an imminent safety hazard or serious safety hazard, he shall notify in writing the school district superintendent, principal, board member, or other person in charge.

(3) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes a serious safety hazard, he shall immediately issue a written order or notice requiring the school superintendent, principal, board of trustees or other person in charge to eliminate the condition without delay and within the time specified by the administrator in the notice or order, but not exceeding one (1) year.

(4) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes an imminent safety hazard, he shall immediately notify the department of administration and request that the department of administration designate a licensed professional to independently evaluate the condition prior to issuing any report under this chapter. The department of administration shall, within two (2) working days, designate a licensed professional to independently evaluate the condition identified. That licensed professional shall, within fourteen (14) days, complete its independent evaluation of the condition identified by the administrator and notify the director of the department of administration of its conclusions. If the administrator determines that the condition constituting an imminent safety hazard could reasonably be expected to cause death or serious physical harm before the evaluation of the department of administration can be completed and before the condition can be eliminated, he shall determine the extent of the area where such condition exists and thereupon shall issue a written order or notice requiring the school district superintendent, principal, board ~~member~~ of trustees or other person in

charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area pending the evaluation of the department of administration. This order shall be withdrawn if the evaluation of the department of administration does not concur with the administrator that the condition constitutes an imminent safety hazard as could reasonably be expected to cause death or serious physical harm before the condition can be eliminated.

(~~4~~5) If the department of administration agrees with the determination of the administrator that a condition identified constitutes an imminent safety hazard, the department of administration shall, within three (3) working days, so notify the administrator in writing.

(~~5~~6) Upon receipt of such notification in writing, the administrator shall immediately serve, or cause to be served, written notice or order upon the school district superintendent, principal, board ~~member~~ of trustees or other person in charge describing the imminent safety hazard. The administrator shall also notify in writing the state superintendent of public instruction of such imminent safety hazard. Upon receipt of such written notice or order, the school district superintendent, principal, board ~~member~~ of trustees, or other person in charge shall require all changes necessary to eliminate the imminent safety hazard be made, without delay and within the time specified by the administrator in the notice or order. If the condition presenting an imminent safety hazard is not corrected within the specified time, or if the administrator determines that the condition constituting such imminent safety hazard could reasonably be expected to cause death or serious physical harm before the condition can be eliminated, if he has not previously done so he shall determine the extent of the area where such condition exists and thereupon shall issue an order or notice requiring the school district superintendent, principal, board member, or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from, and to be restrained from entering, such area. The school district superintendent, principal, board member, or other person in charge shall assist the administrator as necessary to post such areas to prevent injury.

(7) If the administrator finds a violation of the Idaho uniform school building safety code that he concludes constitutes a serious safety hazard and issues a written order or notice requiring the conditions to be eliminated in not more than one (1) year, and the school superintendent, principal, board of trustees, or other person in charge contests the administrator's finding that the condition is a serious safety hazard, then the school superintendent, principal, board of trustees, or other person in charge shall have fourteen (14) days from the date of the issuance of the administrator's written order or notice to request a hearing to initiate a contested case under chapter 52, title 67, Idaho Code. If a hearing is requested, the superintendent of public instruction shall appoint a hearing officer to consider the contested case. All administrative proceedings under this subsection shall be expedited as necessary to assure that serious safety hazards are eliminated as required by this section if the administrator's initial determination that there was a serious safety hazard is confirmed in the contested case proceedings.

(~~6~~8) The administrator shall ~~follow--up--on~~ monitor the school district's progress in addressing any identified imminent safety hazard

or serious safety hazard to ensure that appropriate corrective action was taken. The administrator may extend the time for completing corrective action if he deems necessary.

(~~7~~9) Upon completion of corrective action and verification of such completion by the division of building safety and the department of administration, the administrator shall provide a report to the state superintendent of public instruction, the local superintendent of schools and the chair of the local school board.

SECTION 4. That Section 39-8009, Idaho Code, be, and the same is hereby amended to read as follows:

39-8009. INJUNCTION. Upon failure of the district superintendent, principal, board ~~member~~ of trustees, or other person in charge to comply with the requirements stated in any notice or order relating to an imminent safety hazard or serious safety hazard, the administrator may maintain an action in the name of the state of Idaho to enjoin the district superintendent, principal, board ~~member~~ of trustees or other person in charge from acting in violation of such notice or order or from doing any action that interferes with the administrator carrying out his statutory duties. Such action shall be brought in the district court in which said acts are claimed to have been committed by filing a verified complaint setting forth said act. The court, if satisfied from such complaint or affidavits that the act complained of has been or is being committed and will persist, may issue a temporary writ without notice or bond enjoining the defendant from the commission of such act pending final disposition of the cause. The cause shall proceed as in other causes for injunction. If, at the trial, the commission of said act by the defendant be established and the court further finds it probable that the defendant will continue in such act or similar acts, the court shall enter a decree enjoining said defendant from committing said or similar acts.

SECTION 5. That Section 39-8011, Idaho Code, be, and the same is hereby amended to read as follows:

39-8011. VIOLATIONS. (1) If a school district, the district superintendent, principal, board ~~member~~ of trustees, or other person in charge willfully violates the provisions of this chapter, the state superintendent of public instruction~~, with the concurrence of the state board of education,~~ shall withhold such ensuing apportionments as are ~~reasonably~~ necessary to make ~~corrective~~ repairs to ~~address~~ abate the identified imminent safety hazard or serious safety hazard. Withheld funds, not to exceed one and one-half percent (1 1/2%) of the district's appropriation, shall be disbursed only to pay for such repairs.

(2) It is a misdemeanor to remove, without permission of the administrator, a notice or order posted pursuant to this chapter.

Approved March 21, 2002.

CHAPTER 159
(S.B. No. 1474, As Amended in the House)

AN ACT

RELATING TO BOND LEVY EQUALIZATION SUPPORT PROGRAM FOR SCHOOL FACILITIES; AMENDING SECTION 33-802A, IDAHO CODE, TO REVISE THE COMPUTATION OF BOND AND BOND INTEREST LEVIES AND TO CORRECT A CODIFIER'S ERROR; AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-906, IDAHO CODE, TO ADOPT A BOND LEVY EQUALIZATION SUPPORT PROGRAM; AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-906A, IDAHO CODE, TO CREATE THE BOND LEVY EQUALIZATION FUND AND SPECIFY PURPOSES; AND AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-906B, IDAHO CODE, TO PROVIDE THAT THE STATE DEPARTMENT OF EDUCATION SHALL ESTABLISH A VALUE INDEX FOR EACH SCHOOL DISTRICT AND TO PROVIDE FOR CRITERIA TO BE INCLUDED IN THE VALUE INDEX CALCULATION.

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

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

33-802A. COMPUTATION OF BOND AND BOND INTEREST LEVIES. When the board of trustees of any school district determines and makes the levy required by section 33-802, Idaho Code, and incorporates such levy as a part of the school district's budget to service all maturing bond and bond interest payments for the ensuing fiscal year, it shall take into consideration <u>any state bond levy equalization funds provided pursuant to section 33-906, Idaho Code, and</u> any balances remaining or that may remain in its bond interest and redemption fund after meeting its bond and bond interest obligations for its current fiscal year. The levy so made for the ensuing fiscal year shall be an amount which, together with <u>any state bond levy equalization funds provided pursuant to section 33-906, Idaho Code, and</u> the balance in its bond interest and redemption fund remaining after meeting its current fiscal year bond and bond interest ~~gations~~ <u>obligations,</u> shall satisfy all maturing bond and bond interest payments for <u>at least</u> the ensuing <u>twelve (12) months, and not to exceed the ensuing</u> nineteen (19) months counted from July 1 of the current calendar year.

SECTION 2. That Chapter 9, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION,</u> to be known and designated as Section 33-906, Idaho Code, and to read as follows:

33-906. BOND LEVY EQUALIZATION SUPPORT PROGRAM. Pursuant to section 33-906B, Idaho Code, school districts with a value index below one (1) shall be eligible to receive additional state financial assistance for the cost of annual bond interest and redemption payments made on bonds passed on or after September 15, 2002. However, any school district shall receive no less than ten percent (10%) of the interest cost portion of the annual bond interest and redemption payment for bonds passed on or after September 15, 2002. The state department of education shall disburse such funds to school districts from moneys appropriated from

the bond levy equalization fund. The department shall disburse the funds by no later than September 1 of each year for school districts certifying a qualifying bond interest and redemption payment for the fiscal year in which the disbursement is made. For districts with a value index below one (1), the percentage of each annual bond interest and redemption payment that is paid by the state shall be determined by dividing the difference between one (1) and the school district's value index by one (1) provided that the state shall pay for no more than the interest cost portion of the annual bond interest and redemption payment, and each school district shall receive no less than ten percent (10%) of the interest cost portion of the qualifying bond interest and redemption payment.

For the purposes of this section, the annual bond interest and redemption payment shall be determined by dividing the total payment amounts by the number of fiscal years in which payments are to be made. The interest cost portion of the annual bond interest and redemption payment shall be determined by dividing the total interest paid by the number of fiscal years in which payments are to be made.

The provisions of this section may not be utilized to refinance existing debt.

SECTION 3. That Chapter 9, 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 33-906A, Idaho Code, and to read as follows:

33-906A. BOND LEVY EQUALIZATION FUND. There is hereby created in the state treasury a bond levy equalization fund. This fund shall contain such moneys as may be directed pursuant to appropriation. Moneys in the fund shall be used exclusively to make the payments authorized by the bond levy equalization program created in section 33-906, Idaho Code.

SECTION 4. That Chapter 9, 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 33-906B, Idaho Code, and to read as follows:

33-906B. VALUE INDEX CALCULATION. The state department of education shall establish a value index for each school district, based on each school district's market value per support unit for equalization purposes, the average annual seasonally-adjusted unemployment rate in the county in which a plurality of the school district's market value for assessment purposes of taxable property is located and the per capita income in the county in which a plurality of the school district's market value for assessment purposes is located. The value index for each school district shall be calculated as the sum of the following three (3) components:

(1) The state department of education shall annually calculate the market value per support unit that is used to equalize school funding for each school district in the state, and the statewide average. The first portion of the value index shall be calculated by dividing the school district's market value for equalization purposes per support unit by the statewide average market value for equalization per support unit and dividing the result of this calculation by two (2).

(2) The second portion of the value index shall be calculated by

dividing the statewide unemployment rate by the unemployment rate in the county in which a plurality of the school district's market value for assessment purposes of taxable property is located, and dividing the result of this calculation by four (4). For the purposes of this subsection, the statewide unemployment rate and county unemployment rates shall be based on the most recent average annual seasonally-adjusted unemployment rate data reported by the United States department of labor, for which there is a complete calendar year of data.

(3) The third portion of the value index shall be calculated by dividing the county per capita income in the county in which a plurality of the school district's market value for assessment purposes of taxable property is located by the statewide per capita income, and dividing the result of this calculation by four (4). For the purposes of this subsection, the statewide per capita income and county per capita income shall be based on the most recent data reported by the United States department of commerce, for which there is a complete calendar year of data.

Approved March 21, 2002.

CHAPTER 160
(H.B. No. 550, As Amended in the Senate)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-106, IDAHO CODE, TO DEFINE "ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-117, IDAHO CODE, TO EXPAND THE DEFINITION OF "PEDESTRIAN" TO INCLUDE A PERSON WHO OPERATES AN ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE; AMENDING SECTION 49-123, IDAHO CODE, TO REVISE THE DEFINITION OF "MOTOR VEHICLE" TO PROVIDE THAT AN ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE IS NOT A MOTOR VEHICLE; AMENDING SECTION 49-605, IDAHO CODE, TO PROVIDE THAT AN ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE MAY BE USED UPON A SIDEWALK AND TO AUTHORIZE REGULATION BY POLITICAL SUBDIVISIONS; AND AMENDING SECTION 49-721, IDAHO CODE, TO PROVIDE THAT A PERSON OPERATING A MOTORIZED WHEELCHAIR OR AN ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE UPON A SIDEWALK SHALL HAVE ALL THE RIGHTS AND DUTIES APPLICABLE TO A PEDESTRIAN UNDER THE SAME CIRCUMSTANCES.

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

SECTION 1. That Section 49-106, Idaho Code, be, and the same is hereby amended to read as follows:

49-106. DEFINITIONS -- E.

(1) "Electric personal assistive mobility device" means a self-balancing two (2) nontandem wheeled device designed to transport only one (1) person, with an electric propulsion system that limits the maximum speed of the device to fifteen (15) miles per hour or less.

(2) "Emergency vehicle." (See "Vehicle",_ section 49-123, Idaho Code)

(~~2~~3) "Encumbrance." (See "Lien",_ section 49-113, Idaho Code)

(~~3~~4) "EPA" means the environmental protection agency of the United States.

(~~4~~5) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

(~~5~~6) "Established place of business" means a place occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

(~~6~~7) "Excessive" or "unusual noise" means any sound made by a passenger motor vehicle or a motorcycle at any time under any condition of grade, speed, acceleration or deceleration, which exceeds ninety-two (92) decibels, or any lower decibel level that is fixed by law or rules adopted by the board of health and welfare, on the "A" scale of a general radio company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a vehicle or motorcycle as the vehicle or motorcycle passes the soundmeter or is stationed not less than twenty (20) feet from a stationary motor or engine.

(~~7~~8) "Excessive speed" means any speed of fifteen (15) miles per hour or more above the posted speed limit, and is only for purposes of determining disqualification of commercial driving privileges.

(~~8~~9) "Executive head," as used in chapter 20, title 49, Idaho Code, means the governor of the state of Idaho.

(~~9~~10) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases with which the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(~~10~~11) "Extraordinary circumstances" means any situation where an emergency exists or public safety is endangered, or any situation in which a vehicle:

(a) Is blocking or impeding traffic; or

(b) Is causing a hazard; or

(c) Has the potential of impeding any emergency vehicle; or

(d) Is impeding any snow removal or other road maintenance operation; or

(e) Has been stolen but not yet reported as recovered; or

(f) Is not registered, or displays a license plate registration tag which has been expired.

SECTION 2. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-117. DEFINITIONS -- P.

(1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park trailer." (See "Trailer," section 49-121, Idaho Code)

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair or an electric personal assistive mobility device.

(6) "Pedestrian path" means any path, sidewalk or way set-aside and used exclusively by pedestrians.

(7) (a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality, and for the purposes of chapter 22 of this title shall include a private, common or contract carrier operating a vehicle on any highway of this state.

(b) "Person with a disability" means:

(i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;

(ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or

(iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

(iv) For the purposes of chapters 3 and 4 of this title, a person with a permanent disability is one whose physician certifies that the person qualifies as a person with a disability pursuant to this subsection (7)(b), and further certifies that there is no expectation for a fundamental or marked change in the person's condition at any time in the future.

(8) "Personal information" means information that identifies an individual, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, the five-digit zip code of the person's address, or status of the driver's license or motor vehicle registration.

(9) "Pneumatic tire." (See "Tires," section 49-121, Idaho Code)

(10) "Pole trailer." (See "Trailer," section 49-121, Idaho Code)

(11) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(12) "Possessory lienholder" means any person claiming a lien, that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(13) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make

it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(14) "Pressure regulator valve" means a device or system which governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.

(15) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor.

(16) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(17) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(18) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars ($25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to the limit for one (1) person, in the amount of fifty thousand dollars ($50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars ($15,000) because of injury to or destruction of property of others in any one (1) accident.

(19) "Proper authority" means a public highway agency.

(20) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency which has jurisdiction over public highway systems and public rights-of-way.

(21) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(22) "Public road jurisdiction" means a public highway agency.

(23) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

SECTION 3. That Section 49-123, Idaho Code, be, and the same is hereby amended to read as follows:

49-123. DEFINITIONS -- V.

(1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver's licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or

2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or

3. Is designed to transport sixteen (16) or more people, including the driver; or

4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle

to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(j) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(k) Reconstructed or repaired vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstructed vehicle" or "repaired vehicle" brand is required, and other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(l) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(m) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or

2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

3. A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or

4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(n) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is

deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-509, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 4. That Section 49-605, Idaho Code, be, and the same is hereby amended to read as follows:

49-605. DRIVING UPON SIDEWALK. No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or temporary driveway. This section shall not apply to any vehicle moved exclusively by human power, an electric personal assistive mobility device nor to any motorized wheelchair. For the purposes of assuring the safety of pedestrians and others using sidewalks, a political subdivision having jurisdiction over sidewalks may, by ordinance or by traffic control device, regulate the time, place and manner of the operation of electric personal assistive mobility devices.

SECTION 5. That Section 49-721, Idaho Code, be, and the same is hereby amended to read as follows:

49-721. BICYCLES ON SIDEWALKS. (1) A person operating a bicycle upon and along a sidewalk, or across a highway upon and along a crosswalk, shall yield the right-of-way to any pedestrian, and shall give an audible signal before overtaking and passing a pedestrian or another bicyclist.

(2) A person shall not operate a bicycle along and upon a sidewalk or across a highway upon and along a crosswalk, where the use of bicycles is prohibited by official traffic control devices.

(3) A person operating a vehicle by human power, or operating a motorized wheelchair or an electric personal assistive mobility device upon and along a sidewalk, or across a highway upon and along a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

Approved March 21, 2002.

CHAPTER 161
(H.B. No. 611)

AN ACT

RELATING TO MOTOR VEHICLE DRIVER'S LICENSES, INSTRUCTION PERMITS AND IDENTIFICATION CARDS; AMENDING SECTION 49-306, IDAHO CODE, TO PROVIDE THAT INDIVIDUALS REQUIRED TO REGISTER IN COMPLIANCE WITH THE FEDERAL MILITARY SELECTIVE SERVICE ACT SHALL BE PROVIDED AN OPPORTUNITY TO FULFILL SUCH REGISTRATION REQUIREMENTS IN CONJUNCTION WITH AN APPLICATION FOR A DRIVER'S LICENSE OR INSTRUCTION PERMIT AND ANY REGISTRATION INFORMATION SO SUPPLIED SHALL BE TRANSMITTED BY THE DEPARTMENT TO THE SELECTIVE SERVICE SYSTEM; AND AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE THAT INDIVIDUALS REQUIRED TO REGISTER IN COMPLIANCE WITH THE FEDERAL MILITARY SELECTIVE SERVICE ACT SHALL BE PROVIDED AN OPPORTUNITY TO FULFILL SUCH REGISTRATION REQUIREMENTS IN CONJUNCTION WITH AN APPLICATION FOR AN IDENTIFICATION CARD AND ANY REGISTRATION INFORMATION SO SUPPLIED SHALL BE TRANSMITTED BY THE DEPARTMENT TO THE SELECTIVE SERVICE SYSTEM.

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

SECTION 1. 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 any 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 (4-year) license with endorsements - age 21 years and older $28.50
(b) Class A, B, C (3-year) license with endorsements - age 18 to 21 years $20.50
(c) Class A, B, C (1-year) license with endorsements - age 20 years $12.25
(d) Class D (3-year) license - under age 18 years $20.50
(e) Class D (3-year) license - age 18 to 21 years $20.50
(f) Class D (1-year) license - age 17 years or age 20 years $12.25
(g) Four-year Class D license - age 21 years and older $24.50
(h) Eight-year Class D license - age 21 to 63 years $45.00
(i) Class A, B, C instruction permit $19.50
(j) Class D instruction permit or supervised instruction permit $11.50
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50
(l) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50
(m) License classification change (upgrade) $15.50
(n) Endorsement addition $11.50

(o) Class A, B, C skills tests ..... not more than $55.00
(p) Class D skills test $15.00
(q) Motorcycle endorsement skills test ..... $ 5.00
(r) Knowledge test ..... $ 3.00
(s) Seasonal driver's license $27.50
(t) One time motorcycle "M" endorsement $11.50
(u) Motorcycle endorsement instruction permit $11.50
(v) Restricted driving permit $35.00

(2) Every application shall state the true and full name, date 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) The requirement that an applicant provide a social security number as verified by his social security card or by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any 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, canceled 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 when obtainable, or another document which provides satisfactory evidence of a person's date of birth acceptable to the examiner or the department.

(c) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(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 except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars ($10.00) from each eight-year class D driver's license, 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; and

(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 four-year driver's license or seasonal driver's license, and four dollars ($4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents ($1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars ($4.00) of each fee charged pursuant to subsections (1)(a), (g) and (s) of this section and eight dollars ($8.00) of each fee charged pursuant to subsection (1)(h) of this section and three dollars ($3.00) of each fee for driver's licenses

pursuant to subsections (1)(b), (d) and (e) of this section, and one dollar ($1.00) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, 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, and ten dollars ($10.00) of each fee charged for a license pursuant to subsection (1)(b) of this section, and five dollars and forty-one cents ($5.41) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway fund; 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 fund; and

(d) Four dollars ($4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(e) 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 fund; and

(f) Four dollars ($4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway fund; and

(g) Five dollars and thirty cents ($5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents ($10.60) of each fee for an eight-year class D driver's license, and four dollars ($4.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and one dollar and thirty-three cents ($1.33) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the driver training fund; and

(h) Seven dollars and twenty cents ($7.20) of each fee for a four-year class D driver's license, and ten dollars and forty cents ($10.40) of each fee for an eight-year class D driver's license, and six dollars ($6.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and four dollars and eight cents ($4.08) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the highway distribution fund; and

(i) 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 fund; and

(j) 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 fund; and

(k) Five dollars ($5.00) of each fee for a class A, B or C skills test shall be deposited in the state highway fund; and

(l) One dollar ($1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars ($2.00) of each fee for an eight-year class D driver's license, and one dollar ($1.00) of each fee charged for a license pursuant to subsections (1)(b), (d) and

(e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and

(m) Three dollars and fifty cents ($3.50) of each fee for a class D skills test shall be deposited into the state highway fund.

(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 fund.

(11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders 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 applicable federal regulations;

(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 (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 2. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED -- FOUR-YEAR OR EIGHT-YEAR. (1) The department shall issue a distinguishing 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 have printed on it the applicant's full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, and shall be issued a distin-

guishing number assigned to the applicant. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card 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. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant.

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.

Identification cards issued to persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and identification cards issued to persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee for a four-year identification card issued to persons twenty-one (21) years of age or older 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. The nonrefundable fee for identification cards issued to persons under twenty-one (21) years of age shall be six dollars and fifty cents ($6.50), of which five dollars ($5.00) shall be retained by the county and credited to the current expense fund, and one dollar and fifty cents ($1.50) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for an eight-year identification card shall be fifteen dollars ($15.00) of which ten dollars ($10.00) shall be retained by the county and credited to the current expense fund, and five dollars ($5.00) shall be deposited in the state treasury to the credit of the highway distribution account. At the option of the applicant, the identification card issued to a person twenty-one (21) years of age or older shall expire either on the cardholder's birthday in the fourth year or the eighth year following issuance of the card. Every identification card issued to a person under eighteen (18) years of age shall expire five (5) days after the person's eighteenth birthday. Every identification card issued to a person eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the person's twenty-first birthday.

Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for an identification card. Any registration information so supplied shall be transmitted by the department to the selective service system.

(2) Every identification card, except those issued to persons under twenty-one (21) years of age, 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, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance 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) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(6) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(7) 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 thirty (30) days, notify the transportation department in writing of the old and new addresses.

(8) 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 canceled identification card to the department.

(9) 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.

(10) The department may issue a no-fee identification card to an individual whose driver's license has been canceled 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 canceled.

(11) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (7) of this section.

Approved March 21, 2002.

CHAPTER 162
(H.B. No. 652)

AN ACT

RELATING TO TAX EXEMPTIONS; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602FF, IDAHO CODE, TO PROVIDE THAT CERTAIN LOW-INCOME HOUSING OWNED BY NONPROFIT ORGANIZATIONS IS EXEMPT FROM TAXATION.

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

SECTION 1. That Chapter 6, 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 63-602FF, Idaho Code, and to read as follows:

63-602FF. PROPERTY EXEMPT FROM TAXATION -- LOW-INCOME HOUSING OWNED BY NONPROFIT ORGANIZATIONS. (1) As provided in this section, low-income housing owned by nonprofit organizations shall be exempt from taxation.

(2) In order to qualify as a nonprofit organization under this section, an organization must demonstrate that:

(a) It is organized as a nonprofit corporation pursuant to chapter 3, title 30, Idaho Code, or pursuant to equivalent laws in the applicable state of incorporation; and

(b) It has received an exemption from taxation from the internal revenue service pursuant to section 501(c)(3) of the Internal Revenue Code; and

(c) No proceeds or tax benefits of the organization or from the low-income housing property owned by the organization shall inure to any individual or for-profit entity other than normal employee compensation.

(3) In order to qualify for the exemption provided in this section, the low-income housing property shall meet the following qualifications:

(a) Both legal and equitable title to the property is solely owned by the nonprofit organization seeking the exemption and is managed by the owner or a related nonprofit organization qualifying for the exemption set forth in section 63-602C, Idaho Code; and

(b) Tenants shall not be evicted based upon their inability to pay for a period of three (3) months if such inability is due to a catastrophic event that is not under the tenant's control. For purposes of this subsection, "catastrophic event" means a medical condition or injury in which sudden, serious and unexpected symptoms of illness or injury are sufficiently severe to render the tenant unable to participate in employment and such illness or injury has been certified by one (1) or more licensed physicians and/or psychiatrists or psychologists. The term "catastrophic event" does not apply to individuals who voluntarily remove themselves from the workforce; and

(c) Except for a manager's unit, all of the housing units in the low-income housing property are dedicated to low-income housing in the following manner: Fifty-five percent (55%) of the units shall be rented to those earning sixty percent (60%) or less of the median income for the county in which the housing is located; twenty percent (20%) of the units shall be rented to those earning fifty per-

cent (50%) or less of the median income of the county in which the housing is located; and twenty-five percent (25%) of the units shall be rented to those earning thirty percent (30%) or less of the median income for the county in which the housing is located.

(4) The exemption provided in this section shall not apply:

(a) If the project is financed after the effective date of this act and applicable law permits the payment of property taxes with federal or state funds, grants, loans or subsidies; or

(b) If the property is receiving federal project-based assistance, as provided by 42 U.S.C. sections 1437f(d)(2), 1437f(f)(6) and 1437f(o)(13); or

(c) To any property used by a taxpayer to qualify for tax credits under the provisions of 26 U.S.C. chapter 42 or any successor programs until such time as the property is solely owned by a nonprofit organization as defined in this section and is no longer utilized to receive federal tax credits.

(5) Notwithstanding any other provision of this section, a low-income housing property shall be exempt from taxation due to undue hardship if:

(a) The property was financed prior to the effective date of this act; and

(b) Such financing was dependent upon the tax-exempt status of the property; and

(c) The law does not allow additional federal or state revenues to be available for the payment of property taxes.

