GENERAL LAWS

OF THE

STATE OF IDAHO

Volume 2

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

Convened January 10, 1994
Adjourned April 1, 1994

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

PUBLISHED BY AUTHORITY OF THE
SECRETARY OF STATE

PETE T. CENARRUSA
Secretary of State
Boise, Idaho

Printed by The Caxton Printers, Ltd.
Caldwell, Idaho

CHAPTER 269
(S.B. No. 1504, As Amended)

AN ACT

RELATING TO THE DEPARTMENT OF FISH AND GAME; AMENDING SECTION 36-111, IDAHO CODE, TO PROVIDE THAT SEVENTY-FIVE CENTS OF EACH ONE DOLLAR AND FIFTY CENTS COLLECTED FROM EACH ANTELOPE, ELK AND DEER TAG SOLD SHALL BE PLACED IN A SEPARATE FEEDING ACCOUNT TO BE USED EXCLUSIVELY FOR WINTER FEEDING OF AND REHABILITATION OF WINTER RANGE FOR ANTELOPE, ELK AND DEER, TO PROVIDE FOR EXPENDITURE OF FUNDS FROM THE ACCOUNT FOR OTHER PURPOSES IF IT REACHES FOUR HUNDRED THOUSAND DOLLARS, TO REQUIRE DECLARATION OF A FEEDING EMERGENCY FOR EXPENDITURE OF FUNDS FROM THE ACCOUNT FOR FEEDING PURPOSES AND TO PROVIDE FOR INVESTMENT OF IDLE MONEYS IN THE ACCOUNT AND DEPOSIT IN THE ACCOUNT OF INTEREST EARNED THEREON.

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

SECTION 1. That Section 36-111, Idaho Code, be, and the same is hereby amended to read as follows:

36-111. FISH AND GAME SET-ASIDE ACCOUNT. (1) There is hereby established the fish and game set-aside account in the dedicated fund. The account shall have paid into it moneys as follows:