(6) Nothing in this section shall affect the qualification of properties for tax-exempt status under other provisions of title 63, Idaho Code.

Approved March 21, 2002.

CHAPTER 163
(H.B. No. 692)

AN ACT

APPROPRIATING MONEYS TO THE BOARD OF LAND COMMISSIONERS FOR THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2003; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUND TO THE INCOME FUNDS.

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

SECTION 1. There is hereby appropriated to the State Board of Land Commissioners 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
ENDOWMENT FUND INVESTMENT BOARD:				
FROM:				
Endowment Administrative Fund	$290,600	$152,200	$3,400	$446,200
Miscellaneous Revenue Fund	99,400	40,900	1,100	141,400
TOTAL	$390,000	$193,100	$4,500	$587,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than five (5) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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. The Endowment Fund Investment Board is hereby granted continuous appropriation authority for moneys in the Endowment Administrative Fund for consulting fees, bank custodial fees and portfolio-related external costs for the period July 1, 2002, through June 30, 2003.

SECTION 4. It is legislative intent that for fiscal year 2003, the Endowment Fund Investment Board transfer $63,238,000 as follows: $43,313,000 from the Public School Earnings Reserve Fund to the Public School Income Fund; $1,139,000 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; $4,070,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; $3,695,000 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; $1,358,000 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; $4,254,000 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; $1,905,000 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and $3,504,000 from the University Earnings Reserve Fund to the University Income Fund.

Approved March 21, 2002.

CHAPTER 164
(H.B. No. 693)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2003; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS TO THE ENVIRONMENTAL REMEDIATION FUND; EXPRESSING LEGISLATIVE INTENT REGARDING THE ENVIRONMENTAL REMEDIATION FUND AND REQUIRING AN ANNUAL REPORT; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO STATE MATCH; APPROPRIATING AND AUTHORIZING THE TRANSFER OF MONEYS FROM THE WATER

POLLUTION CONTROL FUND TO THE AIR QUALITY PERMITTING FUND; APPROPRIATING AND AUTHORIZING THE TRANSFER OF MONEYS FROM THE WATER POLLUTION CONTROL FUND TO THE GENERAL FUND; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO LOCAL JURISDICTIONS; EXPRESSING LEGISLATIVE INTENT REGARDING PROGRAM EXPANSIONS; APPROPRIATING AND AUTHORIZING THE TRANSFER OF MONEYS FROM THE HAZARDOUS WASTE EMERGENCY FUND TO THE GENERAL FUND; 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 Department of Environmental Quality the following amounts to be expended for the designated programs according to the designated expense classes from the various funds listed for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,555,500	$ 1,118,600			$ 2,674,100
Air Quality Permitting Fund	143,900	313,900			457,800
Public Water System Supervision Fund	277,500	47,700	$ 2,000		327,200
Department of Environmental Quality Fund (Receipts)	80,800	18,300			99,100
Department of Environmental Quality Fund (Federal)	1,695,900	1,133,500	59,000		2,888,400
TOTAL	$ 3,753,600	$ 2,632,000	$ 61,000		$ 6,446,600
II. AIR QUALITY:					
FROM:					
General Fund	$ 1,601,800	$ 244,900			$ 1,846,700
Agriculture Smoke Management Fund		30,100			30,100
Air Quality Permitting Fund	1,578,500	321,500	32,000	$ 196,800	2,128,800
Department of Environmental Quality Fund (Receipts)	11,000	30,500			41,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Department of Environmental Quality Fund (Federal)	1,082,700	276,400	18,000	40,600	1,417,700
TOTAL	$ 4,274,000	$ 903,400	$ 50,000	$ 237,400	$ 5,464,800
III. WATER QUALITY:					
FROM:					
General Fund	$ 4,703,300	$ 2,054,300		$2,279,000	$ 9,036,600
Public Water System Supervision Fund	816,700	158,400	6,000	330,200	1,311,300
Water Pollution Control Fund				100,000	100,000
Department of Environmental Quality Fund (Receipts)	304,500	75,600	2,000	50,600	432,700
Department of Environmental Quality Fund (Federal)	2,908,100	1,305,600	20,000	1,600,200	5,833,900
TOTAL	$ 8,732,600	$ 3,593,900	$ 28,000	$4,360,000	$16,714,500
IV. WASTE MANAGEMENT AND REMEDIATION:					
FROM:					
General Fund	$ 1,568,100	$ 254,400		$ 84,500	$ 1,907,000
Water Pollution Control Fund		1,000,000			1,000,000
Environmental Remediation Fund	167,400	649,600		10,200	827,200
Department of Environmental Quality Fund (Receipts)	363,500	568,600	4,000	50,800	986,900
Bunker Hill Trust Fund				300,000	300,000
Department of Environmental Quality Fund (Federal)	2,225,200	1,215,600	14,000	15,200	3,470,000
TOTAL	$ 4,324,200	$ 3,688,200	$ 18,000	$ 460,700	$ 8,491,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. INEEL OVERSIGHT:					
FROM:					
General Fund	$ 190,400	$ 13,500			$ 203,900
Department of Environmental Quality Fund (Federal)	1,146,200	374,900	$ 24,800	$ 585,800	2,131,700
TOTAL	$ 1,336,600	$ 388,400	$ 24,800	$ 585,800	$ 2,335,600
GRAND TOTAL	$22,421,000	$11,205,900	$181,800	$5,643,900	$39,452,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Environmental Quality is authorized no more than three hundred sixty-nine and fifty-five hundredths (369.55) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. Notwithstanding the provisions of Section 39-3630, Idaho Code, the State Controller is hereby directed to transfer $520,000 from the Water Pollution Control Fund to the Environmental Remediation Fund for the period July 1, 2002, through June 30, 2003.

SECTION 4. It is legislative intent that moneys deposited into the Environmental Remediation Fund are to be used solely for Bunker Hill remediation within the site and that in accordance with the Bunker Hill Remedial Action Management Plan, an annual report shall be filed no later than January 1 of each year with the Governor, the Legislature, and the Bunker Hill Superfund Task Force on the remediation progress and the expenditures involved.

SECTION 5. It is legislative intent that the appropriation of moneys from the Water Pollution Control Fund in Section 1 of this act specifically supersedes the provisions of Section 39-3630, Idaho Code. It is further provided that $1,000,000 of such moneys are to be used solely for projects in the Coeur d'Alene River Basin in such a manner so as to count toward the ten percent (10%) state match required for work done at the Bunker Hill superfund site. It is recognized that design is a necessary expense to these projects and that design costs are not eligible for match under the superfund law.

SECTION 6. Notwithstanding Section 39-3630, Idaho Code, there is hereby appropriated and the State Controller is hereby directed to transfer, on or as soon after July 1 as practical, $500,000 from the Water Pollution Control Fund to the Air Quality Permitting Fund for the period July 1, 2002, through June 30, 2003.

SECTION 7. Notwithstanding Section 39-3630, Idaho Code, there is hereby appropriated and the State Controller is hereby directed to transfer, on or as soon after July 1 as practical, $3,000,000 from the Water Pollution Control Fund to the General Fund for the period July 1, 2002, through June 30, 2003.

SECTION 8. It is legislative intent that the Department of Environmental Quality recognize and respect the authority of local jurisdictions, including cities, counties and health districts. Every effort should be made to minimize the impact to local jurisdictions and local residents of any activities of the department.

SECTION 9. Department program and oversight expansions shall not be commenced without first notifying the Joint Finance-Appropriations Committee.

SECTION 10. Notwithstanding Section 39-4417, Idaho Code, there is hereby appropriated and the State Controller is hereby directed to transfer, as soon as practical, $450,000 from the Hazardous Waste Emergency Fund to the General Fund for the period July 1, 2001, through June 30, 2002.

SECTION 11. 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 passage and approval.

Approved March 21, 2002.

CHAPTER 165
(H.B. No. 694)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2003; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND INCREASING THE LIMIT AUTHORIZED FOR FOREST PEST DEFICIENCY WARRANTS FROM $250,000 TO $500,000 FOR 2002.

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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. SUPPORT SERVICES:						
FROM:						
General Fund	$ 467,900	$ 224,000				$ 691,900
Department of Lands Fund	394,300	309,200	$ 11,700			715,200
Endowment Administrative Fund	1,221,100	932,500	93,100			2,246,700
Federal Grant Fund	55,500	128,200				183,700
TOTAL	$ 2,138,800	$1,593,900	$104,800			$ 3,837,500
II. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 981,500	$ 99,100				$ 1,080,600
Department of Lands Fund	1,846,200	1,549,800	$ 12,000			3,408,000
Endowment Administrative Fund	5,140,800	2,819,600	696,500	$483,300		9,140,200
Community Forestry Fund				79,700		79,700
Federal Grant Fund	515,200	239,600		158,300		913,100
TOTAL	$ 8,483,700	$4,708,100	$708,500	$721,300		$14,621,600
III. LAND, RANGE, AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 634,500	$ 147,100				$ 781,600
Department of Lands Fund	17,500	133,700				151,200
Abandoned Mine Reclamation Fund		251,500				251,500
Land and Building Rental Fund	1,000	62,800				63,800
Endowment Administrative Fund	1,878,800	916,200	$131,200			2,926,200
TOTAL	$ 2,531,800	$1,511,300	$131,200			$ 4,174,300
IV. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$ 2,212,800	$ 2,212,800
Department of Lands Fund					4,343,400	4,343,400
Fire Suppression Deficiency Fund					124,000	124,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Federal Grant Fund					3,424,900	3,424,900
TOTAL					$10,105,100	$10,105,100
V. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 236,100	$ 46,300	$ 27,500			$ 309,900
GRAND TOTAL	$13,390,400	$7,859,600	$972,000	$721,300	$10,105,100	$33,048,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred forty-nine and sixty-one hundredths (249.61) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 the fall of 2000, the Director of the Department of Lands, with the approval of the State Board of Land Commissioners, declared a zone of tussock moth infestation in the Moscow Mountain area. Although treatments during the summer of 2001 were very effective, the Department has determined the need for further treatment during 2002. Preliminary estimates indicate a project cost of about $1,200,000. The Forest Service will provide a $600,000 grant to treat pest outbreaks this season.

In accordance with Section 38-602, Idaho Code, the State Board of Land Commissioners may issue deficiency warrants against the General Fund to suppress and eradicate forest pests. The limit authorized by Section 38-602, Idaho Code, is hereby increased from $250,000 to $500,000 for 2002. This limit is for the General Fund only and does not include federal grants or reimbursements from cooperating landowners. Costs for treatments other than to state lands shall be reimbursed according to cooperative agreements approved by the State Board of Land Commissioners. The Joint Finance-Appropriations Committee recommends that cooperating landowners pay 12.5% of the total costs of treatments to their properties.

Approved March 21, 2002.

CHAPTER 166
(H.B. No. 695)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2003; 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 Public Utilities Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Public Utilities Commission Fund	$3,047,000	$1,294,700	$2,400	$4,344,100
Federal Grant Fund	35,800	17,900	1,600	55,300
TOTAL	$3,082,800	$1,312,600	$4,000	$4,399,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than forty-nine (49) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 167
(H.B. No. 696)

AN ACT

APPROPRIATING MONEYS TO THE SOIL CONSERVATION COMMISSION FOR FISCAL YEAR 2003; 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$1,280,100	$529,600	$2,211,500	$4,021,200
Resource Conservation and Rangeland Development Fund		40,600		40,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	123,100	240,400		363,500
TOTAL	$1,403,200	$810,600	$2,211,500	$4,425,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Soil Conservation Commission is authorized no more than twenty-three (23) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 168
(H.B. No. 697)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2003; 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 from the listed funds for the period July 1, 2002, through June 30, 2003:

I. MANAGEMENT AND SUPPORT SERVICES:	
FROM:	
General Fund	$ 1,285,700
Indirect Cost Recovery Fund	406,500
Water Administration Fund	47,700
TOTAL	$ 1,739,900
II. PLANNING AND TECHNICAL SERVICES:	
FROM:	
General Fund	$ 3,208,900
Indirect Cost Recovery Fund	117,400
Water Pollution Control Fund	433,800
Miscellaneous Revenue Fund	540,700
Federal Grant Fund	2,474,800
TOTAL	$ 6,775,600
III. ENERGY RESOURCES:	
FROM:	
General Fund	$ 35,600
Indirect Cost Recovery Fund	170,900
Miscellaneous Revenue Fund	1,191,000
Petroleum Price Violation Fund	2,055,300
Federal Grant Fund	1,102,100
TOTAL	$ 4,554,900

IV. SNAKE RIVER BASIN ADJUDICATION:	
FROM:	
General Fund	$ 2,414,500
Water Pollution Control Fund	194,000
Water Resources Adjudication Fund	500,000
TOTAL	$ 3,108,500
V. WATER MANAGEMENT:	
FROM:	
General Fund	$ 3,115,900
Indirect Cost Recovery Fund	52,400
Water Pollution Control Fund	265,100
Water Administration Fund	793,300
Miscellaneous Revenue Fund	527,800
Federal Grant Fund	307,500
TOTAL	$ 5,062,000
GRAND TOTAL	$21,240,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred eighty-one (181) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 169
(H.B. No. 698)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2003; 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, 2002, through June 30, 2003:

FOR:	
Personnel Costs	$ 969,100
Operating Expenditures	290,500
Capital Outlay	2,300
TOTAL	$1,261,900
FROM:	
General Fund	$1,261,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of the State Appellate Public Defender is authorized no more than fifteen (15) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 170
(H.B. No. 699)

AN ACT

APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 2003.

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

SECTION 1. There is hereby appropriated $8,748,600 from the General Fund to be deposited in the Catastrophic Health Care Cost Fund for the period July 1, 2002, through June 30, 2003.

Approved March 21, 2002.

CHAPTER 171
(H.B. No. 702)

AN ACT

RELATING TO ANATOMICAL GIFTS; AMENDING THE CHAPTER HEADING OF CHAPTER 34, TITLE 39, IDAHO CODE; AMENDING SECTION 39-3401, IDAHO CODE, TO DEFINE AND REVISE TERMS; AMENDING SECTION 39-3403, IDAHO CODE, TO STATE PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE, TO PROVIDE THAT AN INDIVIDUAL MAY ATTACH TO AN APPLICATION FOR A DRIVER'S LICENSE OR IDENTIFICATION CARD A DOCUMENT OF GIFT, TO PROVIDE THAT AFTER THE EFFECTIVE DATE OF THIS ACT A DOCUMENT OF GIFT SHALL BE REQUIRED BEFORE A NOTATION STATING AN INDIVIDUAL'S INTENT TO MAKE AN ANATOMICAL GIFT MAY BE IMPRINTED ON A DRIVER'S LICENSE OR IDENTIFICATION CARD, TO PROVIDE REFERENCES TO PROCUREMENT ENTITIES AND TO REVISE PROVISIONS RELATING TO AN INDIVIDUAL'S DESIGNATION OF A PARTICULAR PROCUREMENT ENTITY TO CARRY OUT PROCEDURES; AMENDING SECTION 39-3405, IDAHO CODE, TO PROVIDE REFERENCES TO PROCUREMENT ENTITIES AND TO REVISE REQUIREMENTS FOR A CORONER'S RELEASE AND PERMISSION TO REMOVE A PART FROM A BODY FOR TRANSPLANTATION OR THERAPY; AMENDING SECTION 39-3406, IDAHO CODE, TO REVISE DUTIES OF HOSPITAL ADMINISTRATORS WHEN PATIENTS ARE AT OR NEAR DEATH, TO PROVIDE CORRECT TERMINOLOGY, TO REVISE DUTIES OF HOSPITALS, LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, PARAMEDICS, EMERGENCY MEDICAL SERVICES PROVIDERS OR OTHER EMERGENCY RESCUERS, TO PROVIDE FOR DUTIES OF PROCUREMENT ORGANIZATIONS AND PROCUREMENT ENTITIES AND TO MAKE GRAMMATICAL CHANGES;

REPEALING SECTION 39-3407, IDAHO CODE; AMENDING CHAPTER 34, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3407, IDAHO CODE, TO PROVIDE THAT ONLY SPECIFIED PERSONS ARE AUTHORIZED TO CONDUCT PHYSICAL REMOVAL OF A PART PURSUANT TO AN ANATOMICAL GIFT AND TO PROVIDE THAT A PROCUREMENT ENTITY MAY NOT ACT UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION 39-3408, IDAHO CODE, TO PROVIDE REFERENCES TO PROCUREMENT ENTITIES; AMENDING SECTION 39-3409, IDAHO CODE, TO PROVIDE REFERENCES TO PROCUREMENT ENTITIES AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-3411, IDAHO CODE, TO PROHIBIT CORONERS FROM AUTHORIZING THE REMOVAL OF BODY PARTS IF THE CORONER OR ANY DEPUTY OR AGENT OF THE CORONER DERIVES A DIRECT OR INDIRECT FINANCIAL BENEFIT; AMENDING SECTION 39-3412, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION AND TO PROVIDE THAT CERTAIN INDIVIDUALS ARE NOT RESPONSIBLE FOR THE COSTS OF PROCUREMENT OR COSTS INCURRED TO PRESERVE THE INTEGRITY OF A BODY OR BODY PARTS; REPEALING SECTION 39-3413, IDAHO CODE; AMENDING CHAPTER 34, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3413, IDAHO CODE, TO PROVIDE FOR ANATOMICAL GIFTS BY LIVING DONORS; AMENDING CHAPTER 34, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3413A, IDAHO CODE, TO SET FORTH REQUIREMENTS FOR INFORMED CONSENT; AMENDING SECTION 39-3417, IDAHO CODE, TO REVISE THE SHORT TITLE; AMENDING CHAPTER 34, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3418, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT; AMENDING SECTION 49-315, IDAHO CODE, TO PROVIDE THAT LICENSEES WHO DESIRE TO DONATE ORGANS OR TISSUE IN THE EVENT OF DEATH AND WHO HAVE COMPLETED A DOCUMENT OF GIFT MAY INDICATE THIS DESIRE ON THE DRIVER'S LICENSE; AND AMENDING SECTION 49-2444, IDAHO CODE, TO PROVIDE THAT PERSONS POSSESSING IDENTIFICATION CARDS WHO DESIRE TO DONATE ORGANS OR TISSUE IN THE EVENT OF DEATH AND WHO HAVE COMPLETED A DOCUMENT OF GIFT MAY INDICATE THIS DESIRE ON THE IDENTIFICATION CARD.

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

SECTION 1. That the Heading for Chapter 34, Title 39, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 34
~~UNIFORM~~ IDAHO ANATOMICAL GIFT ACT

SECTION 2. That Section 39-3401, Idaho Code, be, and the same is hereby amended to read as follows:

39-3401. DEFINITIONS. As used in this chapter:

(1) "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death.

(2) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(3) "Document of gift" means a card, a statement attached to ~~or imprinted on~~ a motor vehicle driver's license or ~~on~~ an identification card, a will, or other writing used to make an anatomical gift.

(4) "Donor" means an individual who makes an anatomical gift of all or part of the individual's body.

(5) "Enucleation" means removing or processing eyes or parts of eyes.

(6) "Enucleator" means an individual who has completed a course in eye enucleation and has a certificate of competence from ~~an agency or organization designated by the Idaho board of medicine for the purpose of providing such training~~ the Idaho Eye Bank or the Eye Bank Association of America.

(7) "Hospital" means a facility licensed, accredited, or approved as a hospital under the laws of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

(8) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity.

(10) "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

(11) "Procurement entity" means an organ procurement organization or a hospital, medical school, physician, eye bank or tissue bank.

(12) "Procurement organization" means ~~a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts~~ an organization recognized by the United States department of health and human services as meeting the requirements of 42 U.S.C. section 273.

(1~~2~~3) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(1~~3~~4) "Technician" means ~~an individual~~ a person who is individually certified as a certified tissue bank specialist by the ~~Idaho board of medicine to remove or process a part~~ American Association of Tissue Banks or by a tissue organization certified by the American Association of Tissue Banks.

SECTION 3. That Section 39-3403, Idaho Code, be, and the same is hereby amended to read as follows:

39-3403. MAKING, AMENDING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL. (1) An individual who is at least eighteen (18) years of age may (i) make an anatomical gift for ~~any of the~~ purposes ~~stated in section 39-3407(1), Idaho Code~~ of transplantation, therapy, research or education, (ii) limit an anatomical gift to one (1) or more of those purposes, or (iii) refuse to make an anatomical gift.

(2) An anatomical gift may be made only by a document of gift signed by the donor. If the donor cannot sign, the document of gift must be signed by another individual and by two (2) witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(3) An individual may attach to his application for a driver's license or identification card a document ~~and the document~~ of gift ~~must comply~~ in compliance with ~~subsection (2) of this~~ section 39-3413, Idaho Code. A notation on an individual's driver's license or identification card that he intends to make an anatomical gift shall be sufficient to ~~satisfy~~ all requirements for consent to organ or tissue donation; provided however, that after the effective date of this act, a document of

gift in compliance with section 39-3413, Idaho Code, shall be required before such notation may be imprinted on an individual's driver's license or identification card. Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(4) A document of gift may designate a particular ~~physician or surgeon~~ procurement entity to carry out the appropriate procedures. In the absence of a designation or if the designee is not available~~, the donee or other person~~ or is unable or unwilling to perform the procedures, any procurement entity authorized ~~to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to~~ under this chapter may carry out the appropriate procedures.

(5) An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(6) A donor may amend or revoke an anatomical gift, not made by will, only by:

(a) A signed statement;

(b) An oral statement made in the presence of two (2) individuals;

(c) Any form of communication during a terminal illness or injury addressed to a physician or surgeon; or

(d) The delivery of a signed statement to a specified ~~donee~~ procurement entity to whom a document of gift had been delivered.

(7) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in subsection (6) of this section.

(8) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(9) An individual may refuse to make an anatomical gift of the individual's body or part by (i) a writing signed in the same manner as a document of gift, (ii) attaching a statement on his driver's license or identification card, or (iii) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(10) In the absence of contrary indications by the donor, an anatomical gift or a part is neither a refusal to give other parts nor a limitation on an anatomical gift under section 39-3404, Idaho Code, or on a removal or release of other parts under section 39-3405, Idaho Code.

(11) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not refusal to make another anatomical gift. If the donor intends a revocation to be refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection (9) of this section.

SECTION 4. That Section 39-3405, Idaho Code, be, and the same is hereby amended to read as follows:

39-3405. AUTHORIZATION BY CORONER OR LOCAL PUBLIC HEALTH OFFICIAL. (1) The coroner may release and permit the removal of a part from a body within that official's custody, for transplantation or therapy if:

(a) The official has received a request for the part from a ~~hospital, physician, surgeon, or~~ procurement ~~organization~~ entity;

(b) The ~~official~~ procurement entity has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and, in the absence of a document of gift or other evidence of an individual's intention to make or refuse to make an anatomical gift, inform persons listed in section 39-3404(1), Idaho Code, in accordance with the provisions of section 39-3413A, Idaho Code, of their option to make, or ~~object~~ refuse to ~~making~~ make, an anatomical gift;

(c) The official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in section 39-3404(1), Idaho Code;

(d) The removal will be by a ~~physician,-surgeon,-or-technician;-but in--the--case-of-eyes-by-one-of-them-or-by-an-enucleator~~ procurement entity;

(e) The removal will not interfere with any autopsy or investigation;

(f) The removal will be in accordance with accepted medical standards; and

(g) Cosmetic restoration will be done, if appropriate.

(2) If the body is not within the custody of the coroner, the local public health officer may release and permit the removal of any part from a body in the local public health officer's custody for transplantation or therapy if the requirements of subsection (1) of this section are met.

(3) An official releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

SECTION 5. That Section 39-3406, Idaho Code, be, and the same is hereby amended to read as follows:

39-3406. ROUTINE ~~INQUIRY~~ REFERRAL AND REQUIRED REQUEST -- SEARCH AND NOTIFICATION. (1) ~~If,-a~~At or near the time of a patient's death, ~~of a--patient,--there--is--no--medical--record-that-the-patient-has-made-or refused-to-make-an-anatomical-gift,~~ the ~~hospital~~ administrator of the hospital where the patient is being treated, or a representative designated by the such administrator, shall: ~~discuss-the-option--to--make--or refuse--to-make-an-anatomical-gift-and-request-the-making-of-an-anatomical-gift-pursuant-to-section-39-3404(1),-Idaho-Code.--The--request--must be--made-with-reasonable-discretion-and-sensitivity-to-the-circumstances of-the-family.--A-request-is-not-required-if-the-gift-is--not--suitable, based--upon--accepted-medical-standards,-for-a-purpose-specified-in-section-39-3407,-Idaho-Code.-An-entry-must-be-made-in-the-medical-record-of the-patient,-stating-the-name-and-affiliation-of-the--individual--making the--request,-and-of-the-name,-response,-and-relationship-to-the-patient of-the-person-to-whom-the-request-was-made.-The-director-of-the--department--of--health--and--welfare-shall-adopt-regulations-to-implement-this subsection.~~

(a) Notify the appropriate organ procurement organization of the imminent or actual death of the patient;

(b) In the absence of a document of gift or other evidence of an individual's intention to make or refuse to make an anatomical gift, and in collaboration with the organ procurement organization and/or

procurement entity, ensure that available persons listed as having priority in section 39-3404, Idaho Code, are informed of the option to make or refuse to make an anatomical gift in accordance with section 39-3404, Idaho Code, with reasonable discretion and sensitivity appropriate to the circumstances of the family;

(c) Obtain the signature of the person having the highest priority of the available persons listed in section 39-3404, Idaho Code, as having priority, signifying whether such person consents or refuses to consent to the making of an anatomical gift on behalf of the patient; and

(d) Enter into the medical records of the patient the name and affiliation of the individual making the request and the name, response and relationship to the patient of the person to whom the request was made.

(2) For purposes of this section, the individual designated by the hospital to initiate the request to the family must be an organ procurement representative or an individual who has completed a course offered or approved by an organ procurement organization and designed in conjunction with tissue and eye bank organizations to address methods for approaching potential donor families. ~~The following persons shall make a reasonable search for a document of gift or other information--identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:~~

(3) A procurement organization or procurement entity making a request pursuant to the provisions of this section shall maintain in its patient records a written record of the name and affiliation of the individual making the request and the name, response and relationship to the patient of the person to whom the request was made.

(~~a~~4) A law enforcement officer, ~~fireman~~ firefighter, paramedic, emergency medical services provider or other emergency rescuer finding an individual who the searcher believes is dead or near death,~~;~~ and

~~(b)--A~~a hospital, upon the admission of an individual at or near the time of death, ~~if--there--is--not immediately available any other source of that information.~~ shall:

(a) Make a reasonable search for a document of gift or other information identifying whether the individual has made or refused to make an anatomical gift; and

(~~3~~b) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (~~3~~4)(a) of this subsection, and the individual or body to whom it relates is taken to a hospital, notify the hospital ~~must be notified~~ of the contents and send the document or other evidence ~~must be sent~~ to the hospital.

~~(4)--If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant--to--section--39-3404(1), Idaho Code, or a release and removal of a part has been permitted pursuant--to--section 39-3405, Idaho Code, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital--shall notify--the--donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift--or--release--and removal of a part.~~

(5) A person who fails to discharge the duties imposed by this sec-

tion is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

SECTION 6. That Section 39-3407, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Chapter 34, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3407, Idaho Code, and to read as follows:

39-3407. CERTAIN PERSONS AUTHORIZED TO CONDUCT PHYSICAL REMOVAL. (1) Only a procurement entity may be given permission to act pursuant to an anatomical gift.

(2) Only the following individuals may perform the physical removal of a part pursuant to an anatomical gift, provided that parts for transplantation shall not be transplanted or transfused under any condition unless accompanied by a medical certificate which states that the part comes from a person who has been tested for HIV antibodies or antigens, and that the test is negative for the presence of HIV antibodies or antigens:

(a) Physicians;

(b) Technicians;

(c) Individuals who:

(i) Work according to protocols established by a physician or technician;

(ii) Report directly to such physician or technician; and

(iii) Receive from such physician or technician specific case-by-case assignments to remove parts; and

(d) For removal of eyes or parts of eyes only, persons certified by the Idaho Eye Bank or the Eye Bank Association of America.

(3) A procurement entity may not act under an anatomical gift if the entity knows of the decedent's refusal or contrary intentions to make an anatomical gift, or that a person listed in section 39-3404, Idaho Code, who has priority, refuses such gift.

SECTION 8. That Section 39-3408, Idaho Code, be, and the same is hereby amended to read as follows:

39-3408. DELIVERY OF DOCUMENT OF GIFT. (1) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

(2) If an anatomical gift is made to a designated ~~donee~~ procurement entity, the document of gift, or a copy, may be delivered to the ~~donee~~ procurement entity to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

SECTION 9. That Section 39-3409, Idaho Code, be, and the same is hereby amended to read as follows:

39-3409. RIGHTS AND DUTIES AT DEATH. (1) Rights of a ~~donee~~ procurement entity created by an anatomical gift are superior to rights of others except with respect to autopsies under section 39-3412(1), Idaho Code. Subject to the certification requirements of section ~~39-2307~~ 39-3407, Idaho Code, a ~~donee~~ procurement entity may accept or reject an anatomical gift. If a ~~donee~~ procurement entity accepts an anatomical gift of an entire body, the ~~donee~~ procurement entity, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the ~~donee~~ procurement entity, upon the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.

(2) The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to section 39-3403(4), Idaho Code.

(3) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

SECTION 10. That Section 39-3411, Idaho Code, be, and the same is hereby amended to read as follows:

39-3411. SALE OR PURCHASE OF PARTS PROHIBITED. (1) A person may not knowingly, for valuable consideration purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

(2) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

(3) A coroner acting pursuant to this section shall not authorize the removal of a part from a body within the coroner's custody if the coroner, or any deputy or agent of the coroner, derives or may derive any direct or indirect financial benefit relative to the removal, donation or use of the part.

(4) A person who violates this section is guilty of a felony and upon conviction is subject to a fine not exceeding fifty thousand dollars ($50,000) or imprisonment not exceeding five (5) years, or both.

SECTION 11. That Section 39-3412, Idaho Code, be, and the same is hereby amended to read as follows:

39-3412. EXAMINATION -- AUTOPSY -- LIABILITY. (1) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(2) The provisions of this chapter are subject to the laws of this state governing autopsies.

(3) A hospital, physician, surgeon, coroner, local public health officer, enucleator, technician~~,~~ or other person~~,~~ who acts in accordance with this chapter or with the applicable anatomical gift law of another

state or a foreign country or who attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(4) An individual who makes an anatomical gift pursuant to section 39-3403 or 39-3404, Idaho Code, and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

(5) The decedent's family, the decedent's next of kin, and the maker of the document of gift are not responsible for the costs of procurement or the costs incurred to preserve the integrity of the body or the parts for the purposes listed in this chapter or listed in the document of gift.

SECTION 12. That Section 39-3413, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Chapter 34, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3413, Idaho Code, and to read as follows:

39-3413. ANATOMICAL GIFTS BY LIVING DONORS. (1) A document containing the following information is sufficient to comply with the provisions of this chapter for the making of an anatomical gift by a living donor or the refusal to make such a gift:

(a) A statement, signed and dated by the donor, that upon the donor's death he or she gives:

(i) Any needed organs, tissues or parts or only specified organs, tissues or parts; and

(ii) The purpose or purposes for which such organs, tissues or parts may be used, including transplantation, therapy, research or education; or

(b) A statement, signed and dated by the donor, that the donor refuses to make any anatomical gift.

(2) Any document evidencing a living donor's intent to make an anatomical gift, or the refusal to make such a gift, shall also contain the printed name of the donor and the donor's date of birth and current address.

SECTION 14. That Chapter 34, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3413A, Idaho Code, and to read as follows:

39-3413A. REQUIREMENTS FOR INFORMED CONSENT. In the absence of a document of gift or other evidence of an individual's intention to make or refuse to make an anatomical gift, the following information shall be provided to any person or persons, listed in section 39-3404(1), Idaho Code, approached for purposes of obtaining informed consent:

(1) A confirmation of the donor's identity and his or her clinical terminal condition;

(2) A general description of the purposes of anatomical gift donation;

(3) Identification of specific organs and/or tissues, including cells, that are being requested for donation, provided that subsequent information on the specific gifts recovered shall be supplied;

(4) An explanation that the retrieved organs and/or tissues may be

used for transplantation, therapy, medical research or educational purposes;

(5) A general description of the recovery process including, but not limited to, timing, relocation of the donor if applicable, and contact information;

(6) An explanation that laboratory tests and a medical and/or social history will be completed to determine the medical suitability of the donor and that blood samples from the donor will be tested for certain transmissible diseases, including testing for HIV antibodies or antigens;

(7) An explanation that the spleen, lymph nodes and blood may be removed, and cultures may be performed, for the purpose of determining donor suitability and donor and recipient capability;

(8) A statement granting access to the donor's medical records and providing that the medical records may be released to other appropriate parties;

(9) An explanation that costs directly related to the evaluation, recovery, preservation and placement of the organs and/or tissues will not be charged to the family members of the donor; and

(10) An explanation of the impact the donation process may have on burial arrangements and on the appearance of the donor's body.

SECTION 15. That Section 39-3417, Idaho Code, be, and the same is hereby amended to read as follows:

39-3417. SHORT TITLE. This chapter may be cited as the "~~Uniform~~Idaho Anatomical Gift Act." ~~of 1989".~~

SECTION 16. That Chapter 34, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3418, Idaho Code, and to read as follows:

39-3418. ENFORCEMENT. (1) Except as otherwise provided in sections 39-3406 and 39-3411, Idaho Code, whenever the attorney general has reason to believe that any person is engaging, has engaged, or is about to engage in any act in violation of this chapter, the attorney general may bring an action in the name of the state against that person:

(a) To obtain a declaratory judgment that the act violates the provisions of this chapter;

(b) To enjoin any act that violates the provisions of this chapter by issuance of a temporary restraining order or preliminary or permanent injunction, without bond, upon the giving of appropriate notice;

(c) To recover on behalf of the state and its agencies actual damages or restitution; or

(d) To recover civil penalties of up to fifty thousand dollars ($50,000) per violation and reasonable expenses, investigative costs and attorney's fees.

(2) The penalties provided in this section are in addition to any other available remedy at law or equity.

(3) Any civil penalty imposed pursuant to this section shall be deposited in the state general fund.

SECTION 17. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant's signature. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall 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. At the request of the applicant, a driver's license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR part 383.

(4) A licensee ~~desiring~~ who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, ~~may~~ indicate this desire on the driver's license by the imprinting of the word "donor" on the license.

(5) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

SECTION 18. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED -- FOUR-YEAR OR EIGHT-YEAR. (1) The department shall issue a distinguishing 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 have printed on it the applicant's full name, date of birth, Idaho residence address, sex,

weight, height, eye color, hair color, and shall be issued a distinguishing number assigned to the applicant. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card 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. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant.

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.

Identification cards issued to persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and identification cards issued to persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee for a four-year identification card issued to persons twenty-one (21) years of age or older 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. The nonrefundable fee for identification cards issued to persons under twenty-one (21) years of age shall be six dollars and fifty cents ($6.50), of which five dollars ($5.00) shall be retained by the county and credited to the current expense fund, and one dollar and fifty cents ($1.50) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for an eight-year identification card shall be fifteen dollars ($15.00) of which ten dollars ($10.00) shall be retained by the county and credited to the current expense fund, and five dollars ($5.00) shall be deposited in the state treasury to the credit of the highway distribution account. At the option of the applicant, the identification card issued to a person twenty-one (21) years of age or older shall expire either on the cardholder's birthday in the fourth year or the eighth year following issuance of the card. Every identification card issued to a person under eighteen (18) years of age shall expire five (5) days after the person's eighteenth birthday. Every identification card issued to a person eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the person's twenty-first birthday.

(2) Every identification card, except those issued to persons under twenty-one (21) years of age, 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, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance of the identification card.

(4) A person possessing an identification card ~~desiring~~ who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, 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) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(6) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(7) 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 thirty (30) days, notify the transportation department in writing of the old and new addresses.

(8) 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 canceled identification card to the department.

(9) 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.

(10) The department may issue a no-fee identification card to an individual whose driver's license has been canceled 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 canceled.

(11) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (7) of this section.

Approved March 21, 2002.

CHAPTER 172
(H.B. No. 724)

AN ACT

RELATING TO LEVIES OF PROPERTY TAXES FOR FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1420, IDAHO CODE, TO DELETE THE DIFFERENT LEVY AMOUNTS OF FIRE PROTECTION DISTRICTS BASED ON POPULATION, TO PROVIDE

FOR AN ELECTION TO APPROVE A FIRE PROTECTION DISTRICT LEVY FOR FIRE PROTECTION DISTRICTS ADVERSELY IMPACTED BY ABNORMALLY LOW LEVIES AT THE TIME OF ENACTMENT OF PROPERTY TAX LIMITATION PROVISION, TO PROVIDE PROCEDURES AND TO PROVIDE, IF APPROVED BY A SIXTY-SIX AND TWO-THIRDS PERCENT VOTE, THAT THE ADDITIONAL BUDGET AMOUNT MAY BE INCLUDED IN EACH SUCCEEDING ANNUAL BUDGET AND TO DELETE SUNSET CLAUSE LANGUAGE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 31-1420, Idaho Code, be, and the same is hereby amended to read as follows:

31-1420. LEVY. (1) Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this act, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district~~,--not exceeding--sixteen-hundredths-percent-(.16%)-of-market-value-for-assessment-purposes,-provided,-districts-having-a-population-in-excess-of--two thousand--five--hundred-(2,500)-may-levy-a-total-tax~~ of twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this act and for no other purpose. The levy shall be made by resolution entered upon the minutes of the board of commissioners of the fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor, county assessor and state board of equalization certified copies of the resolution providing for such levy. Said taxes shall be collected as provided by section 63-812, Idaho Code.

(2) If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-802, Idaho Code, shall apply to the consolidated district's budget request as if the former district which, in the year of the consolidation, has the higher levy subject to the limitations of section 63-802, Idaho Code, had annexed the other district or districts. In addition, the consolidated district shall receive the benefit of foregone increases accumulated by the former districts under section 63-802(1)(a), Idaho Code.

(3) Notwithstanding the provisions of section 63-802, Idaho Code, fire protection districts adversely impacted by abnormally low levies at the time of enactment of section 63-2220A, Idaho Code, and recodified as section 63-802, Idaho Code, may seek voter approval to reach a ~~statewide~~ fire protection district levy ~~average-as-follows:~~ of twenty-four hundredths percent (.24%) of market value for assessment purposes to be used for the purposes of this act and for no other purpose. The additional budget amount must be approved by sixty-six and two-thirds percent (66 2/3%) of the voters on the question at an election called for that purpose and held on the dates provided by section 34-106, Idaho Code. If approved by the voters, the additional budget amount may be included in each succeeding annual budget.

~~(a)--If-the-immediate-prior-year's-levy-is-less--than--0.0005,--fire protection--districts--with-populations-of-two-thousand-five-hundred (2,500)-or-less-may-increase-the-operations-and-maintenance--portion~~

~~of--their--budgets-by-an-amount-not-to-exceed-the-difference-between 0.0005-and-the-actual-prior-year's--levy--multiplied--by--the--prior year's--market--value-for-assessment-purposes.-The-additional-budget amount-must-be-approved-by--sixty-six--and--two-thirds--percent--(66 2/3%)-of-the-voters-voting-on-the-question-at-an-election-called-for that-purpose-and-held-on-the-dates-provided-by-section-34-106,-Idaho Code.-If-approved-by-the-voters,-the-additional-budget-amount-may-be included-in-each-succeeding-annual-budget.~~

~~(b)--If--the--immediate--prior-year's-levy-is-less-than-0.0012,-fire districts-with-populations-in-excess-of-two--thousand--five--hundred (2,500)-may-increase-the-operations-and-maintenance-portion-of-their budgets-by-an-amount-not-to-exceed-the-difference-between-0.0012-and the--actual--prior-year's-levy-multiplied-by-the-prior-year's-market value-for-assessment-purposes.-The-additional-budget-amount-must--be approved-by-sixty-six-and-two-thirds-percent-(66-2/3%)-of-the-voters voting--on--the--question-at-an-election-called-for-that-purpose-and held-on-the--dates--provided--by--section--34-106,--Idaho--Code.--If approved-by-the-voters,-the-additional-budget-amount-may-be-included in-each-succeeding-annual-budget.~~

~~The--provisions--of--this--subsection--shall-be-null,-void-and-of-no force-and-effect-on-and-after-January-1,-2002.~~

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, 2002.

Approved March 21, 2002.

CHAPTER 173
(H.B. No. 729)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 2003; CONTINUING RULES APPROVED OR EXTENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE SECOND REGULAR SESSION OF THE FIFTY-SIXTH IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 2003 OR UNTIL SUCH TIME AS THEY SHALL EXPIRE; PROVIDING THAT RULES REJECTED BY CONCURRENT RESOLUTION SHALL BE NULL, VOID AND OF NO FORCE AND EFFECT; AUTHORIZING AGENCIES TO AMEND OR REPEAL CERTAIN RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURE ACT AND DECLARING THE EFFECT OF THIS ACT UPON ADMINISTRATIVE RULES; AND PROVIDING SEVERABILITY.

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

SECTION 1. Except as provided in Sections 2, 3 and 4 of this act, every rule, as that term is defined in Section 67-5201, Idaho Code, that would expire on July 1, 2002, pursuant to the provisions of subsections (1) and (2) of Section 67-5292, Idaho Code, shall continue in full force and effect until July 1, 2003, at which time they shall expire as provided in Section 67-5292, Idaho Code.

SECTION 2. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been affirmatively approved or extended by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Fifty-sixth Idaho Legislature shall continue in full force and effect in such approved or extended language until July 1, 2003, at which time they shall expire as provided in Section 67-5292, Idaho Code, or until such earlier time as provided in the rule or as otherwise provided by statute, unless further extended by statute.

SECTION 3. All rules, as that term is defined in Section 67-5201, Idaho Code, which have been rejected by the adoption of a Concurrent Resolution by both the Senate and the House of Representatives in the Second Regular Session of the Fifty-sixth Idaho Legislature shall be null, void and of no force and effect as provided in Section 67-5291, Idaho Code.

SECTION 4. Nothing contained in this act shall be deemed to prohibit an agency, as that term is defined in Section 67-5201, Idaho Code, from amending or repealing rules which have been continued in full force and effect until July 1, 2003, pursuant to Sections 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code, and subject to submission to the Legislature for approval. Nothing contained in this act shall endow any administrative rule continued in full force and effect under this act with any more legal stature than that of an administrative rule. Nothing contained in this act shall be deemed to be a legislative approval of any rule whose force and effect has been extended by this act, and nothing contained herein shall constitute a legislative finding that any of the rules whose force and effect have been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 21, 2002.

CHAPTER 174
(H.B. No. 732)

AN ACT

RELATING TO MOTOR FUELS TAXES; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 63-2402, IDAHO CODE, TO CHANGE THE LEGAL INCIDENCE OF TAXES ON GASOLINE AND SPECIAL FUELS BY PLACING IT ON THE DISTRIBUTOR WHO FIRST RECEIVES THE FUEL IN IDAHO AND TO PROVIDE EXEMPTIONS; AMENDING SECTION 63-2401, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 30, LAWS OF 2002, TO AMEND THE DEFINITION OF "DISTRIBUTOR"; AMENDING SECTION 63-2403, IDAHO CODE, TO CLARIFY WHEN MOTOR FUEL IS RECEIVED; AMENDING SECTION 63-2405, IDAHO CODE, AS

AMENDED BY SECTION 2, CHAPTER 30, LAWS OF 2002, TO CLARIFY THE RESPONSIBILITY FOR PAYMENT OF MOTOR FUELS TAXES; AMENDING SECTION 63-2412, IDAHO CODE, TO CLARIFY THE DISTRIBUTION OF REVENUES FROM TAXES ON GASOLINE; REPEALING SECTION 63-2416, IDAHO CODE, RELATING TO THE IMPOSITION OF TAX ON SPECIAL FUEL; AMENDING SECTION 63-2418, IDAHO CODE, TO CLARIFY THE DISTRIBUTION OF REVENUES FROM TAXES ON SPECIAL FUEL; AMENDING SECTION 63-2421, IDAHO CODE, AS AMENDED BY SECTION 5, CHAPTER 30, LAWS OF 2002, TO IMPOSE USE TAXES ON UNTAXED MOTOR FUEL AND TO CLARIFY THE REPORTING AND PAYMENT OF FUEL USE TAXES; AMENDING SECTION 63-2424, IDAHO CODE, RELATING TO GASEOUS FUELS AND TO CHANGE A CROSS REFERENCE; AMENDING SECTION 63-2425, IDAHO CODE, RELATING TO PROHIBITING USE OF DYED OR UNTAXED FUEL ON A HIGHWAY AND TO CORRECT CROSS REFERENCES; AMENDING SECTION 63-2443, IDAHO CODE, TO PROVIDE PENALTIES FOR CERTAIN RETAIL DEALERS WHO ACCEPT OR RECEIVE UNTAXED MOTOR FUEL AND FOR UNAUTHORIZED SALE OF UNTAXED MOTOR FUEL; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTING DATE.

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

SECTION 1. STATEMENT OF INTENT. The Legislature intends by this act to modify the holding of the Idaho Supreme Court in the case of Goodman Oil Company of Lewiston, et al v. Idaho State Tax Commission, 136 Idaho 53, (June 8, 2001). Specifically the Legislature intends, by this act, to expressly impose the legal incidence of motor fuels taxes upon the motor fuel distributor who receives (as "receipt" is defined in Section 63-2403, Idaho Code) the fuel in this state and to make other coordinating and technical changes to the motor fuels tax laws.

SECTION 2. That Section 63-2402, Idaho Code, be, and the same is hereby amended to read as follows:

63-2402. IMPOSITION OF TAX UPON ~~USE~~ MOTOR FUEL. (1) A tax is hereby imposed ~~for the privilege of using the public highways upon the use or possession for use of gasoline, and~~ upon the receipt of motor fuel in this state by any distributor receiving motor fuel upon which the tax imposed by this section has not previously been paid. ~~T~~the tax shall be imposed without regard to whether use is on a governmental basis or otherwise, unless exempted by this chapter.

(2) The tax imposed in this section shall be at the ~~same~~ rate ~~as specified in section 63-2405, Idaho Code, upon each~~ of twenty-five cents (25¢) per gallon of ~~gasoline used or possessed for use~~ motor fuel received. This tax shall be subject to the exemptions, deductions and refunds set forth in this chapter. The tax shall be paid by distributors upon the distributor's receipt of the motor fuel in this state.

(3) Any person coming into this state in a motor vehicle may transport in the manufacturer's original tank of that vehicle, for his own use only, not more than thirty (30) gallons of ~~gasoline~~ motor fuel for the purpose of operating that motor vehicle, without complying with the provisions of this chapter.

(4) ~~This use tax shall be a debt owing from the user to the state of Idaho~~ The tax imposed in subsection (1) of this section does not apply to:

(a) Special fuels that have been dyed at a refinery or terminal

under the provisions of 26 U.S.C. section 4082 and regulations adopted thereunder, or under the clean air act and regulations adopted thereunder except as provided in section 63-2425, Idaho Code; or

(b) Special fuel dispensed into a motor vehicle which uses gaseous special fuels and which displays a valid gaseous special fuels permit under section 63-2424, Idaho Code; or

(c) Special fuels that are gaseous special fuels, as defined in section 63-2401, Idaho Code, except that part thereof that is delivered into the fuel supply tank or tanks of a motor vehicle; or

(d) Aircraft engine fuel subject to tax under section 63-2408, Idaho Code.

SECTION 3. That Section 63-2401, Idaho Code, as amended by Section 1, Chapter 30, Laws of 2002, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

(a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and

(b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Biodiesel" means any fuel or mixture of fuels that is:

(a) Derived in whole or in part from agricultural products or animal fats or the wastes of such products; and

(b) Suitable for use as fuel in diesel engines.

(3) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

(4) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

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

(6) "Distributor" means any person who receives ~~gasoline, special fuels, and/or aircraft~~ motor fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(7) "Dyed fuel" means diesel fuel that is dyed pursuant to require-

ments of the internal revenue service, or the environmental protection agency.

(8) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

(9) "Gasohol" means gasoline containing a mixture of no more than ten percent (10%) blend anhydrous ethanol.

(10) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(11) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuel's tax liability or refund.

(12) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(13) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in title 49, U.S.C., section 31701, including subsequent amendments to that agreement.

(14) "Jurisdiction" means a state of the United States, the District of Columbia, a province or territory of Canada, or a state, territory or agency of Mexico in the event that the state, territory or agency participates in the international fuel tax agreement.

(15) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2427A, Idaho Code.

(16) "Motor fuel" means gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(17) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(18) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(19) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; and any vehicular type unit either as an integral part of, or required for the movement of, units defined in sec-

tion 39-4105(15), Idaho Code.

(20) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(21) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(22) "Special fuels dealer" means "distributor" under subsection (6) of this section.

(23) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(24) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

SECTION 4. That Section 63-2403, Idaho Code, be, and the same is hereby amended to read as follows:

63-2403. RECEIPT OF ~~GASOLINE,--SPECIAL--FUELS--OR--AIRCRAFT--ENGINE~~ MOTOR FUEL -- DETERMINATION. ~~Gasoline,-special-fuels-or-aircraft-engine~~ Motor fuel is received as follows:

(1) (a) ~~Gasoline,-special-fuels-or-aircraft-engine~~ Motor fuel produced, refined, manufactured, blended or compounded by any person or stored at a pipeline terminal in this state by any person is received by that person when it is loaded into tank cars, tank trucks, tank wagons or other types of transportation equipment or when it is placed into any tank or other container from which sales or deliveries not involving transportation are made.

(b) ~~Gasoline,-special--fuels--or--aircraft--engine~~ Motor fuel is received by a person other than the person designated in subsection (1)(a) of this section in the following circumstances:

(i) ~~Gasoline,-special-fuels--or--aircraft--engine~~ Motor fuel delivered from a pipeline terminal in this state to a licensed distributor is received by the licensed distributor to whom it is first delivered.

(ii) ~~Gasoline,-special-fuels--or--aircraft--engine~~ Motor fuel delivered to a person who is not a licensed distributor for the account of a person that is so licensed, ~~is received by~~ the licensed distributor for whose account it is shipped.

(2) Notwithstanding the provisions of subsection (1) above, ~~gasoline,--special--fuels-or-aircraft-engine~~ motor fuel shipped or delivered from a refinery or pipeline terminal to another refinery or pipeline terminal, is not received by reason of th~~at ship~~ment or delivery.

(3) Any product other than ~~gasoline,--special-fuels-or-aircraft engine~~ motor fuel that is blended to produce ~~gasoline,-special-fuels--or~~

~~aircraft-engine~~ motor fuel other than at a refinery or pipeline terminal in this state is received by the person who is the owner of the blended fuel after the blending is completed.

(4) (a) ~~Gasoline,-special-fuels--or--aircraft--engine~~ Motor fuel imported into this state, other than fuel placed in storage at a refinery or pipeline terminal in this state, is received at the time the fuel arrives in this state by the person who is, at the time of arrival, the owner of the fuel.

(b) ~~Gasoline,--special-fuels-or-aircraft-engine~~ Motor fuel imported into this state by a licensed distributor and delivered directly to a person not a licensed distributor is received by the licensed distributor importing that fuel into this state at the time the fuel arrives in this state.

(c) Fuel arrives in this state at the time it crosses the border of this state.

SECTION 5. That Section 63-2405, Idaho Code, as amended by Section 2, Chapter 30, Laws of 2002, be, and the same is hereby amended to read as follows:

63-2405. ~~IMPOSITION~~ PAYMENT OF TAX. ~~An~~ The excise tax ~~is--hereby~~ imposed ~~on--all--gasoline--received.--The-tax~~ by section 63-2402, Idaho Code, is to be paid by the ~~licensed~~ distributor, and measured by the total number of gallons of ~~gasoline~~ motor fuel received by him, at the rate ~~of-twenty-five-cents-(25¢)-per-gallon~~ specified in section 63-2402, Idaho Code. That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's ~~report~~ required in section 63-2406, Idaho Code.

SECTION 6. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES FROM TAX ON GASOLINE AND AIRCRAFT ENGINE FUEL. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-240~~5~~21, Idaho Code, upon the receipt or use of gasoline, and any penalties, interest, or deficiency additions, ~~or--from the--fees--imposed--by--the--commission--under-the-provisions-of-section 63-2409,-Idaho-Code,~~ shall be distributed periodically as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (e) of this subsection.

(b) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(c) As soon as possible after the beginning of each fiscal year, the sum of two hundred fifty thousand dollars ($250,000) shall be

distributed to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 62-304C, Idaho Code.

(d) As soon as possible after the beginning of each fiscal year, the sum of one hundred thousand dollars ($100,000) shall be distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-703, Idaho Code.

(e) From the balance remaining with the commission after distributing the amounts in paragraphs (a) through (d) of subsection (1) of this section:

1. One and twenty-eight hundredths percent (1.28%) shall be distributed as follows: sixty-six percent (66%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code. Up to twenty percent (20%) of the moneys distributed to the waterways improvement account under the provisions of this paragraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the waterways improvement account. Thirty-three percent (33%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One percent (1%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the search and rescue fund created in section 67-2913, Idaho Code;

2. One and twenty-eight hundredths percent (1.28%) shall be distributed as follows: sixty-six percent (66%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the off-road motor vehicle account, as created in section 57-1901, Idaho Code. Up to twenty percent (20%) of the moneys distributed to the off-road motor vehicle account by this subparagraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the off-road motor vehicle account. Thirty-three percent (33%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One percent (1%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the search and rescue fund created in section 67-2913, Idaho Code; and

3. Forty-four hundredths percent (.44%) shall be distributed to the park and recreation capital improvement account as created in section 57-1801, Idaho Code, to be used solely to develop, construct, maintain and repair roads, bridges and parking areas within and leading to parks and recreation areas of the state.

4. The balance remaining shall be distributed to the highway distribution account created in section 40-701, Idaho Code.

(2) The revenues received from the taxes imposed by section

63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

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

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 7. That Section 63-2416, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 63-2418, Idaho Code, be, and the same is hereby amended to read as follows:

63-2418. DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS. The revenues received from the tax imposed by ~~section--63-2416,--Idaho Code,~~ this chapter upon the receipt of special fuel and any penalties, interest, or deficiency additions, or from the fees imposed by the commission under the provisions of section 63-2424 or 63-2438, Idaho Code, shall be distributed as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fuels tax provisions by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the special fuels tax requirements by the commission at the end of each fiscal year shall be distributed to the highway distribution account.

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

(3) The balance remaining with the commission after distributing the amounts specified in subsections (1) and (2) of this section shall be distributed to the highway distribution account, established in section 40-701, Idaho Code.

SECTION 9. That Section 63-2421, Idaho Code, as amended by Section 5, Chapter 30, Laws of 2002, be, and the same is hereby amended to read as follows:

63-2421. USE TAX -- RETURNS AND PAYMENT OF USE TAX BY CONSUMERS. (1) For the privilege of using the highways of this state, a~~A~~ny person who consumes ~~special~~ motor fuels in a motor vehicle licensed or required to be licensed by the laws of this state, or which is required to be licensed under the laws of this state and is operated on the highways of this state upon which the tax imposed by section 63-2402, Idaho Code, has not been paid or is subject to credit or refund under IFTA and which

fuel is not exempted from tax by this chapter, shall be liable for the tax.

(2) Except for motor vehicles licensed under IFTA or operating with a temporary permit under section 49-432, Idaho Code, ~~which is subject to the tax imposed by section 63-2416, Idaho Code,~~ persons liable under subsection (1) of this section shall report the amount of tax liability and pay the taxes due in conjunction with his income or franchise tax return due under the provisions of chapter 30, title 63, Idaho Code, in the manner and form prescribed by the commission. Payment of ~~special~~ motor fuels taxes shall be made in conjunction with any other taxes due on that return and ~~special~~ motor fuels taxes due may be offset against refunds of any other taxes shown on the return to be due the taxpayer.

(~~2~~3) In the case of a person liable under subsection (1) of this section other than one who consumes ~~special~~ motor fuels in a motor vehicle described in the exception in subsection (~~1~~2) of this section and not required to file a return under chapter 30, title 63, Idaho Code, ~~who is subject to the tax imposed by section 63-2416, Idaho Code,~~ the tax shall be paid annually, on a calendar year basis, in the manner and form required by the commission. The return and payment for each calendar year shall be due on or before April 15 of the immediately succeeding calendar year.

(4) In the case of a person liable under subsection (1) of this section whose motor vehicles are licensed or required to be licensed under IFTA as provided in sections 63-2438 and 63-2439, Idaho Code, or operating with a temporary permit under section 49-432, Idaho Code, the tax shall be paid in the manner required by those provisions.

SECTION 10. That Section 63-2424, Idaho Code, be, and the same is hereby amended to read as follows:

63-2424. GASEOUS FUELS. (1) In the case of special fuels which are in a gaseous form, the commission shall provide by rule the method to be used for converting the measurement of the fuel to the equivalent of gallons for the purpose of applying tax rates. The method provided shall cause the tax rate provided in section 63-2405~~2~~, Idaho Code, to apply to an amount of gaseous fuels having energy equal to one (1) gallon of gasoline.

(2) As an alternative to the provisions of subsection (1) of this section, an annual fee in lieu of the excise tax may be collected on a vehicle powered by gaseous fuels. The rate of the fee shall be based on the following schedule for all types of gaseous fuels as adjusted by the formula for proration set out below. The permits shall be sold by gaseous fuels vendors dispensing gaseous fuels into motor vehicles.

VEHICLE TONNAGE (GVW)	FEE
0 -- 8,000	$ 60.00
8,001 -- 16,000	$ 89.00
16,001 -- 26,000	$179.00
26,001 and above	$208.00

Permits for vehicles which are converted to gaseous fuels after the first of July in any year shall have the fee prorated for the appropriate number of months until renewal. The commission shall provide by rule the method to be used for converting the measurement of fuel to the equivalent of gallons for the purpose of applying increases in tax rates after this law becomes effective. A decal issued by the commission shall

be displayed in any vehicle for which a permit is issued hereunder as evidence that the annual fee has been paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous place.

SECTION 11. That Section 63-2425, Idaho Code, be, and the same is hereby amended to read as follows:

63-2425. DYED FUEL AND OTHER UNTAXED FUEL PROHIBITED FOR USE ON A HIGHWAY. (1) Except as provided in subsection (2) of this section, no person shall operate a motor vehicle on a highway in this state if the fuel supply tanks of the vehicle contain diesel fuel which has been dyed or marked under the provisions of 26 U.S.C. 4082 and regulations adopted thereunder, or under the clean air act and regulations adopted thereunder, or contain other motor fuel on which the tax under section 63-24~~16~~02, Idaho Code, has not been paid.

(2) The following ~~vehicles~~ may use dyed fuel on the highway but are subject to the tax under section 63-24~~16~~02, Idaho Code, unless exempt under other provisions of this chapter:

(a) State and local government vehicles;

(b) Any vehicles which may use dyed fuel on the highway under the provisions of 26 U.S.C. 4082 or regulations adopted thereunder.

SECTION 12. That Section 63-2443, Idaho Code, be, and the same is hereby amended to read as follows:

63-2443. VIOLATIONS AND PENALTIES. (a) Acts forbidden: It shall be unlawful for any person to:

(1) Refuse, or knowingly and intentionally fail to make and file any statement required by this chapter in the manner or within the time required;

(2) Wilfully fail to pay any tax due or any fee required by this chapter or any related penalties or interest;

(3) Knowingly and with intent to evade or to aid in the evasion of the tax imposed by this chapter to make any false statement or conceal any material fact in any record, return, or affidavit provided for in this chapter;

(4) Conduct any activities requiring a license under this chapter without a license or after a license has been surrendered, canceled, or revoked;

(5) Fail to keep and maintain the books and records required by this chapter;

(6) Use dyed or untaxed fuel in a manner prohibited in this chapter.

(b) It shall be unlawful for any retail dealer in motor fuel who is not a licensed distributor or for any person in the state of Idaho other than a licensed distributor to purchase, receive or accept any motor fuel upon which tax imposed by this chapter has not been paid.

(c) It shall be unlawful for any person, including a licensed distributor, to sell or transfer any fuel upon which tax required by this chapter has not been paid to any person unless such sale or transfer is authorized by this chapter.

(d) Penalties and remedies: Any person violating any provision of this section is guilty of a misdemeanor, unless the act is by any other law of this state declared to be a felony, and upon conviction is pun-

ishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(ee) Penalties are cumulative: The fine and imprisonment provided for in this section shall be in addition to any other penalty imposed by any other provision of this chapter.

SECTION 13. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 14. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 1996.

Approved March 21, 2002.

CHAPTER 175
(H.B. No. 733)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2003; PROVIDING LEGISLATIVE INTENT THAT THE DEPARTMENT OF CORRECTION BE EXEMPT FROM SECTION 67-3511(2), IDAHO CODE; 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 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. OPERATIONS DIVISION:					
A. OPERATIONS ADMINISTRATION:					
FROM:					
General Fund	$ 355,400	$ 6,310,700			$ 6,666,100
Inmate Labor Fund			$ 148,800		148,800
Miscellaneous Revenue Fund	51,800	43,200			95,000
Federal Grant Fund		642,800			642,800
TOTAL	$ 407,200	$ 6,996,700	$ 148,800		$ 7,552,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. OFFENDER PROGRAMS:					
FROM:					
General Fund	$ 2,040,700	$ 747,800			$ 2,788,500
Miscellaneous Revenue Fund		57,400			57,400
Federal Grant Fund	503,600	800,600			1,304,200
TOTAL	$ 2,544,300	$ 1,605,800			$ 4,150,100
C. COMMUNITY SUPERVISION:					
FROM:					
General Fund	$ 9,338,100	$ 1,718,000			$ 11,056,100
Inmate Labor Fund	153,600	113,500	103,200		370,300
Parolee Supervision Fund	1,936,200	247,000	160,000		2,343,200
Miscellaneous Revenue Fund			100,000		100,000
Federal Grant Fund	43,700	301,700	900,000		1,245,400
TOTAL	$11,471,600	$ 2,380,200	$1,263,200		$ 15,115,000
D. COMMUNITY WORK CENTERS:					
FROM:					
General Fund	$ 3,311,100	$ 400,800			$ 3,711,900
Inmate Labor Fund		1,037,400			1,037,400
Miscellaneous Revenue Fund		34,300			34,300
TOTAL	$ 3,311,100	$ 1,472,500			$ 4,783,600
E. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$14,985,200	$ 2,371,800			$ 17,357,000
Miscellaneous Revenue Fund	329,700	101,100			430,800
Penitentiary Endowment Fund		1,205,300	$ 340,000		1,545,300
Federal Grant Fund	50,500				50,500
TOTAL	$15,365,400	$ 3,678,200	$ 340,000		$ 19,383,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
F. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 5,573,400	$ 1,332,100			$ 6,905,500
Inmate Labor Fund	711,300	631,400	$ 149,700		1,492,400
Miscellaneous Revenue Fund	90,500	54,500			145,000
Federal Grant Fund	43,400				43,400
TOTAL	$ 6,418,600	$ 2,018,000	$ 149,700		$ 8,586,300
G. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 2,832,600	$ 946,300			$ 3,778,900
Miscellaneous Revenue Fund	40,300	144,100			184,400
TOTAL	$ 2,872,900	$ 1,090,400			$ 3,963,300
H. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 4,872,000	$ 1,284,000			$ 6,156,000
Inmate Labor Fund	773,300	406,200			1,179,500
Miscellaneous Revenue Fund	52,400	48,700			101,100
Federal Grant Fund	44,300				44,300
TOTAL	$ 5,742,000	$ 1,738,900			$ 7,480,900
I. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 6,849,300	$ 1,766,000			$ 8,615,300
Miscellaneous Revenue Fund	41,900	54,300			96,200
TOTAL	$ 6,891,200	$ 1,820,300			$ 8,711,500
J. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,366,800	$ 226,200			$ 1,593,000
Inmate Labor Fund	549,400	472,700	$ 52,000		1,074,100
Miscellaneous Revenue Fund		6,200			6,200
TOTAL	$ 1,916,200	$ 705,100	$ 52,000		$ 2,673,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
K. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 3,721,700	$ 978,000			$ 4,699,700
Inmate Labor Fund	216,100	27,700			243,800
Miscellaneous Revenue Fund	209,200	20,600			229,800
Federal Grant Fund		52,300			52,300
TOTAL	$ 4,147,000	$ 1,078,600			$ 5,225,600
DIVISION TOTAL	$61,087,500	$24,584,700	$1,953,700		$ 87,625,900
II. SUPPORT DIVISION:					
A. SUPPORT SERVICES:					
FROM:					
General Fund	$ 3,815,000	$ 2,386,600			$ 6,201,600
Parolee Supervision Fund	60,000	25,600			85,600
Miscellaneous Revenue Fund	53,500	7,300			60,800
Federal Grant Fund	20,100	296,600		$1,750,000	2,066,700
TOTAL	$ 3,948,600	$ 2,716,100		$1,750,000	$ 8,414,700
B. MEDICAL SERVICES CONTRACT:					
FROM:					
General Fund		$10,820,000			$ 10,820,000
Miscellaneous Revenue Fund		67,100			67,100
TOTAL		$10,887,100			$ 10,887,100
DIVISION TOTAL	$ 3,948,600	$13,603,200		$1,750,000	$ 19,301,800
III. PRIVATELY-OPERATED STATE PRISON:					
FROM:					
General Fund		$19,318,700	$1,316,700		$ 20,635,400
IV. COMMISSION FOR PARDONS AND PAROLE:					
FROM:					
General Fund	$ 1,037,800	$ 213,300			$ 1,251,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue Fund		20,300			20,300
TOTAL	$ 1,037,800	$ 233,600			$ 1,271,400
GRAND TOTAL	$66,073,900	$57,740,200	$3,270,400	$1,750,000	$128,834,500

SECTION 2. It is legislative intent that the Department of Correction shall be exempt from the provisions of Section 67-3511(2), Idaho Code, for moneys appropriated in Section 1 of this act for a one-year period between July 1, 2002, through June 30, 2003, to properly account for a department-wide reorganization. This exemption does not include funding provided for the privately-operated prison and the Commission for Pardons and Parole. Transfers of moneys between programs are subject to the approval of the Division of Financial Management.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand four hundred sixty-seven and eight-tenths (1,467.8) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 176
(H.B. No. 735)

AN ACT

RELATING TO COMMERCIAL HAZARDOUS WASTE DISPOSAL FEES; AMENDING SECTION 39-4427, IDAHO CODE, TO REVISE FEES FOR DISPOSAL OF CERTAIN HAZARDOUS WASTE, PCBS AND HAZARDOUS DEBRIS AT COMMERCIAL HAZARDOUS WASTE DISPOSAL FACILITIES OR PERMITTED SITES.

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

SECTION 1. That Section 39-4427, Idaho Code, be, and the same is hereby amended to read as follows:

39-4427. COMMERCIAL DISPOSAL FEES. (1) ~~On and after July 1, 1997, t~~There is imposed on the owner or operator of every commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, the lowest applicable fee for each ton of waste or fraction thereof, as follows:

~~(a) Hazardous wastes as defined by RCRA or section 39-4407, Idaho~~

~~Code;--and--excluding--hazardous--wastes-covered-by-paragraph-(c)-of this-subsection:-thirty-dollars-($30.00)-per-gate--ton--or--fraction thereof-disposed-of-at-the-facility-or-site;~~

~~(b)--PCB--and--all--manifested-waste-other-than-wastes-as-defined-in paragraph-(a),-(c),-(d)-or-(e)-of-this-subsection:-twenty-five--dollars--($25.00)--per--gate-ton-or-fraction-thereof-disposed-of-at-the facility-or-site;~~

~~(c)--Hazardous-waste-that-is-delisted-or-treated-so-that--it--is--no longer--hazardous--waste-or-nonhazardous-radiologically-contaminated waste-materials-from-"Formerly-Utilized-Sites-Remedial--Action--Program-(FUSRAP)"-sites-administered-by-the-United-States-army-corps-of engineers:--five--dollars--($5.00)--per-gate-ton-or-fraction-thereof disposed-of-at-the-facility-or-site;~~

~~(d)--Wastes-containing-PCBs-in-concentrations-less-than--fifty--(50) parts--per-million-and-not-regulated-by-the-toxic-substances-control act,-as-amended,-15-U.S.C.-section-2601-et-seq.,-and-all-other-waste not-defined-in-paragraphs-(a),-(b),-(c)-and-(d)-of-this--subsection: five-dollars-($5.00)-per-gate-ton-or-fraction-thereof;~~

~~(e)--For--wastes--defined--in-paragraphs-(a)-and/or-(b)-above,-after twenty-five-thousand-(25,000)-gate-tons-of-such-waste-have-been-disposed-of-at-a-commercial-hazardous-waste-facility-or-site-in-a--calendar-year:-twenty-dollars-($20.00)-per-gate-ton-or-fraction-thereof or--any--lower--applicable--fee--for--such-waste-disposed-of-at-such facility-or-site,-for-the-remainder-of-the-calendar-year.~~

(a) Thirty dollars ($30.00) per gate ton or fraction thereof for all hazardous wastes as defined by RCRA or section 39-4407, Idaho Code;

(b) Twenty-five dollars ($25.00) per gate ton or fraction thereof for all manifested wastes not otherwise defined in this subsection;

(c) Twenty dollars ($20.00) per gate ton or fraction thereof for the first two thousand five hundred (2,500) gate tons or less of wastes received by a facility or site in a calendar year from the same initial generator if the wastes: (i) are PCBs regulated under Idaho or federal law and are in concentrations greater than fifty (50) parts per million; (ii) are hazardous debris; (iii) are hazardous wastes that become subject to regulation solely as a result of a removal or remedial action taken in response to environmental contamination; or (iv) are hazardous wastes that result from corrective action or closure of a regulated or nonregulated hazardous waste management unit;

(d) Ten dollars ($10.00) per gate ton or fraction thereof for all wastes contained in paragraph (c) of this subsection, if the wastes are received by the same facility or site and are from the same initial generator in an amount greater than two thousand five hundred (2,500) gate tons in the same calendar year;

(e) Five dollars ($5.00) per gate ton or fraction thereof for all hazardous wastes that: (i) are delisted or treated so that the wastes are no longer hazardous wastes; or (ii) are nonhazardous radiologically contaminated wastes including materials from the "Formerly Utilized Sites Remedial Action Program (FUSRAP)" sites administered by the government of the United States; or (iii) are PCBs in concentrations less than fifty (50) parts per million and not otherwise regulated by Idaho or federal law; or (iv) are wastes not otherwise defined in this subsection.

(2) The fees set forth in subsection (1) of this section shall not apply to any of the following types of wastes:

(a) Wastes generated or disposed of by a public agency or other person operating a household hazardous waste collection program;

(b) Wastes generated or disposed of by any agency of the state of Idaho.

Any waste for which the fees are waived under the provisions of this section must be noted as fee-waived waste on the return required in section 39-4428, Idaho Code, and is subject to all audit provisions of section 39-4429, Idaho Code.

(3) For wastes disposed of by any agency of the state of Idaho at any commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, the director, pursuant to a written agreement with the director, the owner or operator of any such facility or site, may credit on the return required in section 39-4428, Idaho Code, and in the fee remitted, an amount equal to the actual cost charged by such owner or operator per gate ton or fraction thereof for the characterization, collection, identification, transportation, treatment, storage and disposal of wastes at such facility or site.

Approved March 21, 2002.

CHAPTER 177
(H.B. No. 736)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2003; 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 State Historical Society the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. HISTORIC PRESERVATION AND EDUCATION:					
FROM:					
General Fund	$1,268,100	$422,100		$ 1,600	$1,691,800
Federal Grant Fund	835,500	143,900		69,500	1,048,900
Miscellaneous Revenue Fund	124,300	126,500	$25,000	4,600	280,400
TOTAL	$2,227,900	$692,500	$25,000	$75,700	$3,021,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. HISTORIC SITE MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	$ 153,800	$ 61,500			$ 215,300
Miscellaneous Revenue Fund	157,000	127,500			284,500
TOTAL	$ 310,800	$189,000			$ 499,800
GRAND TOTAL	$2,538,700	$881,500	$25,000	$75,700	$3,520,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than forty-eight and thirty-six hundredths (48.36) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 178
(H.B. No. 738)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 2002; REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES FOR REDISTRICTING; 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 235, Laws of 2001, there is hereby appropriated to the Legislative Council the following amount to be expended for the designated program from the listed fund for the period July 1, 2001, through June 30, 2002:

A. REDISTRICTING:

General Fund $50,000

SECTION 2. There is hereby reappropriated to the Legislative Council the unexpended and unencumbered balance of the appropriation made in Section 1 of this act for the period July 1, 2002, through June 30, 2003.

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

Approved March 21, 2002.

CHAPTER 179
(H.B. No. 740)

AN ACT

RELATING TO LEGISLATIVE INTENT ASSOCIATED WITH THE APPROPRIATION OF MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2002; AMENDING SECTION 8, CHAPTER 368, LAWS OF 2001, TO STRIKE REFERENCE TO SPECIAL RATES FOR PRIVATE INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 8, Chapter 368, Laws of 2001, be, and the same is hereby amended to read as follows:

SECTION 8. Notwithstanding the provisions of Section 56-113, Idaho Code, it is the intent of the Idaho Legislature that for the period July 1, 2001, through June 30, 2002, rates~~, including special rates~~ of private intermediate care facilities for the mentally retarded~~,~~ shall not exceed the rates in effect in state fiscal year 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 July 1, 2001.

Approved March 21, 2002.

CHAPTER 180
(S.B. No. 1276, As Amended)

AN ACT

RELATING TO THE IDAHO SNOWSKIER LICENSE PLATES; AMENDING SECTION 49-419, IDAHO CODE, TO DELETE REFERENCE TO THE 2002 OLYMPIC WINTER GAMES STRATEGY PROGRAM AND TO PROVIDE THAT ANY MONEYS EXPENDED BY THE DEPARTMENT OF COMMERCE FOR PROMOTION OF IDAHO'S SKI INDUSTRY SHALL BE DONE IN CONSULTATION WITH THE IDAHO SKI AREA ASSOCIATION.

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

SECTION 1. That Section 49-419, Idaho Code, be, and the same is hereby amended to read as follows:

49-419. IDAHO SNOWSKIER PLATES. (1) On and after January 1, 1999, 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 snowskier license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho

snowskier license 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. Ten dollars ($10.00) of the initial fee and ten dollars ($10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars ($25.00) of each initial fee and fifteen dollars ($15.00) of each renewal fee shall be deposited by the state treasurer in the division of tourism fund within the department of commerce for use in ~~the 2002 Olympic winter games strategy program and for~~ general promotion of Idaho's ski industry.

(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 snowskier 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 ski areas association, 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 ski areas association.

(5) Sample Idaho snowskier license plates may be purchased for a fee of thirty dollars ($30.00), ten dollars ($10.00) of which shall be deposited in the state highway account and twenty dollars ($20.00) of which shall be deposited in the division of tourism fund within the department of commerce for use in ~~the 2002 Olympic winter games strategy program and for~~ general promotion of Idaho's ski industry. Any moneys expended by the department of commerce for promotion of Idaho's ski industry shall be done in consultation with the Idaho ski area association. No additional fee shall be charged for personalizing sample plates.

Approved March 21, 2002.

CHAPTER 181
(S.B. No. 1277)

AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION AND PENALTIES; AMENDING SECTION 49-335, IDAHO CODE, TO PROVIDE FOR DISQUALIFICATION OF A COMMERCIAL MOTOR VEHICLE OPERATOR IF THE OPERATOR IS CONVICTED OF VIOLATING FEDERAL REGULATIONS OR STATE LAWS ON RAILROAD GRADE CROSSINGS; AND AMENDING SECTION 49-337, IDAHO CODE, TO PROVIDE FOR THE IMPOSITION OF A FIXED PENALTY UPON AN EMPLOYER WHO IS CONVICTED

OF KNOWINGLY ALLOWING, PERMITTING, REQUIRING OR AUTHORIZING AN EMPLOYEE OPERATING A COMMERCIAL MOTOR VEHICLE TO VIOLATE FEDERAL REGULATIONS OR STATE LAWS ON RAILROAD GRADE CROSSINGS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. 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 in the form of a judgment or withheld judgment 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 in the form of a judgment or withheld judgment 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.

(10) A person is disqualified from operating a commercial motor vehicle if convicted of a railroad grade crossing violation as specified in 49 CFR part 383 or applicable state laws while operating a commercial motor vehicle. The disqualification shall be for a period of:

(a) Sixty (60) days for a first conviction;

(b) One hundred twenty (120) days for a second conviction during any three (3) year period;

(c) One (1) year for a third or subsequent conviction during any three (3) year period.

SECTION 2. 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~~ canceled 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, require 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~~ canceled 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) No employer shall knowingly allow, permit, require or authorize an employee to operate a commercial motor vehicle in the United States in violation of any federal, state or local law or federal regulation pertaining to railroad grade crossings. An employer who is convicted of a violation of this subsection (6) shall, in addition to the general penalties provided for in this title, be subject to a civil penalty of not more than ten thousand dollars ($10,000).

(7) Each employer shall require the information specified in subsection (4) of this section to be provided by the employee.

Approved March 21, 2002.

CHAPTER 182
(S.B. No. 1278, As Amended in the House)

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION AND NOTIFICATION ACT; AMENDING SECTION 18-8321, IDAHO CODE, TO PROVIDE THAT A WRITTEN SUMMARIZATION OF INFORMATION RELIED UPON BY THE SEXUAL OFFENDER CLASSIFICATION BOARD MAY BE MADE AVAILABLE TO THE OFFENDER AND TO WITHHOLD CERTAIN DOCUMENTS FROM DISCLOSURE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 18-8321, Idaho Code, be, and the same is hereby amended to read as follows:

18-8321. JUDICIAL REVIEW. (1) Judicial review of an offender's challenge to the designation as a violent sexual predator is civil, not criminal, and remedial, not adversarial.

(2) Immediately upon receipt of an offender's objection or challenge to the designation as a violent sexual predator, the court shall set a date for a summary hearing.

(3) Upon notification of a date for a summary hearing, the prosecutor shall forthwith turn over all papers, documents and other relevant material to the court. A written summarization of information relied upon by the sexual offender classification board may be made available to the offender. However the following documents produced by the sexual offender classification board shall be withheld from disclosure and available only for in camera review by the court:

(a) Records that contain names and addresses, identifying information or any information that would lead to the identification of any victims or witnesses;

(b) Written statements or testimony of victims, witnesses, guardians or persons representing victims or witnesses;

(c) Reports prepared specifically for use by the commission for pardons and parole in making parole determinations pursuant to section 20-223, Idaho Code; and

(d) Other records to remain confidential consistent with rules of criminal or civil procedure.

(4) Judicial review under this chapter shall be conducted as a summary, in camera review proceeding, in which the court decides only whether to affirm or reverse the board's designation of the offender as a violent sexual predator.

(5) The court shall have broad discretion over whether and to what extent witnesses and cross-examination will be allowed.

(6) The rules of evidence do not apply.

(7) The court may rely on documentary evidence, such as expert opinions, for all issues.

(8) Nonconviction offense, i.e., criminal activity that has not been the subject of a conviction, shall be considered in review of the board's designation, provided that there is sufficient evidence that the nonconviction offense occurred.

(9) Where the proof, whether in the form of reliable hearsay, affidavits, or offers of live testimony, creates a genuine issue of material fact as to whether the offender is a violent sexual predator, the court should convene a fact-finding hearing and permit live testimony.

(10) The state bears the burden of presenting a prima facie case that justifies the designation as a violent sexual predator.

(11) The court shall affirm the board's determination unless persuaded by a preponderance of the evidence that it does not conform to the law or the guidelines.

(12) The offender is entitled to challenge the designation as a violent sexual predator based upon two (2) grounds:

(a) The offender may introduce evidence that the calculation that led to the designation as a violent sexual predator was incorrectly performed either because of a factual error, because the offender disputes a prior offense, because the variable factors were improperly determined, or for similar reasons; and

(b) The offender may introduce evidence at the hearing that the designation as a violent sexual predator does not properly encapsulate the specific case, i.e., the offender may maintain that the

case falls outside the typical case of this kind and, therefore, that the offender should not be designated as a violent sexual predator.

(13) Either party may appeal the decision of the court.

(14) Offenders who are not designated as violent sexual predators are not entitled to judicial review under 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, 2002.

Approved March 21, 2002.

CHAPTER 183
(S.B. No. 1279)

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION NOTIFICATION AND COMMUNITY RIGHT-TO-KNOW ACT; AMENDING SECTION 18-8303, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION; AMENDING SECTION 18-8312, IDAHO CODE, TO DELETE CODE CITATIONS WHICH REFER TO SPECIFIC CRIMES AND TO PROVIDE A SINGLE CODE REFERENCE; AND AMENDING SECTION 18-8314, IDAHO CODE, TO PROVIDE AN EXCLUSION TO A CODE CITATION UNDER WHICH A CONVICTION IS CAUSE FOR REVIEW BY THE SEXUAL OFFENDER CLASSIFICATION BOARD.

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

SECTION 1. That Section 18-8303, Idaho Code, be, and the same is hereby amended to read as follows:

18-8303. DEFINITIONS. As used in this chapter:

(1) "Aggravated offense" means any of the following crimes as set forth in section 18-8304, Idaho Code: 18-1508 (lewd conduct, when the victim is less than twelve (12) years of age); 18-4003(d) (murder committed in the perpetration of rape); 18-6101 (rape, but excluding section 18-6101(1) where the victim is at least twelve (12) years of age or the defendant is eighteen (18) years of age or younger); 18-6108 (male rape); and 18-6608 (forcible sexual penetration by use of a foreign object).

(2) "Board" means the sexual offender classification board described in section 18-8312, Idaho Code.

(3) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho state police pursuant to this chapter.

(4) "Department" means the Idaho state police.

(5) "Employed" means full-time or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment which involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(6) "Incarceration" means committed to the custody of the Idaho department of correction, but excluding cases where the court has retained jurisdiction.

(7) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another state or in a federal, tribal or military court or the court of another country.

(8) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(9) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(10) "Psychosexual evaluation" means an evaluation which specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(11) "Recidivist" means an individual convicted two (2) or more times of any offense requiring registration under this chapter.

(12) "Residence" means the offender's present place of abode.

(13) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(14) "Violent sexual predator" means a person who has been convicted of an offense listed in section 18-831~~2~~4, Idaho Code, and who has been determined to pose a risk of committing an offense or engaging in predatory sexual conduct.

SECTION 2. That Section 18-8312, Idaho Code, be, and the same is hereby amended to read as follows:

18-8312. SEXUAL OFFENDER CLASSIFICATION BOARD -- APPOINTMENT -- TERMS -- VACANCIES -- CHAIRMAN -- QUORUM -- QUALIFICATIONS OF MEMBERS -- COMPENSATION OF MEMBERS. (1) A sexual offender classification board is hereby created within the Idaho department of correction. The board shall consist of four (4) members appointed by the governor by and with the advice and consent of the senate. The purpose of the board shall be to assess the risk of reoffense of any offender convicted and incarcerated for commission of a crime as set forth in section~~s--18-1506, 18-1506A,--18-1508,--18-4003(d),--18-4502,--18-6101,--18-6108,--18-6602, 18-6605--and--18-6608,--Idaho--Code,-and-who-is-scheduled-to-be-released from--incarceration~~ 18-8314, Idaho Code, to determine whether the offender should be designated a violent sexual predator. To the extent practicable, the board's determination shall be made prior to the offender's release from incarceration.

(2) The terms of the members shall expire as follows: one (1) member on January 1, 2001; one (1) member on January 1, 2002; one (1) member on January 1, 2003; and one (1) member on January 1, 2004. Thereafter, any person appointed a member of the board shall hold office for six (6) years.

(3) Vacancies in the membership of the board shall be filled in the same manner in which the original appointments are made. Members appointed to a vacant position shall serve the remainder of the unexpired term.

(4) Qualifications of members.

(a) At least one (1) member of the board shall have, by education, experience and training, expertise in the assessment and treatment of sexual offenders.

(b) At least one (1) member of the board shall be employed in the field of law enforcement and have training in the field of the behavior and treatment of sexual offenders.

(c) At least one (1) member of the board shall be an advocate for victims of offenders.

(5) The board shall elect a chairman from its members.

(6) A quorum shall exist when at least three (3) members of the board are present, provided that one (1) member present has, by education, experience and training, expertise in the assessment and treatment of sexual offenders.

(7) Members shall be compensated as provided by section 59-509(o), Idaho Code.

SECTION 3. That Section 18-8314, Idaho Code, be, and the same is hereby amended to read as follows:

18-8314. DUTIES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD. (1) The board shall review offenders scheduled for release from incarceration, who were sentenced and convicted for one (1) or more of the crimes set forth in sections 18-1506, 18-1506A, 18-1508, 18-4003(d), 18-4502, 18-6101 (but excluding subsection 1. of such section when the offender is eighteen (18) years of age or younger), 18-6108, 18-6602, 18-6605 and 18-6608, Idaho Code, or are recidivists as defined in this chapter, for the purpose of determining whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense.

(2) The board shall review offenders who were sentenced and convicted for crimes enumerated in subsection (1) of this section and recidivists as defined in this chapter, who have been released under supervision, for the purpose of determining whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense. Such review shall be undertaken upon request of the court having jurisdiction over the offender on probation or of the parole commission if the offender has been released on parole regardless of whether the offender has been reviewed by the board prior to release from incarceration. For purposes of seeking a board review pursuant to this subsection, the court or parole commission may consider all relevant evidence including, but not limited to, the probation or parole official's observations and opinions of these offenders while under supervision, in light of the circumstances of the underlying offense.

(3) The board shall establish standards for psychosexual evaluations and the qualifications for approved evaluators performing evaluations pursuant to sections 18-8316 and 18-8317, Idaho Code.

(4) The board shall establish guidelines to determine whether an offender scheduled for release is a violent sexual predator presenting a high risk of reoffense. The guidelines shall be established with the assistance of sexual offender treatment and law enforcement professionals who have, by education, experience or training, expertise in the assessment and treatment of sexual offenders.

(a) Factors to be used in establishment of the guidelines must be supported in the sexual offender assessment field as criteria reasonably related to the risk of reoffense and be objective criteria

that can be gathered in a consistent and reliable manner.

(b) The guidelines shall include, but are not limited to, the following general categories for risk assessment: seriousness of the offense, offense history, whether the offense was predatory, characteristics of the offender, characteristics of the victim, the relationship of the offender to the victim, the number of victims and the number of violations of each victim.

(5) If the offender has indicated an intention to reoffend if released into the community and the available record reveals credible evidence to support this finding, then the offender shall be deemed a violent sexual predator regardless of application of the guidelines.

(6) Once the board has made its determination, it shall set forth written findings which shall include:

(a) The board's risk assessment and the reasons upon which the risk assessment was based; and

(b) The board's determination whether the offender should be designated as a violent sexual predator and the reasons upon which the determination was based.

Approved March 21, 2002.

CHAPTER 184
(S.B. No. 1281)

AN ACT

RELATING TO THE POSSESSION OR USE OF DRUGS OR DRUG PARAPHERNALIA BY MINORS; AMENDING SECTION 18-1502C, IDAHO CODE, TO CLARIFY THAT CERTAIN PENALTIES RELATING TO THE USE OR POSSESSION OF DRUGS OR DRUG PARAPHERNALIA APPLY ONLY TO PERSONS UNDER 18 YEARS OF AGE.

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

SECTION 1. That Section 18-1502C, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502C. POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR -- USE OF CONTROLLED SUBSTANCES -- FINES. (1) Any person under eighteen (18) years of age who shall have in his possession any marijuana as defined in section 37-2701(s), Idaho Code, which would constitute a misdemeanor for an adult so charged, or who shall have in his possession any drug paraphernalia as defined in section 37-2701(n), Idaho Code, or who shall unlawfully use or be under the influence of controlled substances in violation of the provisions of section 37-2732C, Idaho Code, shall be guilty of a misdemeanor, and upon conviction, may be punished by a fine not in excess of one thousand dollars ($1,000) or by ninety (90) days in a juvenile detention facility or by both or may be subject to the provisions of chapter 5, title 20, Idaho Code. If the juvenile is adjudicated under the provisions of chapter 5, title 20, Idaho Code, for a violation of this section he shall be sentenced in accordance with the provisions of chapter 5, title 20, Idaho Code. The juvenile shall be adjudicated under chapter 5, title 20, Idaho Code, for a violation of section 37-2732C, Idaho Code, unless the court finds that adjudication

under chapter 5, title 20, Idaho Code, is not appropriate in the circumstances.

(2) A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

(3) Any person who pleads guilty or is found guilty of possession of marijuana pursuant to this section, or any person under eighteen (18) years of age who pleads guilty or is found guilty of a violation of section 37-2732C, Idaho Code, then in addition to the penalty provided in subsection (1) of this section:

(a) The court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(b) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(c) The person shall surrender his license or permit to the court.

(d) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(4) The court, in its discretion, may also order the person convicted of possession of marijuana under subsection (1) of this section, or a person under eighteen (18) years of age who has been convicted of using or being under the influence of a controlled substance in violation of section 37-2732C, Idaho Code, to undergo and complete a substance abuse evaluation and to complete a drug treatment program, as provided in section 37-2738(2), Idaho Code.

Approved March 21, 2002.

CHAPTER 185
(S.B. No. 1282)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-505, IDAHO CODE, TO CLARIFY THE JURISDICTION FOR JUVENILE VIOLATORS AGED FOURTEEN YEARS OR YOUNGER FOR CERTAIN VIOLATIONS.

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

SECTION 1. That Section 20-505, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Where the act, omission or status is prohibited by federal, state, local or municipal law or ordinance by reason of minority only, regardless of where the same occurred;

(2) Where the act or omission is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult, regardless of where the same occurred~~, except traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt violations. A juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter~~;

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

(4) This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

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

(6) This chapter shall not apply to juvenile violators of traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt laws; except that a juvenile violator under the age of fourteen (14) years at the time of such violation may, at the discretion of the court, be treated under the provisions of this chapter.

Approved March 21, 2002.

CHAPTER 186
(S.B. No. 1283)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2732B, IDAHO CODE, TO CLARIFY THE PENALTY FOR ATTEMPTED MANUFACTURING OF METHAMPHETAMINE OR AMPHETAMINE AND TO MAKE TECHNICAL AND GRAMMATICAL CORRECTIONS.

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

SECTION 1. That Section 37-2732B, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732B. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as authorized in this chapter, and notwithstanding the provisions of section 37-2732, Idaho Code:

(1) Any person who knowingly manufactures, delivers, or brings into

this state, or who is knowingly in actual or constructive possession of, one (1) pound of marijuana or more, or twenty-five (25) marijuana plants or more, as defined in section 37-2701, Idaho Code, is guilty of a felony, which felony shall be known as "trafficking in marijuana." If the quantity of marijuana involved:

(A) ~~i~~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 the 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) ~~i~~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 the 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) ~~i~~Is twenty-five (25) pounds or more, or consists of one hundred (100) marijuana plants or more, regardless of the 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) ~~i~~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) ~~i~~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) ~~i~~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 attempted 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 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) ~~i~~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) ~~i~~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) ~~i~~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).

(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) ~~o~~Of ephedrine is five hundred (500) grams or more;

(B) ~~o~~Of methylamine is one-half (1/2) pint or more;

(C) ~~o~~Of methyl formamide is one-quarter (1/4) pint or more;

(D) ~~o~~Of phenylacetic acid is five hundred (500) grams or more;

(E) ~~o~~Of phenylacetone is four hundred (400) grams or more;

(F) ~~o~~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).

(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) ~~i~~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) ~~i~~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) ~~i~~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 trafficking in heroin shall be life, and the maximum fine shall be one hundred thousand dollars ($100,000).

(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.

(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.

Approved March 21, 2002.

CHAPTER 187
(S.B. No. 1284)

AN ACT

RELATING TO THE UNLAWFUL POSSESSION OF FIREARMS; AMENDING SECTION 18-3316, IDAHO CODE, TO CLARIFY THAT IT IS UNLAWFUL FOR A PERSON WHO HAS BEEN CONVICTED OF A FELONY TO PURCHASE, OWN, POSSESS, OR HAVE UNDER HIS CUSTODY OR CONTROL A FIREARM.

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

SECTION 1. That Section 18-3316, Idaho Code, be, and the same is hereby amended to read as follows:

18-3316. UNLAWFUL POSSESSION OF A FIREARM. (1) A person who previously has been convicted of a felony who purchases, owns, possesses, or has under his custody or control any firearm shall be guilty of a felony and shall be imprisoned in the state prison for a period of time not to exceed five (5) years and by a fine not to exceed five thousand dollars ($5,000).

(2) For the purpose of subsection (1) of this section, "convicted of a felony" shall include a person who has entered a plea of guilty, nolo contendere or has been found guilty of any of the crimes enumerated in section 18-310, Idaho Code, or to a comparable felony crime in another state, territory, commonwealth, or other jurisdiction of the United States.

(3) For the purpose of subsection (1) of this section, "firearm" shall include any weapon from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether operable or inoperable.

(4) Subsection (1) of this section shall not apply to a person whose conviction has been nullified by expungement, pardon, setting aside the conviction or other comparable procedure by the jurisdiction where the felony conviction occurred; or whose civil right to bear arms either specifically or in combination with other civil rights has been restored by any other provision of Idaho law.

Approved March 21, 2002.

CHAPTER 188
(S.B. No. 1285)

AN ACT

RELATING TO STATE EMPLOYEES; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE THAT EMPLOYEES OF THE IDAHO COURT OF APPEALS ARE NONCLASSIFIED EMPLOYEES.

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

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

67-5303. APPLICATION TO STATE EMPLOYEES. All departments of the state of Idaho and all employees in such departments, except those employees specifically defined as nonclassified, shall be classified employees, who are subject to this chapter 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 chapter.

(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, Idaho court of appeals 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 division of professional-technical education and vocational rehabilitation administered by the state board for professional-technical 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 inspector, and all district supervisors, 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 division administrator in the department of environmental quality.

(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 March 21, 2002.

CHAPTER 189
(S.B. No. 1286)

AN ACT

RELATING TO THE ALCOHOLISM AND INTOXICATION TREATMENT ACT; AMENDING SECTION 39-310, IDAHO CODE, TO CLARIFY THAT THE PROVISIONS DO NOT APPLY TO PERSONS BELOW A CERTAIN AGE, TO PROVIDE THAT THE CHAPTER SHALL NOT AFFECT CERTAIN LAWS, ORDINANCES, RESOLUTIONS OR RULES REGARDING PEDESTRIANS UPON HIGHWAYS, THE CARRYING OF CONCEALED WEAPONS, OR PERSONS ON CERTAIN ROADWAYS AND PROPERTIES WHO USE OR ARE UNDER THE INFLUENCE OF CONTROLLED SUBSTANCES OR NARCOTIC DRUGS AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 39-310, Idaho Code, be, and the same is hereby amended to read as follows:

39-310. CRIMINAL LAW LIMITATIONS. (1) With the exception of ~~minors~~ persons below the statutory age for consuming alcoholic beverages and of persons affected by the provisions of subsection (3) herein, no person shall be incarcerated or prosecuted criminally or civilly for the violation of any law, ordinance, resolution or rule that includes drinking, being a common drunkard, or being found in an intoxicated or addicted condition as one of the elements of the offense giving rise to criminal or civil penalty or sanction.

(2) No county, municipality, or other political subdivision may interpret or apply any law of general application to circumvent the provision of subsection (1) of this section.

(3) Nothing in this ~~act~~ chapter shall affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol or drugs, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages or drugs at stated times and places or by a particular class of persons, or regarding the carrying of a concealed weapon when intoxicated or under the influence of an intoxicating drink or drug, or regarding pedestrians who are under the influence of alcohol or drugs to a degree which renders them a hazard and who walk or are otherwise upon a highway except on a sidewalk, or regarding persons who are using or are under the influence of controlled substances or narcotic drugs and who are on public property, roadways or conveyances or on private property open to the public.

(4) This ~~act~~ chapter shall not limit or alter the terms or effect of section 18-116, Idaho Code.

(5) Nothing in this ~~act~~ chapter shall affect the enforcement of any other provisions of the uniform controlled substances act.

Approved March 21, 2002.

CHAPTER 190
(S.B. No. 1288, As Amended)

AN ACT

RELATING TO COLLECTION AGENCIES; AMENDING SECTION 26-2222, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-2223, IDAHO CODE, TO REVISE CONDUCT PROHIBITED ABSENT COMPLIANCE WITH THE PROVISIONS OF CHAPTER 22, TITLE 26, IDAHO CODE, AND OBTAINMENT OF A PERMIT FROM THE DIRECTOR OF THE DEPARTMENT OF FINANCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 26-2224, IDAHO CODE, TO REVISE THE REQUIREMENTS FOR PERMIT APPLICATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-2231, IDAHO CODE, TO REQUIRE THAT AN APPLICATION FOR RENEWAL OF A PERMIT BE POSTMARKED ON OR BEFORE A CERTAIN DATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-2234, IDAHO CODE, TO PROVIDE FOR COST

OF EXAMINATIONS; AMENDING SECTION 26-2244, IDAHO CODE, TO PROVIDE FOR CERTAIN CEASE AND DESIST ORDERS, TO INCREASE THE MONETARY CIVIL PENALTY THAT MAY BE IMPOSED BY THE DIRECTOR AND TO PROVIDE ADDITIONAL CIVIL PENALTIES THAT MAY BE IMPOSED; AMENDING SECTION 26-2245, IDAHO CODE, TO EXTEND THE DIRECTOR'S AUTHORITY TO BRING AN ACTION TO ENJOIN CERTAIN VIOLATIONS TO VIOLATIONS OF ORDERS ISSUED PURSUANT TO CHAPTER 22, TITLE 26, IDAHO CODE, TO PROVIDE FOR ADDITIONAL REMEDIES THAT MAY BE GRANTED TO THE DIRECTOR AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 26-2251, IDAHO CODE, TO CLARIFY THE EFFECTIVE DATE OF PERMIT CANCELLATION FOR ANY PERMITTEE FAILING TO APPLY FOR RENEWAL OF A PERMIT IN A TIMELY MANNER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 26-2222, Idaho Code, be, and the same is hereby amended to read as follows:

26-2222. DEFINITIONS. As used in this chapter:

(1) "Agent" means any person who is compensated on a commission basis or by salary, or both, by any permittee and who either contacts debtors or creditors in connection with the collection agency business of the permittee.

(2) "Business funds" means all moneys belonging to or due the permittee in connection with the operation of a collection agency business.

(3) "Collection agency," "collection bureau" or "collection office" shall be a person who engages in any of the activities enumerated in section 26-2223, Idaho Code.

(4) "Director" means the director of the department of finance.

(5) "Creditor" means any person who transfers to a permittee accounts due and owing for collection purposes.

(6) "Creditors' account" means all funds due and owing a creditor within the definition of this chapter.

(7) "Net collections" means all funds that are due to creditors from the permittee pursuant to the contract between the permittee and creditor, or permittee and debtor without taking into account any offset or funds due from the creditor to the permittee, because of the creditor having collected any part of the account due, plus all funds that the permittee agreed to return to debtors or that were not to be applied to debts.

(8) "Permittee" means a person who has a permit to do business as a collection agency, or debt counselor, or credit counselor in Idaho.

(9) "Person" means any permittee, agent, solicitor, individual, corporation, association, copartnership, trust, company or unincorporated organization.

(10) "Debt counselor" means any person engaged in any of the activities enumerated in subsection (6) of section 26-2223, Idaho Code.

(11) "Credit counselor" means any person engaged in any of the activities enumerated in subsections (6) ~~and~~ or (7) of section 26-2223, Idaho Code.~~; which is exempt from federal income taxes as provided in~~ No credit counselor shall be granted a permit pursuant to this chapter unless qualified as an exempt organization under section 501(c)(3) of the ~~i~~Internal ~~r~~Revenue ~~c~~Code.

SECTION 2. That Section 26-2223, Idaho Code, be, and the same is hereby amended to read as follows:

26-2223. COLLECTION AGENCY, DEBT COUNSELOR, OR CREDIT COUNSELOR PERMITS. No person shall without complying with the terms of this ~~act~~ chapter and obtaining a permit from the director:

(1) Operate as a collection agency, collection bureau, collection office, debt counselor, or credit counselor in this state.

(2) Engage, either directly or indirectly in this state in the business of collecting or receiving payment for others of any account, bill, claim or other indebtedness.

(3) Solicit or advertise for the right to collect or receive payment for another of any account, bill, claim or other indebtedness.

(4) Sell or otherwise distribute any system or systems of collection letters and similar printed matter where the name of any person other than the particular creditor to whom the debt is owed appears.

(5) Engage in any activity which indicates, directly or indirectly, that a third party may be involved in effecting any collections.

(6) Engage or offer to engage in the business of receiving money from debtors for application to or payment of or prorating of any creditor or creditors of such debtor.

(7) Engage or offer to engage ~~for compensation~~ in the business of ~~credit~~ providing counseling or other services to debtors in the management of their debts, and contracting with the debtor to effect the adjustment, compromise, or discharge of any account, note or other indebtedness of the debtor.

(8) Engage or offer to engage in the business of credit repair which includes obtaining, for others, improvements in credit records, extensions of credit for clients, or causing the removal of documents from the credit records of a client maintained by a credit reporting agency.

(9) Engage or offer to engage in this state, directly or indirectly, in the business of collecting any form of indebtedness for that person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired.

SECTION 3. That Section 26-2224, Idaho Code, be, and the same is hereby amended to read as follows:

26-2224. FORM OF APPLICATION. Every applicant for such permit shall file in the department of finance an application in form to be prescribed by the director setting forth:

(1) The name of the applicant if an individual; if the applicant is a corporation a list of its officers and directors and their addresses~~.~~; ~~I~~if the applicant is a partnership~~, then~~ a list of the ~~members of said~~ partner~~ship~~ and their addresses; ~~must be filed with the application~~ or if the applicant is a limited liability company a list of its members or managers and their addresses. Every ~~partnership in its application for a permit~~ corporation shall designate and appoint one (1) or more of its ~~members~~ officers or employees, ~~and~~ every ~~corporation in its application for a permit~~ partnership shall designate and appoint one (1) or more of its ~~officers or employees~~ partners, and every limited liability company shall designate and appoint one (1) or more of its members or managers

who shall submit to the examination hereinafter required. No permit shall be issued to any corporation, partnership ~~or corporation~~ or limited liability company unless and until the persons ~~and officers~~ so designated ~~by the partnership or corporation~~ shall submit to and pass the examination required by this ~~act~~ chapter.

(2) The location of the principal office or place of business of the applicant.

(3) Other names, if any, by which the applicant conducts, engages in or solicits business.

(4) The names of all persons and organizations with which the applicant is affiliated in such business, and the location of the principal office or place of business of each such affiliation.

(5) A complete description of the business to be conducted, or plan of operation contemplated, by the applicant in this state.

(6) A list of all papers and filings used by the applicant which must accompany the application and be identified as exhibits by number.

(7) A financial statement showing the applicant to have a financial net worth of not less than two thousand five hundred dollars ($2,500), which statement shall be subject to disclosure according to chapter 3, title 9, Idaho Code. The financial statement shall specify assets and liabilities, providing detailed reference to each item listed to inform the director of the nature and extent of such assets and liabilities. This financial statement shall be signed by the applicant or its proper agent. The net worth shall not include any notes, accounts, bills, and judgments held for collection by the applicant nor shall it include good will or other assets the value of which is speculative and not susceptible to prompt liquidation.

(8) Such other information concerning the applicant's business as the director may reasonably require. Such application shall be executed and verified by the applicant or applicants personally, or by ~~the president or secretary where~~ an individual associated with the applicant ~~is an association or corporation~~ as designated by the director.

SECTION 4. That Section 26-2231, Idaho Code, be, and the same is hereby amended to read as follows:

26-2231. RENEWAL OF PERMIT. Upon application ~~made prior to~~ postmarked on or before the fifteenth day of March of each year, the holder of any permit issued under the provisions of this ~~act~~ chapter shall be entitled to have such permit renewed for the succeeding calendar year upon payment of the annual permit fee as fixed by the director, but not to exceed fifty dollars ($50.00), compliance with the bond requirements of this ~~act~~ chapter, the filing of a financial statement in the form required by section 26-2224(7), Idaho Code, showing a net worth of at least two thousand five hundred dollars ($2,500) for each place of business for which a permit is sought, filing of all other documents required by section 26-2224, Idaho Code, and approval by the director of all literature to be employed by the permittee during the course of the business year, except no annual permit renewal fee need be paid by a nonprofit corporation or association conducting credit counseling or debt prorating activities.

SECTION 5. That Section 26-2234, Idaho Code, be, and the same is hereby amended to read as follows:

26-2234. INVESTIGATIONS, RECORDS AND PAYMENT OF FUNDS. (1) The director or his duly authorized representatives may make an annual examination, or more frequently in the director's discretion, of the place of business of each permittee and foreign permittee and for that purpose the director shall have free access to the offices and places of business, books, creditors' accounts, trust accounts, business accounts, records, papers, files, safes and vaults of all such permittees.

(2) The director may, upon his own motion, and shall, upon the sworn complaint in writing of any person, investigate the action of any person or persons claimed to have violated the provisions of this chapter, and for that purpose the director shall have free access to the offices and places of business, books, creditors' accounts, trust accounts, business accounts, records, papers, files, safes and vaults of all such persons.

(3) Every permittee and foreign permittee shall execute to the director an agreement of consent to examination of any and all bank accounts of the permittee providing the director with authority to make such examination at any time the director, in his discretion, deems it to be in the public interest.

(4) The ~~actual~~ cost of examination for the first annual examination each year and any investigation shall be paid to the director by each permittee so examined or investigated and the director may maintain an action for the recovery of such costs against the permittee or against the surety providing the bond to indemnify the state for such expenditures as required by this chapter. The cost shall be fixed annually by the director, but shall not exceed twenty-five dollars ($25.00) per examination hour.

(5) Each permittee shall acknowledge in writing each account received for collection and shall maintain a record of such account, make a permanent record of all sums collected by him and of all disbursements made by him. Every permittee shall keep and preserve all records relating to accounts received for collection, collections, receipts, and disposal or disbursement of all creditors' funds for a period of five (5) years after the final disposition of any account. It shall be unlawful for any person to intentionally make any false entry, omit to make a necessary entry, mutilate, secrete away, destroy or otherwise dispose of any record mentioned in this subsection, provided a record may be disposed of after the five (5) year period heretofore provided.

(6) Every permittee shall, within thirty (30) days after the close of each calendar month, pay to his creditors the net proceeds of all collections made by the permittee during said calendar month. Each permittee shall report to the creditor all collections made by him and/or any payments made to the creditor within thirty (30) days after the close of each calendar month.

(7) Every permittee shall maintain his books and records in accordance with generally accepted accounting practices subject to such rules and regulations as adopted by the director.

(8) The director, may impound the creditors' accounts, or trust accounts of any permittee if it shall be deemed in the general public interest.

SECTION 6. That Section 26-2244, Idaho Code, be, and the same is hereby amended to read as follows:

26-2244. CEASE AND DESIST ORDERS, PENALTY. (1) Whenever it appears to the director that it is in the public interest, he may order any person to cease and desist from acts, practices, or omissions which constitute a violation of this chapter.

(2) Whenever, after notice and a hearing, the director finds that any person has violated any provision of this chapter, the director may order the person to cease and desist from acts, practices or omissions which constitute a violation of this chapter and:

(a) I~~i~~mpose a civil penalty of not more than ~~one~~ two thousand five hundred dollars ($~~1,0~~2,500) for each violation upon any person found to have violated any provision of this chapter;

(b) Issue an order restoring to any person in interest any consideration that may have been acquired or transferred in violation of this chapter; or

(c) Issue an order that the person violating this chapter pay costs, which in the discretion of the director may include an amount representing reasonable attorney's fees and reimbursement for investigative efforts.

SECTION 7. That Section 26-2245, Idaho Code, be, and the same is hereby amended to read as follows:

26-2245. DIRECTOR'S POWER TO ENJOIN VIOLATIONS. (1) Whenever it appears to the director that any person, or employee or agent thereof, has engaged in or is about to engage in any act or practice or omission constituting a violation of any provision of this ~~act~~ chapter, or any rule or order hereunder, he may in his discretion bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this ~~act~~ chapter or any rules hereunder. Upon a showing that a person, or employee or agent of any person, has engaged in or is about to engage in an act or practice constituting a violation of this ~~act~~ chapter or any rule or order hereunder, a permanent or temporary injunction, or restraining order shall be granted and a receiver or conservator may be appointed for the defendant's assets. The director shall not be required to furnish bond.

(2) In addition to the foregoing, the director, in his discretion and upon a showing in any court of competent jurisdiction that a person has violated the provisions of this chapter or rule or order hereunder, may be granted the following additional remedies:

(a) An order restoring to any person in interest any consideration that may have been acquired or transferred in violation of this chapter;

(b) An order that the person violating this chapter, rule or order hereunder, pay a civil penalty to the department in an amount not to exceed two thousand five hundred dollars ($2,500) for each violation;

(c) An order allowing the director to recover costs, which in the discretion of the court may include an amount representing reasonable attorney's fees and reimbursement for investigative efforts;

(d) An order granting other appropriate remedies upon a proper showing.

SECTION 8. That Section 26-2251, Idaho Code, be, and the same is hereby amended to read as follows:

26-2251. CANCELLATION OF PERMIT. Any permittee or foreign permittee failing to apply in a timely manner for renewal of a permit shall have said permit ~~cancelled on~~ canceled effective the day following the last day for renewal applications to be filed. Engaging in collection agency business with a ~~cancelled~~ canceled permit shall be a violation of the provisions of this chapter. To restore a ~~cancelled~~ canceled permit the fee shall be two hundred dollars ($200). A ~~cancelled~~ canceled permit may be restored only before the expiration of six (6) months following the date of annual renewal.

Approved March 21, 2002.

CHAPTER 191
(S.B. No. 1294)

AN ACT

RELATING TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 56-1001, IDAHO CODE, TO PROVIDE THAT THE TERM "PUBLIC SWIMMING POOL" DOES NOT INCLUDE A SWIMMING POOL OPERATED SOLELY FOR AND IN CONJUNCTION WITH CERTAIN PLACES OF LODGING AND RESIDENTIAL FACILITIES CONTAINING MULTIPLE DWELLINGS.

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

SECTION 1. That Section 56-1001, Idaho Code, be, and the same is hereby amended to read as follows:

56-1001. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Board" means the board of health and welfare as created in section 56-1005, Idaho Code.

(2) "Department" means the department of health and welfare.

(3) "Director" means the director of the department of health and welfare.

(4) "Laboratory" means not only facilities for biological, serological, biophysical, cytological and pathological tests, but also facilities for the chemical or other examination of materials from water, air or other substances.

(5) "Person" means any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties.

(6) "Public swimming pool" means an artificial structure, and its appurtenances, which contains water more than two (2) feet deep which is used or intended to be used for swimming or recreational bathing, and which is for the use of any segment of the public pursuant to a general invitation but not an invitation to a specific occasion or occasions. The term does not include a swimming pool operated solely for and in conjunction with a hotel, motel or other place of lodging, or a trailer park, apartment, condominium or any other residential facility containing multiple dwellings.

(7) "State" means the state of Idaho.

(8) "Substantive" means that which creates, defines or regulates the rights of any person or implements, interprets or prescribes law or policy, but does not include statements concerning only the internal management of the department and not affecting private rights or procedures available to the public.

Approved March 21, 2002.

CHAPTER 192
(S.B. No. 1295)

AN ACT

RELATING TO NONCLASSIFIED EMPLOYEES; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE THAT ALL EMPLOYEES OF CORRECTIONAL INDUSTRIES WITHIN THE DEPARTMENT OF CORRECTION SHALL BE NONCLASSIFIED EMPLOYEES, TO PROVIDE THAT ALL DEPUTY ADMINISTRATORS AND WARDENS OF THE DEPARTMENT OF CORRECTION EMPLOYED BY THE DEPARTMENT OF CORRECTION SHALL BE NONCLASSIFIED EMPLOYEES AND TO DEFINE DEPUTY ADMINISTRATORS; AND DECLARING AN EMERGENCY.

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 chapter 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 chapter.

(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 division of professional-technical education and vocational rehabilitation administered by the state board for professional-technical 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 inspector, and all district supervisors, 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 deputy administrators and wardens employed by the department of correction. Deputy administrators are defined as only the six (6) deputy administrators working directly for the two (2) nonclassified division administrators under the director of 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 division administrator in the department of environmental quality.

(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.

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

Approved March 21, 2002.

CHAPTER 193
(S.B. No. 1500)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2003; 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 622,700	$ 91,800	$620,400	$1,334,900
Randolph Sheppard Fund		7,200	117,900	125,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Rehabilitation Revenue and Refunds Fund	41,800	33,700	12,800	88,300
Adaptive Aids and Appliances Fund		46,700		46,700
Federal Grant Fund	1,334,600	412,600	211,500	1,958,700
Miscellaneous Revenue Fund		17,400	9,100	26,500
TOTAL	$1,999,100	$609,400	$971,700	$3,580,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than forty and fifty-hundredths (40.50) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 194
(S.B. No. 1501)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2003; AND APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PANHANDLE HEALTH DISTRICT FOR FISCAL YEAR 2003.

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

SECTION 1. There is hereby appropriated $9,689,000 from the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 2002, through June 30, 2003.

SECTION 2. In addition to the appropriation made in Section 1 of this act, there is hereby appropriated $90,800 from the General Fund to be deposited in the Public Health Trust Fund for the Panhandle Health District for the period July 1, 2002, through June 30, 2003.

Approved March 21, 2002.

CHAPTER 195
(S.B. No. 1502)

AN ACT
APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2003; 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, 2002, through June 30, 2003:

A. RENAL DISEASE:	
FROM:	
General Fund	$ 541,400
FOR:	
Trustee and Benefit Payments	$ 541,400
B. VOCATIONAL REHABILITATION:	
FROM:	
General Fund	$ 3,129,100
Federal Grants Fund	12,640,600
Rehabilitation Revenue and Refunds Fund	609,000
Miscellaneous Revenue Fund	408,100
TOTAL	$16,786,800
FOR:	
Personnel Costs	$ 7,130,000
Operating Expenditures	1,355,800
Capital Outlay	303,200
Trustee and Benefit Payments	7,997,800
TOTAL	$16,786,800
C. EPILEPSY SERVICES:	
FROM:	
General Fund	$ 72,900
FOR:	
Trustee and Benefit Payments	$ 72,900
D. INDEPENDENT LIVING COUNCIL:	
FROM:	
General Fund	$ 75,700
Federal Grants Fund	200,700
Miscellaneous Revenue Fund	15,800
TOTAL	$ 292,200
FOR:	
Personnel Costs	$ 104,200
Operating Expenditures	74,100
Trustee and Benefit Payments	113,900
TOTAL	$ 292,200
GRAND TOTAL	$17,693,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred fifty (150) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 196
(S.B. No. 1503)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2003; PROVIDING FOR THE RECOVERY OF BANKING SERVICES COSTS TO THE GENERAL FUND; REQUIRING A REPORT ON INTEREST EARNINGS AND BANK SERVICE FEES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE TREASURER; 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 State Treasurer the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$ 871,800	$373,000	$1,244,800
State Treasurer LGIP Fund	151,600	77,500	229,100
Treasurer's Office - Professional Services Fund	219,100	92,900	312,000
TOTAL	$1,242,500	$543,400	$1,785,900

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, 2003, the State Controller shall transfer the amount assessed in the statewide cost allocation plan from the Indirect Cost Recovery Fund to the General Fund.

SECTION 3. The State Treasurer shall report to the Joint Finance-Appropriations Committee at its fall interim meeting the following:

(1) The amount of direct and indirect bank service fees paid for the period July 1, 2001, through June 30, 2002; and

(2) Interest earnings on bank accounts for which direct and indirect fees are paid.

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 State Treasurer LGIP Fund or the Treasurer's Office - Professional Services Fund for fiscal year 2002, to be used for nonrecurring expenditures only for the period July 1, 2002, through June 30, 2003.

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. In accordance with Section 67-3519, Idaho Code, the Office of the State Treasurer is authorized no more than eighteen (18) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 197
(S.B. No. 1506)

AN ACT

RELATING TO THE SMALL EMPLOYER HEALTH REINSURANCE PROGRAM; AMENDING SECTION 41-4711, IDAHO CODE, TO CLARIFY THAT NEWBORN DEPENDENTS ARE NOT ELIGIBLE FOR REINSURANCE UNLESS A PARENT IS ALREADY REINSURED; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 41-4711, Idaho Code, be, and the same is hereby amended to read as follows:

41-4711. SMALL EMPLOYER CARRIER REINSURANCE PROGRAM. (1) A reinsuring carrier shall be subject to the provisions of this section.

(2) There is hereby created an independent public body corporate and politic to be known as the Idaho small employer health reinsurance program. The program will perform an essential governmental function in the exercise of powers conferred upon it in this act and any assessments imposed or collected pursuant to the operation of the program shall at all times be free from taxation of every kind.

(3) The program shall operate subject to the supervision and control of the board established in section 41-5502, Idaho Code.

(4) Each small employer carrier shall make a filing with the director containing the carrier's earned health insurance premium derived from health benefit plans delivered or issued for delivery to small employers in this state in the previous calendar year.

(5) The board shall submit to the director a plan of operation and thereafter any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the program. The director may, after notice and hearing, approve the plan of operation if the director determines it to be suitable to assure the fair, reasonable and equitable administration of the program, and to provide for the sharing of program gains or losses on an equitable and proportionate basis in accordance with the provisions of this section. The plan of operation shall become effective upon written approval by the director.

(6) If the board fails to submit a suitable plan of operation, the director shall, after notice and hearing, adopt and promulgate a temporary plan of operation. The director shall approve the plan of operation submitted by the board, or adopt a temporary plan of operation if the board fails to submit a suitable plan. The director shall amend or rescind any plan adopted under the provisions of this subsection at the time a plan of operation is submitted by the board and approved by the director.

(7) The plan of operation shall:

(a) Establish procedures for handling and accounting of program assets and moneys and for an annual fiscal reporting to the director;

(b) Establish procedures for selecting an administrator, which shall be properly licensed in this state, and setting forth the powers and duties of the administrator;

(c) Establish procedures for reinsuring risks in accordance with the provisions of this section;

(d) Establish procedures for collecting assessments from reinsuring carriers to fund claims and administrative expenses incurred or estimated to be incurred by the program; and

(e) Provide for any additional matters necessary for the implementation and administration of the program.

(8) The program shall have the general powers and authority granted under the laws of this state to insurance companies and health maintenance organizations licensed to transact business, except the power to issue health benefit plans directly to either groups or individuals. In addition thereto, the program shall have the specific authority to:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter, including the authority, with the approval of the director, to enter into contracts with similar programs of other states for the joint performance of common functions or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any assessments and penalties for, on behalf of, or against the program or any reinsuring carriers;

(c) Take any legal action necessary to avoid the payment of improper claims against the program;

(d) Define the health benefit plans, which plans shall allow coordination of benefits, for which reinsurance will be provided, and to issue reinsurance policies, in accordance with the requirements of this chapter;

(e) Establish rules, conditions and procedures for reinsuring risks under the program, including board discretion to operate separate small employer and individual reinsurance pools;

(f) Establish actuarial functions as appropriate for the operation of the program;

(g) Assess carriers in accordance with the provisions of subsection (12) of this section, and to make advance interim assessments of carriers as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the fiscal year;

(h) Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the program, policy and other contract design, and any other function within the authority of the program;

(i) Borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default shall be legal investments for carriers and may be carried as admitted assets.

(9) A reinsuring carrier may reinsure with the program as provided for in this subsection:

(a) With respect to a small employer basic, standard or catastrophic health benefit plan, the program shall reinsure the level of coverage provided and, with respect to other plans, the program shall reinsure up to the level of coverage provided in a small employer basic, standard or catastrophic health benefit plan.

(b) A small employer carrier may reinsure an entire employer group within sixty (60) days of the commencement of the group's coverage under a health benefit plan.

(c) A reinsuring small employer carrier may reinsure an eligible employee or dependent within a period of sixty (60) days following the commencement of the coverage with the small employer. A newly eligible employee or dependent of the reinsured small employer may be reinsured within sixty (60) days of the commencement of his coverage. Newborn dependents of insureds are not eligible for reinsurance unless a parent is already reinsured.

(d) (i) The program shall not reimburse a reinsuring carrier with respect to the claims of a reinsured employee or dependent until the carrier has incurred an initial level of claims for such employee or dependent of five thousand dollars ($5,000) in a calendar year for benefits covered by the program. In addition, the reinsuring carrier shall be responsible for ten percent (10%) of the next fifty thousand dollars ($50,000) of benefit payments during a calendar year and the program shall reinsure the remainder.

(ii) The board annually may adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the

department of labor, bureau of labor statistics, unless the board proposes and the director approves a lower adjustment factor.

(e) A reinsuring carrier may terminate reinsurance with the program for one (1) or more of the reinsured employees or dependents on any anniversary of the health benefit plan.

(f) A reinsuring carrier shall apply all managed care and claims handling techniques, including utilization review, individual case management, preferred provider provisions, and other managed care provisions or methods of operation consistently with respect to reinsured and nonreinsured business.

(10) (a) The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers pursuant to this section. The methodology shall include a system for classification of small employers that reflects the types of case characteristics commonly used by small employer carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, subject to the approval of the director, and shall be set at levels which reasonably approximate gross premiums charged to small employers by small employer carriers for health benefit plans with benefits similar to the standard health benefit plan, adjusted to reflect retention levels required under the provisions of this chapter.

(b) Premiums for the program shall be as established by the board.

(c) The board periodically shall review the methodology established under the provisions of paragraph (10)(a) of this section, including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the program. The board may propose changes to the methodology which shall be subject to the approval of the director.

(d) The board may consider adjustments to the premium rates charged by the program to reflect the use of effective cost containment and managed care arrangements.

(11) If a health benefit plan for a small employer is entirely or partially reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued shall meet the requirements relating to premium rates set forth in section 41-4706, Idaho Code.

(12) (a) Prior to March 1 of each year, the board shall determine and report to the director the program net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(b) Any net loss for the year shall be recouped by assessments of carriers.

(c) (i) For the assessment of March 1, 1995, and prior to March 1 of each succeeding year, the board shall determine and file with the director an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

(ii) The individual assessments shall be determined by multiplying net losses, if net earnings are negative, as defined by subsection (12)(a) of this section, by a fraction, the numera-

tor of which shall be the carrier's total premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease, and hospital confinement indemnity in this state as reported in the carrier's annual report pursuant to subsection (16) of this section, and the denominator of which shall be the total premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease and hospital confinement indemnity in this state.

(d) If assessments exceed net losses of the program, the excess shall be held at interest and used by the board to offset future losses or to reduce program premiums. As used in this paragraph, "future losses" includes reserves for incurred but not reported claims.

(e) Each reinsuring carrier's proportion of the assessment shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the reinsuring carriers with the board.

(f) The plan of operation shall provide for the imposition of an interest penalty for late payment of assessments.

(g) A reinsuring carrier may seek from the director a deferment from all or part of an assessment imposed by the board. The director may defer all or part of the assessment of a reinsuring carrier if the director determines that the payment of the assessment would place the reinsuring carrier in a financially impaired condition. If all or part of an assessment against a reinsuring carrier is deferred the amount deferred shall be assessed against the other participating carriers in a manner consistent with the basis for assessment set forth in this subsection. The reinsuring carrier receiving the deferment shall remain liable to the program for the amount deferred and shall be prohibited from reinsuring any groups with the program until such time as it pays the assessments.

(13) (a) Neither the participation in the program as reinsuring carriers, the establishment of rates, forms or procedures, nor any other joint or collective action required under the provisions of this chapter shall be the basis of any legal action, criminal or civil liability, or penalty against the program or any of its reinsuring carriers either jointly or separately.

(b) Neither the board nor its employees shall be liable for any obligations of the program. No member or employee of the board shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under this chapter, unless such act or omission constitutes willful or wanton misconduct. The board may provide for indemnification of, and legal representation for, its members and employees.

(14) The board, as part of the plan of operation, shall develop standards setting forth the manner and levels of compensation to be paid to agents for the sale of small employer basic, standard and catastrophic health benefit plans. In establishing such standards, the board shall take into consideration the need to assure the broad availability of coverages, the objectives of the program, the time and effort expended in placing the coverage, the need to provide ongoing service to

the small employer, the levels of compensation currently used in the industry and the overall costs of coverage to small employers selecting these plans.

(15) The program shall be exempt from any and all taxes.

(16) Each carrier shall file with the director, in a form and manner to be prescribed by the director, an annual report. The report shall state the number of resident persons insured under the carrier's health benefit plan.

(17) If a reinsuring small employer carrier attempts to reinsure or reinsures an entire employer group, an employee, or a dependent of such employee that, immediately prior to the commencement of such coverage, it covered under a health benefit plan, the board shall assess all costs and losses incurred by the program for claims and administrative expenses relating to such group, employee or dependent of such employee only to the said reinsuring small employer carrier.

(18) Subsection (17) of this section shall apply to assessments made for the 1994 calendar year and each year thereafter.

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, 2000.

Approved March 21, 2002.

CHAPTER 198
(S.B. No. 1507)

AN ACT
APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2003; 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 Idaho State Police 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 1,995,800	$ 273,300	$ 102,000		$ 2,371,100
II. DIVISION OF THE IDAHO STATE POLICE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General Fund	$ 1,814,600	$ 509,400			$ 2,324,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Indirect Cost Recovery Fund	70,600				70,600
Idaho Law Enforcement Fund	11,600	1,000			12,600
Peace Officers Fund	700				700
Miscellaneous Revenue Fund		55,300			55,300
Federal Grant Fund	509,500	125,900		$3,334,300	3,969,700
TOTAL	$ 2,407,000	$ 691,600		$3,334,300	$ 6,432,900
B. EXECUTIVE PROTECTION:					
FROM:					
General Fund	$ 184,600	$ 80,400			$ 265,000
C. INVESTIGATIONS:					
FROM:					
General Fund	$ 4,539,300	$ 955,000	$ 8,300		$ 5,502,600
Drug Donation Fund		270,800			270,800
Federal Grant Fund	232,400	584,200	36,200		852,800
TOTAL	$ 4,771,700	$ 1,810,000	$ 44,500		$ 6,626,200
D. PATROL:					
FROM:					
General Fund	$ 2,138,400	$ 1,674,100	$ 12,200		$ 3,824,700
Idaho Law Enforcement Fund	11,687,400	1,477,700			13,165,100
Hazardous Materials/ Waste Enforcement Fund	123,000	42,800		$ 67,800	233,600
Miscellaneous Revenue Fund	61,800				61,800
Federal Grant Fund	952,400	1,041,000	36,800		2,030,200
TOTAL	$14,963,000	$ 4,235,600	$ 49,000	$ 67,800	$19,315,400
E. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General Fund	$ 1,097,200	$ 429,600			$ 1,526,800
Miscellaneous Revenue Fund	66,900	18,400			85,300
TOTAL	$ 1,164,100	$ 448,000			$ 1,612,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
F. SUPPORT SERVICES:					
FROM:					
General Fund	$ 1,502,400	$ 892,900			$ 2,395,300
Idaho Law Enforcement Fund	1,190,900	139,000			1,329,900
Idaho Law Enforcement Telecommunications Fund	305,000	473,700	$ 150,000		928,700
Miscellaneous Revenue Fund	527,000	1,112,900	60,000		1,699,900
Federal Grant Fund	60,800	222,900			283,700
TOTAL	$ 3,586,100	$ 2,841,400	$ 210,000		$ 6,637,500
G. FORENSIC SERVICES:					
FROM:					
General Fund	$ 1,797,500	$ 516,900			$ 2,314,400
Miscellaneous Revenue Fund	69,500	179,700			249,200
Drug Donation Fund		30,000			30,000
Federal Grant Fund		99,800			99,800
TOTAL	$ 1,867,000	$ 826,400			$ 2,693,400
DIVISION TOTAL	$28,943,500	$10,933,400	$ 303,500	$3,402,100	$43,582,500
III. PEACE OFFICERS STANDARDS AND TRAINING ACADEMY:					
FROM:					
Peace Officers Fund	$ 853,900	$ 1,015,500	$ 10,400	$ 89,300	$ 1,969,100
Miscellaneous Revenue Fund		205,100			205,100
Federal Grant Fund	40,300	137,100		237,900	415,300
TOTAL	$ 894,200	$ 1,357,700	$ 10,400	$ 327,200	$ 2,589,500
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 348,500	$ 310,700			$ 659,200
Pari-mutuel Distributions Fund				$ 100,000	100,000
TOTAL	$ 348,500	$ 310,700		$ 100,000	$ 759,200
GRAND TOTAL	$32,182,000	$12,875,100	$415,900	$3,829,300	$49,302,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than five hundred thirty-six and seven-hundredths (536.07) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 199
(S.B. No. 1508)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2003; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CAPITOL MALL SECURITY; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Administration 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	$ 197,100	$ 93,300		$ 290,400
Industrial Special Indemnity Fund	163,200	75,200		238,400
Indirect Cost Recovery Fund	483,800	272,300		756,100
Administration and Accounting Services Fund	24,200			24,200
TOTAL	$ 868,300	$ 440,800		$ 1,309,100
II. INFORMATION TECHNOLOGY & COMMUNICATIONS:				
FROM:				
General Fund	$ 523,700	$ 286,100		$ 809,800
Indirect Cost Recovery Fund	357,800	76,100		433,900
Administration and Accounting Services Fund	1,553,800	974,900	$ 160,400	2,689,100
TOTAL	$2,435,300	$ 1,337,100	$ 160,400	$ 3,932,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
III. PUBLIC WORKS:				
FROM:				
General Fund	$ 59,200	$ 573,000	$ 358,000	$ 990,200
Permanent Building Fund	1,350,100	2,252,400	3,363,500	6,966,000
Administration and Accounting Services Fund	1,509,300	3,696,600		5,205,900
TOTAL	$2,918,600	$ 6,522,000	$3,721,500	$13,162,100
IV. PURCHASING:				
FROM:				
General Fund	$ 751,000	$ 204,600		$ 955,600
Federal Surplus Property Revolving Fund	180,400	254,800	$ 18,400	453,600
Administration and Accounting Services Fund	718,500	1,162,200	48,500	1,929,200
TOTAL	$1,649,900	$ 1,621,600	$ 66,900	$ 3,338,400
V. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code Fund	$ 193,200	$ 324,500		$ 517,700
VI. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:				
FROM:				
General Fund	$ 61,500			$ 61,500
Administration and Accounting Services Fund	288,300	$ 379,700		668,000
TOTAL	$ 349,800	$ 379,700		$ 729,500
VII. OFFICE OF INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance Fund	$ 250,900	$ 439,800		$ 690,700
Retained Risk Fund	419,900	180,200		600,100
TOTAL	$ 670,800	$ 620,000		$ 1,290,800
GRAND TOTAL	$9,085,900	$11,245,700	$3,948,800	$24,280,400

SECTION 2. It is legislative intent that the Department of Administration account for Capitol Mall security expenses separate and apart from all other security and facilities services expenses. In addition, it is legislative intent that fiscal year 2003 expenditures for Capitol Mall security should not exceed $789,000.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred seventy-three and sixty-hundredths (173.60) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 200
(S.B. No. 1509)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2003; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT TO CLARIFY THE SCOPE OF THE APPROPRIATION; APPROPRIATING FISCAL YEAR 2002 DIVIDENDS TO FINANCE A STUDY ON THE EFFECTS OF CASINO GAMBLING IN IDAHO; 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 Idaho State Lottery 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, 2002, through June 30, 2003:

FOR:	
Personnel Costs	$ 2,341,100
Operating Expenditures	8,011,700
Capital Outlay	167,300
TOTAL	$10,520,100
FROM:	
State Lottery Fund	$10,520,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Lottery is authorized no more than forty-seven (47) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 Idaho State Lottery under the provisions of Section 67-7428, Idaho Code.

SECTION 4. A one (1) time allotment of sixty thousand dollars ($60,000) of the lottery's fiscal year 2002 dividends shall be allocated and used by the Legislative Office of Performance Evaluations to finance a study on the effects of casino gambling in Idaho.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 4 of this act shall be in full force and effect on and after passage and approval.

Approved March 21, 2002.

CHAPTER 201
(S.B. No. 1510)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2003; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE AERONAUTICS FUND; TRANSFERRING MONEYS FOR AIRPORT DEVELOPMENT GRANTS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR AIRPORT DEVELOPMENT GRANTS.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT:					
FROM:					
State Highway Fund (Dedicated)	$11,585,800	$ 7,107,200	$ 777,000		$ 19,470,000
State Highway Fund (Federal)	228,600	1,659,800			1,888,400
State Highway Fund (Billing)	69,400	64,800			134,200
TOTAL	$11,883,800	$ 8,831,800	$ 777,000		$ 21,492,600
II. PLANNING:					
FROM:					
State Highway Fund (Dedicated)	$ 457,900	$ 234,300	$ 20,800		$ 713,000
State Highway Fund (Federal)	1,775,800	993,000	83,100		2,851,900
State Highway Fund (Billing)		41,500			41,500
TOTAL	$ 2,233,700	$ 1,268,800	$ 103,900		$ 3,606,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. MOTOR VEHICLES:					
FROM:					
State Highway Fund (Dedicated)	$11,262,400	$ 5,958,500	$ 191,700		$ 17,412,600
State Highway Fund (Billing)		45,000			45,000
TOTAL	$11,262,400	$ 6,003,500	$ 191,700		$ 17,457,600
IV. HIGHWAY OPERATIONS:					
FROM:					
State Highway Fund (Dedicated)	$59,486,700	$34,197,100	$ 14,037,600		$107,721,400
State Highway Fund (Federal)	10,876,200	4,661,400			15,537,600
Idaho Traffic Safety Fund (Federal)				$ 2,000,000	2,000,000
State Highway Fund (Billing)		434,100			434,100
State Highway Fund (Local)	223,100	98,400			321,500
TOTAL	$70,586,000	$39,391,000	$ 14,037,600	$ 2,000,000	$126,014,600
V. CAPITAL FACILITIES:					
FROM:					
State Highway Fund (Dedicated)			$ 2,800,000		$ 2,800,000
VI. CONTRACT CONSTRUCTION & RIGHT-OF-WAY ACQUISITION:					
FROM:					
State Highway Fund (Dedicated)			$ 55,052,500		$ 55,052,500
State Highway Fund (Federal)			189,692,300	$ 4,033,600	193,725,900
State Highway Fund (Local)			3,735,600		3,735,600
TOTAL			$248,480,400	$ 4,033,600	$252,514,000
VII. AERONAUTICS:					
FROM:					
State Aeronautics Fund (Dedicated)	$ 650,900	$ 457,200	$ 70,600	$ 1,191,000	2,369,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Aeronautics Fund (Federal)		264,600			264,600
State Aeronautics Fund (Billing)	142,800	132,500			275,300
TOTAL	$ 793,700	$ 854,300	$ 70,600	$ 1,191,000	$ 2,909,600
VIII. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Fund (Dedicated)	$ 152,400	$ 55,900	$ 6,900	$ 312,000	$ 527,200
State Highway Fund (Federal)	334,100	44,700		3,286,700	3,665,500
TOTAL	$ 486,500	$ 100,600	$ 6,900	$ 3,598,700	$ 4,192,700
GRAND TOTAL	$97,246,100	$56,450,000	$266,468,100	$10,823,300	$430,987,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Transportation Department is authorized no more than one thousand eight hundred thirty-eight (1,838) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 all moneys transferred to the Local Bridge Inspection Fund and to the Railroad Grade Crossing Protection Fund, as provided in Section 63-2412, Idaho Code, are hereby continuously appropriated to the Idaho Transportation Department for the stated purposes of those funds.

SECTION 4. The Idaho Transportation Department is authorized to transfer up to $71,300 from the State Highway Fund to the State Aeronautics Fund during the fiscal year. It is legislative intent that the moneys transferred be used to offset operating costs of the Aircraft Pool Program or be used to establish a reserve for capital replacement costs of the Aircraft Pool Program.

SECTION 5. The Idaho Transportation Department shall transfer $350,000 from the State Highway Fund to the State Aeronautics Fund during the period July 1, 2002, through June 30, 2003. Such moneys will be used for Airport Development Grants as appropriated in Section 1 of this act.

SECTION 6. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of the State

Highway Fund appropriated for the Contract Construction and Right-of-Way Acquisition Program for fiscal year 2002, to be used for Contract Construction and Right-of-Way Acquisition only for the period July 1, 2002, through June 30, 2003.

SECTION 7. All unexpended and unencumbered moneys previously appropriated to the Idaho Transportation Department from funds deposited to the restricted disaster State Highway Fund are hereby reappropriated to the Idaho Transportation Department for the period July 1, 2002, through June 30, 2003.

SECTION 8. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of the State Aeronautics Fund appropriated for trustee and benefit payments for fiscal year 2002, to be used for Airport Development Grants for the period July 1, 2002, through June 30, 2003.

Approved March 21, 2002.

CHAPTER 202
(S.B. No. 1513)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS FOR THE VARIOUS PURPOSES SPECIFIED; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED IN THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the Permanent Building Fund to the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, including those listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Fund for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. MAINTENANCE PROJECTS IN THE FOLLOWING AREAS: $14,652,800
   (1) Alterations and Repairs
   (2) Asbestos Abatement
   (3) Underground Storage Tank Program
   (4) Statewide ADA Compliance
   (5) Building Demolition
   (6) Capitol Mall Maintenance

B. DEPARTMENT OF CORRECTION:

(1) Security Locking Systems	$ 3,011,000
GRAND TOTAL	$17,663,800

SECTION 2. It is legislative intent that the moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; and it is further the express intention of the Legislature to authorize the Division of Public Works to expend, for the purpose of paying the cost of any land, building, equipment or the rebuilding, renovation or repair of buildings, moneys appropriated for public works to various agencies as part of the respective agency operating budgets; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance. It is further the intention of the Legislature that this authority be effective from the effective date of this act.

SECTION 3. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 4. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred in Sections 63-3201 through 63-3204, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Fund were being anticipated.

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

Approved March 21, 2002.

CHAPTER 203
(S.B. No. 1514)

AN ACT

APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE GENERAL BOARDS FOR FISCAL YEAR 2003; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE MEDICAL BOARDS FOR FISCAL YEAR 2003; APPROPRIATING MONEYS TO THE SELF-GOVERNING AGENCIES FOR THE REGULATORY BOARDS FOR FISCAL YEAR 2003; 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 for the general boards, 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BOARD OF EXAMINERS:				
FROM:				
General Fund			$ 27,600	$ 27,600
II. COMMISSION ON HISPANIC AFFAIRS:				
FROM:				
General Fund	$ 88,000	$ 21,600		$109,600
Federal Grant Fund	48,800	51,600	$15,400	115,800
Miscellaneous Revenue Fund	57,800	52,500		110,300
TOTAL	$194,600	$125,700	$15,400	$335,700
GRAND TOTAL	$194,600	$125,700	$43,000	$363,300

SECTION 2. There is hereby appropriated to the Department of Self-Governing Agencies for the medical boards, 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. BOARD OF DENTISTRY:				
FROM:				
State Regulatory Fund	$ 144,300	$ 128,100	$ 2,000	$ 274,400
II. BOARD OF MEDICINE:				
FROM:				
State Regulatory Fund	$ 573,700	$ 659,500	$ 6,500	$1,239,700
III. BOARD OF NURSING:				
FROM:				
State Regulatory Fund	$ 378,600	$ 301,500	$51,500	$ 731,600
IV. BOARD OF OPTOMETRY:				
FROM:				
State Regulatory Fund	$ 2,500	$ 54,500		$ 57,000
V. BOARD OF PHARMACY:				
FROM:				
State Regulatory Fund	$ 495,600	$ 240,900	$ 4,500	$ 741,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
VI. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Regulatory Fund	$ 88,700	$ 86,000		$ 174,700
GRAND TOTAL	$1,683,400	$1,470,500	$64,500	$3,218,400

SECTION 3. There is hereby appropriated to the Department of Self-Governing Agencies for the regulatory boards, 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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ATHLETIC COMMISSION:					
FROM:					
State Regulatory Fund		$ 7,000			$ 7,000
II. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 210,200	$ 229,800			$ 440,000
III. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 198,800	$ 195,200	$ 4,000		$ 398,000
IV. BOARD OF PROFESSIONAL GEOLOGISTS:					
FROM:					
State Regulatory Fund	$ 28,400	$ 31,400			$ 59,800
V. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 768,800	$ 591,200		$ 52,500	$1,412,500
VI. CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 11,900	$ 12,400			$ 24,300
VII. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 286,700	$ 171,200	$28,800		$ 486,700
VIII. REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 718,300	$ 383,900	$30,900		$1,133,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
GRAND TOTAL	$2,223,100	$1,622,100	$63,700	$52,500	$3,961,400

SECTION 4. 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, 2002, through June 30, 2003, for the programs specified in Sections 1, 2 and 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Board of Examiners ..... Zero (0)
Commission on Hispanic Affairs ..... Four (4)
Board of Dentistry ..... Two (2)
Board of Medicine ..... Twelve and one-half (12.5)
Board of Nursing ..... Eight (8)
Board of Optometry ..... Zero (0)
Board of Pharmacy ..... Ten and one-half (10.5)
Board of Veterinary Medicine ..... Two (2)
Athletic Commission ..... Zero (0)
Board of Accountancy ..... Four (4)
Board of Professional Engineers and Land Surveyors ..... Three (3)
Professional Geologists Board ..... Sixty-two hundredths (.62)
Bureau of Occupational Licenses ..... Seventeen (17)
Certified Shorthand Reporters Board ..... Twenty-five hundredths (.25)
Outfitters and Guides Licensing Board ..... Six (6)
Real Estate Commission ..... Fifteen (15)

Approved March 21, 2002.

CHAPTER 204
(S.B. No. 1515)

AN ACT

RELATING TO THE APPROPRIATION FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS; AMENDING SECTION 2, CHAPTER 374, LAWS OF 2001, TO ELIMINATE THE APPROPRIATION FOR THE POCATELLO WOMEN'S CORRECTIONAL CENTER AND TO PROVIDE AN APPROPRIATION FOR THE COMMUNITY WORK CENTER IN BOISE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 374, Laws of 2001, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated from the Permanent Building Fund to the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the

cost of any land, building, equipment, or the rebuilding, renovation or repair, of buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, including those listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Fund for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. MAINTENANCE PROJECTS IN THE FOLLOWING AREAS:	$ 16,558,000
(1) Alterations and Repairs	
(2) Asbestos Abatement	
(3) Underground Storage Tank Program	
(4) Statewide ADA Compliance	
(5) Building Demolition	
(6) Capitol Mall Maintenance	
B. STATE BOARD OF EDUCATION:	
(1) Historical Society - Idaho History Center, Phase II	$ 4,500,000
(2) Lewis Clark State College - Campus Activity Center	7,640,000
(3) College of Southern Idaho - Fine Arts Building Addition	4,300,000
(4) University of Idaho - Teaching and Learning Center Renovation	10,700,000
(5) Boise State University - First West Campus Building	9,300,000
(6) Historical Society - Historical Museum, Phase II	1,000,000
(7) Idaho State University - Classroom Building	14,000,000
(8) North Idaho College - Nursing, Life Sciences, Allied Health Building	11,800,000
(9) Eastern Idaho Technical College - Maintenance Building Expansion and Health Building Planning	312,000
TOTAL	$ 63,552,000
C. DEPARTMENT OF HEALTH AND WELFARE:	
(1) State Hospital North - Training Center	$ 340,000
D. DEPARTMENT OF CORRECTIONS:	
(1) SICI Medical Building	$ 880,000
(2) ~~Pocatello Women's Correctional Center--- 400 Bed Expansion~~	~~11,000,000~~
Community Work Center - Boise	3,900,000
TOTAL	~~$ 11,880,000~~ 4,780,000
E. IDAHO STATE POLICE:	
(1) Region 3 Patrol and Investigation Building	$ 2,400,000
(2) POST Academy Expansion	2,400,000
(3) Magic Valley Field Office Groundwork	200,000
TOTAL	$ 5,000,000
F. DEPARTMENT OF LANDS:	
(1) Centerville, Boise County, Fire Guard Station	$ 490,000
G. LAVA HOT SPRINGS FOUNDATION:	
(1) New Dressing Room Facilities	$ 420,000
H. DEPARTMENT OF WATER RESOURCES:	
(1) New Building Planning	$ 300,000

I. DEPARTMENT OF LABOR:	
(1) Industrial Administration Building Remodel	$ 890,000
J. DEPARTMENT OF ADMINISTRATION:	
(1) Statewide Microwave System - Digital Upgrade Phase III	$ 2,100,000
K. COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:	
(1) Seed Funds for New Location	$ 1,500,000
GRAND TOTAL	$~~103,030,000~~ 95,930,000

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

Approved March 21, 2002.

CHAPTER 205
(S.B. No. 1517)

AN ACT

RELATING TO THE STATE BUDGET FOR FISCAL YEAR 2003; STATING FINDINGS OF THE LEGISLATURE REGARDING THE FINANCIAL SITUATION FOR FISCAL YEAR 2003; TRANSFERRING MONEYS FROM THE BUDGET STABILIZATION FUND TO THE GENERAL FUND; TRANSFERRING MONEYS FROM THE PERMANENT BUILDING FUND TO THE GENERAL FUND; DIRECTING THE STATE TREASURER TO DEPOSIT CERTAIN TOBACCO SETTLEMENT MONEYS INTO THE GENERAL FUND; AND TRANSFERRING MONEYS FROM THE CAPITOL ENDOWMENT INCOME FUND TO THE GENERAL FUND.

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

SECTION 1. The Legislature finds that the current economic situation facing the state of Idaho requires certain prudent and necessary steps to augment General Fund revenues for Fiscal Year 2003 and to enable the development of a balanced budget for the period July 1, 2002, through June 30, 2003.

SECTION 2. Notwithstanding the provisions of Section 57-814, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of $26,700,000 from the Budget Stabilization Fund to the General Fund.

SECTION 3. Notwithstanding the provisions of Section 57-1108, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of $7,000,000 from the Permanent Building Fund to the General Fund.

SECTION 4. Notwithstanding the provisions of Section 67-1801, Idaho Code, the State Treasurer is hereby directed to deposit into the General Fund the sum of $10,000,000 from the Fiscal Year 2003 scheduled payments distributed to the state of Idaho pursuant to the Master Tobacco Settlement Agreement.

SECTION 5. Notwithstanding the provisions of Section 67-1611, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of $6,400,000 from the Capitol Endowment Income Fund to the General Fund.

Approved March 21, 2002.

CHAPTER 206
(S.B. No. 1521)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 2003; 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 State Library Board the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,746,700	$692,600			$2,439,300
Federal Grant Fund	175,900	234,800	$25,000	$638,800	1,074,500
Miscellaneous Revenue Fund		67,500	25,000	26,000	118,500
TOTAL	$1,922,600	$994,900	$50,000	$664,800	$3,632,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho State Library is authorized no more than forty-three (43) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 207
(S.B. No. 1523)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2003; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2002, through June 30, 2003:

IDAHO STATE CAPITOL COMMISSION:	
FOR:	
Personnel Costs	$ 29,500
Operating Expenditures	205,300
TOTAL	$234,800
FROM:	
Capitol Endowment Income Fund	$234,800

SECTION 2. There is hereby reappropriated to the Department of Administration for the Idaho State Capitol Commission the unexpended and unencumbered balance of any funds appropriated by Section 1, Chapter 282, Laws of 2001, to be used for nonrecurring expenditures only for the period July 1, 2002, through June 30, 2003.

Approved March 21, 2002.

CHAPTER 208
(S.B. No. 1524)

AN ACT

APPROPRIATING MONEYS FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2003.

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

SECTION 1. There is hereby appropriated to the State Board for Professional-Technical Education the following amounts, to be expended by the Division of Professional-Technical Education for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:					
FROM:					
General Fund	$1,570,100	$174,500			$ 1,744,600
Federal Grant Fund	292,300	38,700			331,000
TOTAL	$1,862,400	$213,200			$ 2,075,600
II. GENERAL PROGRAMS:					
FROM:					
General Fund	$ 233,400	$ 34,600	$ 9,751,500		$10,019,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
Hazardous Materials/ Waste Enforcement Fund			66,800		66,800
Federal Grant Fund	181,800	15,000	4,774,300		4,971,100
TOTAL	$ 415,200	$ 49,600	$14,592,600		$15,057,400
III. POSTSECONDARY PROGRAMS:					
FROM:					
General Fund				$31,293,500	$31,293,500
Unrestricted Current Fund				281,700	281,700
TOTAL				$31,575,200	$31,575,200
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:					
FROM:					
General Fund			$ 234,600		$ 234,600
Displaced Homemaker Fund			170,000		170,000
Federal Grant Fund			1,937,000		1,937,000
TOTAL			$ 2,341,600		$ 2,341,600
GRAND TOTAL	$2,277,600	$262,800	$16,934,200	$31,575,200	$51,049,800

Approved March 21, 2002.

CHAPTER 209
(S.B. No. 1525)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2003; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO DIGITAL BROADCASTING UPGRADES.

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, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$ 897,600	$623,600	$408,500	$1,929,700
Miscellaneous Revenue Fund	804,600			804,600
TOTAL	$1,702,200	$623,600	$408,500	$2,734,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-five (35) full-time equivalent positions to be funded by the appropriation in Section 1 of this act, at any point during the period July 1, 2002, through June 30, 2003, 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 Idaho Public Television meet the federally-imposed mandate of broadcasting a digital signal by May 2003. To this end, any unspent moneys appropriated for digital broadcasting upgrades during the period July 1, 2001, through June 30, 2002, shall be encumbered for the purposes of completing the final phase of digital broadcasting upgrades during the period July 1, 2002, through June 30, 2003. This appropriation acknowledges that additional federal grant funds may become available to support the final phase of digital broadcasting upgrades. It is legislative intent that Idaho Public Television seek such funds to supplement, and, if possible, replace General Fund moneys appropriated for digital broadcasting upgrades by this act.

Approved March 21, 2002.

CHAPTER 210
(S.B. No. 1526)

AN ACT
APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2003; 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, 2002, through June 30, 2003:

FOR:	
Personnel Costs	$255,300
Operating Expenditures	66,000
TOTAL	$321,300
FROM:	
General Fund	$321,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than four (4) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 211
(S.B. No. 1527)

AN ACT
APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2003; 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 Tax Commission in the Department of Revenue and Taxation the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2002, through June 30, 2003:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
General Fund	$ 3,694,900	$3,119,800	$ 70,000	$ 6,884,700
Administration and Accounting Fund		25,100		25,100
Multistate Tax Compact Fund			19,800	19,800
Administration Services for Transportation Fund	384,400	261,900	79,500	725,800
Abandoned Property Trust-Unclaimed Property Fund		23,700	6,400	30,100
Seminars and Publications Fund		28,400		28,400
TOTAL	$ 4,079,300	$3,458,900	$175,700	$ 7,713,900
II. AUDIT AND COLLECTIONS:				
FROM:				
General Fund	$ 9,272,600	$1,378,600		$10,651,200
Multistate Tax Compact Fund	764,800	369,600	$ 1,500	1,135,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Administration and Accounting Fund		22,800		22,800
Administration Services for Transportation Fund	1,154,100	243,600	3,000	1,400,700
Abandoned Property Trust-Unclaimed Property Fund	396,200	110,900	1,200	508,300
TOTAL	$11,587,700	$2,125,500	$ 5,700	$13,718,900
III. REVENUE OPERATIONS:				
FROM:				
General Fund	$ 2,610,500	$1,180,700		$ 3,791,200
Administration and Accounting Fund	51,900	20,100		72,000
Administration Services for Transportation Fund	442,000	176,300	1,600	619,900
Seminars and Publications Fund		18,300		18,300
Abandoned Property Trust-Unclaimed Property Fund	62,300			62,300
TOTAL	$ 3,166,700	$1,395,400	$ 1,600	$ 4,563,700
IV. COUNTY SUPPORT:				
FROM:				
General Fund	$ 2,241,600	$ 513,400		$ 2,755,000
Seminars and Publications Fund		96,200		96,200
TOTAL	$ 2,241,600	$ 609,600		$ 2,851,200
GRAND TOTAL	$21,075,300	$7,589,400	$183,000	$28,847,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Tax Commission is authorized no more than four hundred twelve (412) full-time equivalent positions at any point during the period July 1, 2002, through June 30, 2003, 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 21, 2002.

CHAPTER 212
(S.B. No. 1302, As Amended)

AN ACT

RELATING TO MEDICAL SAVINGS ACCOUNTS; AMENDING SECTION 63-3022K, IDAHO CODE, TO REVISE REPORTING REQUIREMENTS FOR MEDICAL SAVINGS ACCOUNTS AND TO PROVIDE APPLICATION TO ACCOUNT HOLDERS OF CERTAIN MEDICAL SAVINGS ACCOUNTS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

(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, 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 nursing facility as 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 depos-

ited 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.~~ Reporting. Depositories, in the case of medical savings accounts, shall provide to the state tax commission, in the routine fashion used for all interest-bearing accounts, the same information that is provided for any interest-bearing bank account. So as to minimize the burden of reporting, the information shall be provided in the format in which information is provided for any interest-bearing bank account to the state tax commission. There shall be no other reporting requirements. Account holders shall provide on any state income tax form in which they take a deduction for a medical savings account the account number of their medical savings account and the depository at which the account is held.

(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 account holders of medical care savings accounts and the beneficiaries of those accounts shall apply to account holders of 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, 2002.

Approved March 22, 2002.

CHAPTER 213
(S.B. No. 1308)

AN ACT

RELATING TO INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE PROTECTION ORDERS; AMENDING SECTION 39-6303, IDAHO CODE, TO DEFINE TERMS; REPEALING SECTION 39-6306A, IDAHO CODE; AMENDING CHAPTER 63, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-6306A, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR JUDICIAL ENFORCEMENT OF FOREIGN PROTECTION ORDERS, TO PROVIDE FOR NONJUDICIAL ENFORCEMENT OF FOREIGN PROTECTION ORDERS, TO PROVIDE FOR REGISTRATION OF FOREIGN PROTECTION ORDERS, TO PROVIDE FOR IMMUNITY, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION AND TO SET FORTH A TRANSITIONAL PROVISION; AMENDING SECTIONS 39-6309, 39-6310 AND 39-6311, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 39-6303, Idaho Code, be, and the same is hereby amended to read as follows:

39-6303. DEFINITIONS. (1) "Domestic violence" means the physical injury, sexual abuse or forced imprisonment or threat thereof of a family or household member, or of a minor child by a person with whom the minor child has had or is having a dating relationship.

(2) "Dating relationship," for the purposes of this chapter, is defined as a social relationship of a romantic nature. Factors that the court may consider in making this determination include:

(a) The nature of the relationship;

(b) The length of time the relationship has existed;

(c) The frequency of interaction between the parties; and

(d) The time since termination of the relationship, if applicable.

(3) "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who reside or have resided

together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(4) "Family dwelling" is any premises in which the petitioner resides.

(5) "Foreign protection order" means a protection order issued by a tribunal of another state.

(6) "Judicial day" means any day upon which court business may be transacted as provided in sections 1-1606 and 1-1607, Idaho Code.

(67) "Protection order" means any order issued for the purpose of preventing violent or threatening acts or acts of harassment against, or contact or communication with, or physical proximity to, another person, where the order was issued:

(a) Pursuant to this chapter;

(b) In another jurisdiction pursuant to a provision similar to section 39-6306, Idaho Code; or

(c) In any criminal or civil action, as a temporary or final order (other than a support or child custody order), and where the order was issued in a response to a criminal complaint, petition or motion filed by or on behalf of a person seeking protection, and issued after giving notice and an opportunity to respond to the person being restrained.

(8) "Respondent" means the individual against whom enforcement of a protection order is sought.

SECTION 2. That Section 39-6306A, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 63, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-6306A, Idaho Code, and to read as follows:

39-6306A. UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE PROTECTION ORDERS ACT. (1) Short Title. This section may be cited as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

(2) Definitions. As used in this section:

(a) "Issuing state" means the state whose tribunal issues a protection order.

(b) "Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.

(c) "Protected individual" means an individual protected by a protection order.

(d) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders.

(e) "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

(3) Judicial Enforcement of Order.

(a) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall

enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.

(b) A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

(c) A tribunal of this state shall enforce the provisions of a valid foreign protection order which govern custody and visitation if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

(d) A tribunal of this state may not enforce under this section a provision of a foreign protection order with respect to support.

(e) A foreign protection order is valid if it:

(i) Identifies the protected individual and the respondent;

(ii) Is currently in effect;

(iii) Was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and

(iv) Was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and had an opportunity to be heard within a reasonable time after the order was issued, consistent with the rights of the respondent to due process.

(f) A foreign protection order valid on its face is prima facie evidence of its validity.

(g) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

(h) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:

(i) The respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and

(ii) The tribunal of the issuing state made specific findings in favor of the respondent.

(4) Nonjudicial Enforcement of Order.

(a) A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a foreign protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this subsection, the foreign protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of

a foreign protection order is not required for enforcement.

(b) If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.

(c) If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

(d) Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to this section.

(5) Registration of Order.

(a) Any individual may register a foreign protection order in this state pursuant to section 39-6311, Idaho Code. To register a foreign protection order, an individual shall present a copy of a protection order which has been certified by the issuing state to a court of this state in order to be entered in the Idaho law enforcement telecommunications system pursuant to section 39-6311, Idaho Code.

(b) An individual registering a foreign protection order shall file with the court an affidavit by the protected individual stating that, to the best of the protected individual's knowledge, the order is currently in effect.

(c) A fee may not be charged for the registration of a foreign protection order.

(d) A foreign protection order registered under this section may be entered in any existing state or federal registry of protection orders, in accordance with applicable law.

(6) Immunity. This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission was done in good faith in an effort to comply with this section.

(7) Uniformity of Application and Construction. In applying and construing this section, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(8) Transitional Provision. This section applies to foreign protection orders issued before July 1, 2002, and to continuing actions for enforcement of foreign protection orders commenced before July 1, 2002. A request for enforcement of a foreign protection order made on or after July 1, 2002, for violations of a foreign protection order occurring before that date is governed by this section.

SECTION 4. That Section 39-6309, Idaho Code, be, and the same is hereby amended to read as follows:

39-6309. ISSUANCE OF ORDER -- ASSISTANCE OF PEACE OFFICER -- DESIGNATION OF APPROPRIATE LAW ENFORCEMENT AGENCY. When an order is issued or ~~afforded full faith and credit~~ a foreign protection order is recognized under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the protection order. A certified copy of the order shall be prepared by the clerk for transmittal to the appropriate law enforcement agency as specified in section 39-6311, Idaho Code. Orders issued or ~~afforded full faith and credit~~ foreign protection orders recognized under this chapter shall include an instruction to the appropriate law enforcement agency to execute, serve, or enforce the order.

SECTION 5. That Section 39-6310, Idaho Code, be, and the same is hereby amended to read as follows:

39-6310. ORDER AND SERVICE. (1) An order issued under this chapter along with a copy of the petition for a protection order, if the respondent has not previously received the petition, shall be personally served upon the respondent, except as provided in subsections (6), (7) and (8) of this section.

(2) A peace officer of the jurisdiction in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party at the petitioner's own expense.

(3) If service by a peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter and a copy of the petition for a protection order, if the respondent has not previously received the petition, forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the peace officer cannot complete service upon the respondent within ten (10) days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court and receives a copy of the order, the necessity for further service is waived and proof of service of that order is not necessary.

(7) If a party has appeared in person before the court and has waived personal service, the clerk of the court shall complete service of any notice of hearing or orders or modifications by certified mail to the party's address as shown on the court petition which resulted in the issuance of the order or modification. Parties shall at all times keep the court informed of their current mailing address.

(8) If ~~an out-of-state~~ foreign protection order is registered with the court under section 39-6306A, Idaho Code, the necessity for further service is waived and proof of service of that order is not necessary.

SECTION 6. That Section 39-6311, Idaho Code, be, and the same is hereby amended to read as follows:

39-6311. ORDER -- TRANSMITTAL TO LAW ENFORCEMENT AGENCY -- RECORD IN IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM -- ENFORCEABILITY. (1) The orders issued under sections 39-6306 and 39-6308, Idaho Code, or ~~out-of-state~~ foreign protection orders ~~afforded full faith and credit~~ recognized under section 39-6306A, Idaho Code, shall be in a form approved by the supreme court of the state of Idaho.

(2) (a) A copy of a protection order granted or ~~afforded full faith and credit~~ a foreign protection order recognized under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

(b) Upon receipt of the order, the law enforcement agency shall forthwith enter the order and its expiration date into the Idaho law enforcement telecommunications system available in this state used by law enforcement agencies to list outstanding warrants. Notification of service as required in section 39-6310, Idaho Code, shall also be entered into the Idaho law enforcement telecommunications system upon receipt. Entry into the Idaho law enforcement telecommunications system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. Renewals of the order shall be recorded in the same manner as original orders. The information entered shall specifically state that the protection order is civil in nature. If the appropriate law enforcement agency determines that the service information sheet is incomplete or cannot be entered into the Idaho law enforcement telecommunications system upon receipt, the service information sheet shall be returned to the clerk of the court. The clerk of the court shall then notify the petitioner of the error or omission.

(3) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident of domestic violence may be informed of the existence and terms of such protection order.

(4) A protection order shall remain in effect for the term set by the court or until terminated by the court. A protection order may, upon motion and upon good cause shown, be renewed for additional terms not to exceed one (1) year each if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered. If the petitioner voluntarily and without duress consents to the waiver of any portion of the protection order vis-a-vis the respondent pursuant to section 39-6313, Idaho Code, the order may be modified by the court.

Approved March 22, 2002.

CHAPTER 214
(S.B. No. 1312, As Amended)

AN ACT

RELATING TO DISTRICT JUDGES; AMENDING SECTION 1-702, IDAHO CODE, TO PROVIDE THAT APPOINTED JUDGES SHALL HOLD OFFICE UNTIL THE NEXT GENERAL ELECTION FOR DISTRICT JUDGES OCCURRING AT LEAST ONE YEAR FOLLOWING THE DATE OF THE JUDGE'S APPOINTMENT; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 1-702, Idaho Code, be, and the same is hereby amended to read as follows:

1-702. DISTRICT JUDGES -- ELECTION AND TERM -- NEW DISTRICT JUDGESHIP AND APPOINTMENT TO FILL VACANCY. The district court is presided over by district judges chosen by the qualified electors of their respective districts for a term of four (4) years, except~~,~~ that upon the creation of a new district judgeship in any district or upon the appointment by the governor to fill a vacancy in a district judgeship in any district, such judge shall be appointed to hold office until the next general election for district judges~~, unless otherwise provided in the act creating such judgeship,~~ occurring at least one (1) year following the date of the judge's appointment and until his successor is elected and qualified.

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 March 1, 2002.

Approved March 22, 2002.

CHAPTER 215
(S.B. No. 1313)

AN ACT

RELATING TO THE PROTECTION OF PERSONS UNDER DISABILITIES; AMENDING CHAPTER 5, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-5-314, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF REASONABLE COMPENSATION, FEES, AND/OR COSTS TO CERTAIN VISITORS, GUARDIANS AD LITEM, PHYSICIANS, GUARDIANS, TEMPORARY GUARDIANS AND PERSONS BRINGING OR DEFENDING A GUARDIANSHIP PROCEEDING; AMENDING SECTION 15-5-414, IDAHO CODE, TO STRIKE REFERENCE TO COMPENSATION FROM AN ESTATE TO LAWYERS AND TO PROVIDE FOR THE PAYMENT OF REASONABLE COMPENSATION, FEES, AND/OR COSTS TO CERTAIN VISITORS, GUARDIANS AD LITEM, PHYSICIANS, CONSERVATORS, SPECIAL CONSERVATORS AND PERSONS BRINGING OR DEFENDING A CONSERVATORSHIP PROCEEDING.

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

SECTION 1. That Chapter 5, Title 15, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 15-5-314, Idaho Code, and to read as follows:

15-5-314. COMPENSATION AND EXPENSES. If not otherwise compensated for services rendered or expenses incurred, any visitor, guardian ad litem, physician, guardian, or temporary guardian appointed in a protective proceeding is entitled to reasonable compensation from the estate for services rendered and expenses incurred in such status, including for services rendered and expenses incurred prior to the actual appointment of said guardian or temporary guardian which were reasonably related to the proceedings. If any person brings or defends any guardianship proceeding in good faith, whether successful or not, he or she is entitled to receive from the estate his or her necessary expenses and disbursements including reasonable attorney's fees incurred in such proceeding. If the estate is inadequate to bear any of the reasonable compensation, fees, and/or costs referenced in this section, the court may apportion the reasonable compensation, fees, and/or costs to any party, or among the parties, as the court deems reasonable.

SECTION 2. That Section 15-5-414, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-414. COMPENSATION AND EXPENSES. If not otherwise compensated for services rendered or expenses incurred, any visitor, ~~lawyer~~ guardian ad litem, physician, conservator or special conservator appointed in a protective proceeding is entitled to reasonable compensation from the estate for services rendered and expenses incurred in such status, including for services rendered and expenses incurred prior to the actual appointment of said conservator or special conservator which were reasonably related to the proceedings. If any person brings or defends any conservatorship proceeding in good faith, whether successful or not, he or she is entitled to receive from the estate his or her necessary expenses and disbursements including reasonable attorney's fees incurred in such proceeding. If the estate is inadequate to bear any of the reasonable compensation, fees, and/or costs referenced in this section, the court may apportion the reasonable compensation, fees, and/or costs to any party, or among the parties, as the court deems reasonable.

Approved March 22, 2002.

CHAPTER 216
(S.B. No. 1314)

AN ACT

RELATING TO THE PROBATE OF WILLS AND ADMINISTRATION; AMENDING SECTION 15-3-1201, IDAHO CODE, TO REVISE CRITERIA TO BE SET FORTH IN AN AFFIDAVIT MADE BY OR ON BEHALF OF A SUCCESSOR TO A DECEDENT TO REFLECT AN INCREASE IN THE MAXIMUM FAIR MARKET VALUE OF ESTATES QUALIFIED TO COLLECT CERTAIN PERSONAL PROPERTY BY AFFIDAVIT.

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

SECTION 1. That Section 15-3-1201, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-1201. COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT. (a) Thirty (30) days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person or entity claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:

(1) the fair market value of the entire estate of the decedent which is subject to probate, wherever located, less liens and encumbrances, does not exceed ~~twenty~~seventy-five thousand dollars ($~~2~~75,000);

(2) thirty (30) days have elapsed since the death of the decedent;

(3) no application or petition for the appointment of a personal representative or for summary administration is pending or has been granted in any jurisdiction; and

(4) the claiming successor is entitled to payment or delivery of the property, including entitlement as a trust pursuant to a will of the decedent.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a) of this section.

Approved March 22, 2002.

CHAPTER 217
(S.B. No. 1315)

AN ACT

RELATING TO PROTECTION OF PERSONS UNDER DISABILITY; AMENDING SECTION 15-5-308, IDAHO CODE, TO PROVIDE CERTAIN RESTRICTIONS ON THE APPOINTMENT OF VISITORS AND GUARDIANS AD LITEM.

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

SECTION 1. 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, 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 treat-

ment 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.

(3) The visitor may not also be appointed as guardian ad litem for the person alleged to be incapacitated nor may the guardian ad litem for the person alleged to be incapacitated be appointed as visitor, nor may the visitor and the guardian ad litem for the person alleged to be incapacitated be members or employees of the same entity including, but not limited to, being members or employees of the same law firm.

Approved March 22, 2002.

CHAPTER 218
(S.B. No. 1316)

AN ACT

RELATING TO PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES; AMENDING SECTION 53-615, IDAHO CODE, TO PROVIDE THAT ONE OR MORE PERSONS MEETING DESIGNATED CRITERIA MAY ORGANIZE AND BECOME A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY.

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

SECTION 1. That Section 53-615, Idaho Code, be, and the same is hereby amended to read as follows:

53-615. PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES. (1) ~~A group--of-individuals~~ One (1) or more persons duly licensed or otherwise legally authorized to render the same or allied professional services within this state or professional corporations, partnerships or limited

liability companies all of whose shareholders, partners or members are duly licensed or otherwise legally authorized to render the same or allied professional services within this state may organize and become a professional company under the provisions of this chapter for the sole and specific purpose of rendering the same and specific professional service, allied professional services and services ancillary to the professional services. This section shall not be deemed to authorize allied professional services where the laws pertaining to specific professions or the codes of ethics or professional responsibility of any of the professions involved in such a proposed professional company prohibit such a combination of professional services.

(2) No professional company may render professional services in this state except through its managers, members, employees and agents who are duly licensed or otherwise legally authorized to render such professional services within this state. The term "employee" as used in this chapter does not include clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required.

(3) Nothing contained in this section shall be interpreted to abolish, repeal, modify, restrict or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional services and to the standards for professional conduct. Any manager, member, agent or employee of a professional company organized under this chapter shall remain personally and fully liable and accountable for any negligent or wrongful acts or misconduct committed by him, or by any person under his direct supervision and control, while rendering professional services on behalf of the professional company to the person for whom such professional services were being rendered. The professional company shall be liable up to the full value of its property for any negligent or wrongful acts or misconduct committed by any of its managers, members, agents or employees while they are engaged on behalf of the professional company in the rendering of professional services.

The relationship of a person whether as an individual, shareholder or a professional corporation, partner of a partnership or member of a professional company to a professional company organized under the provisions of this chapter, with which such person is associated, whether as manager, member or employee, shall in no way modify or diminish the jurisdiction over him of the governmental authority or state agency which licensed, certified or registered him for a particular profession.

(4) No professional company may offer membership to or accept as a member anyone other than a person who is duly licensed or otherwise legally authorized to render the same specific professional services as those for which the company was organized or professional corporations, partnerships or limited liability companies all of whose shareholders, partners or members are duly licensed or otherwise legally authorized to render the same specific professional services as those for which the professional company was organized. No member of a professional company shall enter into a voting trust agreement or any other type of agreement vesting another person with the authority to exercise the voting power of his membership.

(5) If any manager, member, agent or employee of a professional

company who has been rendering professional services within this state or accepts employment that, pursuant to existing law, places restrictions or limitations upon his continued rendering of such professional services, he shall cease to be a member in such professional company in accordance with the provisions of subsection (1)(k) of section 53-641, Idaho Code, and the remaining members of the professional company shall take such action as is required to terminate such membership.

(6) No member of a professional company may sell or transfer his membership in such professional company except to another individual, professional corporation, partnership or limited liability company eligible to be a member of such professional company and except pursuant to the provisions of section 53-638, Idaho Code.

(7) The provisions of this section shall not be considered as repealing, modifying or restricting the applicable provisions of law regulating the several professions except insofar as such laws conflict with the provisions of this section.

(8) As used in this section:

(a) The term "professional service" means any type of service to the public which can be rendered by a member of any profession within the purview of his profession. For the purpose of this chapter, the professions shall be held to include the practices of architecture, chiropractic, dentistry, engineering, landscape architecture, law, medicine, nursing, occupational therapy, optometry, physical therapy, podiatry, professional geology, psychology, certified or licensed public accountancy, social work, surveying, and veterinary medicine, and no others.

(b) The term "professional company" means a limited liability company organized under the provisions of this chapter for the sole and specific purpose of rendering professional service and which has as its members only natural persons who themselves are duly licensed or otherwise legally authorized to render one (1) or more of the same professional services as the professional company.

(c) The term "allied professional services" means professional services which are so related in substance that they are frequently offered in conjunction with one another as parts of the same service package to the consumer.

Approved March 22, 2002.

CHAPTER 219
(S.B. No. 1318)

AN ACT

RELATING TO THE CHILD CARE LICENSING REFORM ACT; AMENDING SECTION 39-1202, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 39-1204, IDAHO CODE, TO REQUIRE DISCLOSURE REPORTS FROM CHILDREN'S AGENCIES AND INSTITUTIONS; AMENDING SECTION 39-1205, IDAHO CODE, TO REQUIRE EVALUATION OF DISCLOSURE REPORTS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-1208, IDAHO CODE, TO SPECIFY STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS; AND AMENDING SECTIONS 39-1213, 39-1214, 39-1216, 39-1217, 39-1219, 39-1220, 39-1221 AND 39-1222, IDAHO CODE, TO SPECIFY INCLUSION OF CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS WITHIN REQUIREMENTS OF THE CHAPTER.

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

SECTION 1. ~~That~~ Section 39-1202, Idaho Code, be, and the same is hereby amended to read as follows:

39-1202. DEFINITIONS. For the purposes of ~~this~~ chapter:

(1) "Board" means the Idaho board of health and welfare.

(2) "Child care" means that care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.

(3) "Child" means an individual less than eighteen (18) years of age who is not enrolled in an institution of higher education.

(4) "Children's agency" means a person who operates a business for the placement of children in foster homes or for adoption in a permanent home and who does not provide child care as part of that business. Children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements.

(5) "Children's camp" means a program of child care at a location away from the child's home which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child.

(6) "Children's institution" means a person who operates a residential facility for children not related to that person if that person is an individual, for the purpose of providing child care. Children's institutions include, but are not limited to, foster homes, maternity homes, ~~juvenile-detention-centers-and-other-residential-facilities-referenced-in-the-juvenile-justice-reform-act~~ children's therapeutic outdoor programs, or any facilities providing treatment, therapy or rehabilitation for children. Children's institutions do not include: (a) facilities which provide only day care as defined in chapter 11, title 39, Idaho Code; (b) facilities and agencies including hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded licensed pursuant to chapter 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an advisory capacity, counseling a child in a religious context, and providing no child care associated with the advice; (e) the occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care.

(7) "Children's residential care facility" means a children's institution, excluding:

(a) Foster homes;

(b) Residential schools;

(c) Children's camps.

No facility expressly excluded from the definition of a children's institution is included within the definition of a children's residential care facility.

(8) "Children's therapeutic outdoor program" is a program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting. This does not include children's camps, church camps, or other outdoor programs primarily designed to be educational or recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

(9) "Continued care" means the ongoing placement of an individual in a foster home, children's residential care facility, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age.

(~~9~~10) "Day school" means a public, private, parochial or secular facility offering an educational program in which the children leave the facility each day at the conclusion of the academic, vocational or school supervised activities.

(~~10~~11) "Department" means the state department of health and welfare.

(~~11~~12) "Director" means the director of the department of health and welfare.

(~~12~~13) "Foster care" means child care by a person not related to the child, in lieu of parental care, in a foster home.

(~~13~~14) "Foster home" means a home which accepts, for any period of time, with or without compensation, one (1) or more children who are not related to the foster parent as members of the household for the purpose of providing substitute parental care.

(~~14~~15) "Group care" means foster care of a number of children for whom child care in a family setting is not available or appropriate, in a dormitory or cottage type setting, characterized by activities and discipline of a more regimented and less formal nature than found in a family setting.

(~~15~~16) "Juvenile detention" is as defined in section 20-502(6), Idaho Code, of the juvenile corrections act.

(~~16~~17) "Juvenile detention center" means a facility established pursuant to sections 20-517 and 20-518, Idaho Code.

(~~17~~18) "Person" includes any individual, group of individuals, association, partnership, limited liability company or corporation.

(~~18~~19) "Placement" means finding a suitable licensed foster home or suitable adoptive home for a child and completing the arrangements for a child to be accepted into and adjusted to such home.

(~~19~~20) "Representative" means an employee of the state department of health and welfare.

(~~20~~21) "Residential facility" means any facility where child care is provided, as defined in this section, and which provides day and night accommodation.

(~~21~~22) "Residential school" means a residential facility for children which:

(a) Provides a planned, scheduled, regular, academic or vocational school program for students in the elementary, middle or secondary grades as defined in section 33-1001, Idaho Code; and

(b) Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and

(c) Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and

(d) Is not:

(i) A college or university; or

(ii) A children's camp as defined in this section; or

(iii) A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school supervised activities.

(~~22~~23) "Transitional living" means living arrangements and aftercare

services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation.

SECTION 2. That Section 39-1204, Idaho Code, be, and the same is hereby amended to read as follows:

39-1204. FORM FOR DISCLOSURE REPORT. (1) The department shall design a form for the initial disclosure report which shall contain only the following information:

(a) The name, address and telephone number(s) for each ~~residential facility~~ children's agency or children's institution.

(b) The name(s), address and telephone number(s) of the individual(s) in charge at each ~~residential facility~~ children's agency or children's institution.

(c) The number of children that can be accommodated for child care at each ~~residential facility operated by the~~ children's institution and a description of such accommodations.

(d) Whether and how the children's institution seeks, receives or enrolls students for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or students who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision.

(e) A complete description of the child care services to be provided at each ~~residential facility operated by the~~ children's institution.

(f) Whether and how the children's institution expects to receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation.

(g) Whether and how the children's institution represents to the payor of the child care services provided by the children's institution that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services.

(h) A description of the educational programs provided at each ~~residential facility~~ children's institution and their accreditation status.

(2) The department shall design a form for the annual update disclosure report which shall reference the information provided in the initial disclosure report and shall request identification of any changes in the information provided on the initial report or the previous annual update disclosure report.

SECTION 3. That Section 39-1205, Idaho Code, be, and the same is hereby amended to read as follows:

39-1205. EVALUATION OF DISCLOSURE REPORTS. The department shall review all initial and annual update disclosure reports and shall categorize each children's institution, based on the type of care provided, into one (1) of the following categories:

(1) Foster homes;

(2) Residential schools;

(3) Children's camps; ~~or~~

(4) Children's therapeutic outdoor program; or

(5) Each children's institution not otherwise categorized in subsections (1) ~~through (3)~~4) of this section, except any day school, shall ~~be desig~~nated as a "children's residential care facility."

SECTION 4. That Chapter 12, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-1208, Idaho Code, and to read as follows:

39-1208. STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS. The board shall have the power and it shall be its duty to promulgate appropriate rules necessary to implement and enforce the following standards for licensing a children's therapeutic outdoor program:

(1) Assure the organizational stability of the program, which may require incorporation under the laws of Idaho.

(2) Require from the policymaking authority of the program the promulgation of a statement setting forth the program's purposes and objectives and describing the character and extent of the services which it offers and maintains, and the geographical area to be served.

(3) Require a statement of solvency sufficient to maintain programs and personnel necessary to achieve its purposes and objectives and to maintain its services.

(4) Assure such recordkeeping and reporting as may be deemed necessary to the program's services and to the department's licensing responsibility.

(5) Assure the safety and physical care of children for whom the program assumes or accepts responsibility.

(6) Establish the legal status of each child accepted for care and the legal authority and responsibility of the program for the child.

(7) Require a statement of intake policy which shall set forth criteria for accepting children for care or service in relation to the program's purposes and physical demands.

(8) The department shall obtain a criminal history check on the owners, operators and employees of all children's therapeutic outdoor programs. The criminal history check shall be fingerprint based and include the following:

(a) Statewide criminal identification bureau;

(b) Federal bureau of investigation (FBI) criminal history;

(c) National crime information center; and

(d) Statewide child abuse register.

SECTION 5. That Section 39-1213, Idaho Code, be, and the same is hereby amended to read as follows:

39-1213. LICENSING AUTHORITY. (a) The board of health and welfare is hereby authorized and directed to establish procedures for licensing foster homes, children's agencies, children's therapeutic outdoor programs and children's residential care facilities which are maintained and operated in conformity with the rules and standards authorized herein. Such procedures shall include the manner and form for making application for license, investigation upon application and notice of decision.

(b) It is recognized that children's agencies may have their own

procedure for approval of foster homes affiliated with their program. Any foster home which has been approved by a licensed children's agency shall be exempt from the licensing provisions of this chapter, provided that the standards for approval by such agency are no less restrictive than rules and standards established by the board of health and welfare, and provided further that such children's agency is maintained and operated in conformity with rules and standards of the board of health and welfare. The board of health and welfare may promulgate rules necessary to implement the provisions of this section.

(c) The board of health and welfare is hereby authorized to establish rules allowing for continued care for appropriate individuals eighteen (18) to twenty-one (21) years of age who have been receiving services by, through, or with the authorization of the department of health and welfare or the department of juvenile corrections prior to their eighteenth birthday.

SECTION 6. That Section 39-1214, Idaho Code, be, and the same is hereby amended to read as follows:

39-1214. ELIGIBILITY FOR LICENSE. Any foster home, children's agency, children's therapeutic outdoor program or children's residential care facility which applies for a license in the manner and form prescribed by the board of health and welfare and is found upon investigation by the department to be established in conformity with the rules and standards established by the department under the authority conferred herein shall be licensed for a period of one (1) year.

SECTION 7. That Section 39-1216, Idaho Code, be, and the same is hereby amended to read as follows:

39-1216. PROVISIONAL LICENSE. Upon initial investigation, should an applicant for a license be unable to meet a standard because of conditions that are unlikely to endure beyond six (6) months from the date of such investigation, the department may, if in its judgment the health and safety of any child is not thereby endangered, issue a provisional license for a period not to exceed six (6) months. No more than one (1) provisional license shall be issued to the same foster home, children's agency, children's therapeutic outdoor program or children's residential care facility in any twelve (12) month period.

SECTION 8. That Section 39-1217, Idaho Code, be, and the same is hereby amended to read as follows:

39-1217. VISITATION. For the purpose of determining whether every licensed foster home, licensed children's agency, licensed children's therapeutic outdoor program and licensed children's residential care facility consistently maintains conformity with the standards established under the authority conferred herein, the department, through an authorized representative, shall visit each such home and facility as often as it deems necessary or desirable, but in any event at intervals not to exceed twelve (12) months.

SECTION 9. That Section 39-1219, Idaho Code, be, and the same is hereby amended to read as follows:

39-1219. APPEAL FROM DECISION OF DIRECTOR. If an applicant or licensee feels aggrieved by a decision rendered as a result of a hearing, as provided in section 39-1218, Idaho Code, appeal may be taken to the district court of the county in which the group or foster home, facility, program or agency is located, in the manner and form as provided in section 39-1212, Idaho Code, provided, however, the filing of notice of appeal shall not, unless otherwise ordered, stay the proceedings of the director.

SECTION 10. That Section 39-1220, Idaho Code, be, and the same is hereby amended to read as follows:

39-1220. OPERATING WITHOUT LICENSE MISDEMEANOR. Any person or persons who operate a foster home, children's agency, children's therapeutic outdoor program or children's residential care facility, within this state, without first obtaining a license as provided in this chapter shall be guilty of a misdemeanor. However, in the event of an initial citation for violation of the provisions of this section, if a person makes the application required within thirty (30) days, the complaint shall be dismissed. The penalty for violation of the provisions of this section shall be three hundred dollars ($300) for each day of a continuing violation, which penalty shall accrue from thirty (30) days following the initial notice of violation in the event of a finding of violation.

SECTION 11. That Section 39-1221, Idaho Code, be, and the same is hereby amended to read as follows:

39-1221. REMOVAL OF CHILDREN. Any child or children receiving child care in a children's residential care facility or children's therapeutic outdoor program found to be operating without a license may be removed from such home, agency or institution upon order of the magistrate court of the county in which the child is receiving care and returned to the child's own home, or placed in the custody of the department if the child's custodial parent is not available. The prosecuting attorneys of the several counties shall represent the department at all stages of the proceedings before the magistrate court. The magistrate court shall retain jurisdiction relative to child custody pursuant to the provisions of this section. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the violation, the attorney general is authorized to prosecute violations under this chapter.

SECTION 12. That Section 39-1222, Idaho Code, be, and the same is hereby amended to read as follows:

39-1222. ACTION AGAINST UNLICENSED FOSTER HOME, CHILDREN'S AGENCY, CHILDREN'S THERAPEUTIC OUTDOOR PROGRAM OR CHILDREN'S RESIDENTIAL CARE FACILITY. Notwithstanding the existence or pursuit of any other remedy, the department shall, upon showing good cause to the prosecuting attorney who shall represent the department in the proceeding, maintain an action in the name of the state for injunction or other process against a person as defined herein who shall hereafter operate or maintain any foster home, children's agency, children's therapeutic outdoor program

or children's residential care facility without first having secured a license pursuant to the provisions of this chapter. Upon a finding that the safety of children at a foster home, children's agency, children's therapeutic outdoor program or children's residential care facility is endangered, the department has the authority to immediately revoke a license.

Approved March 22, 2002.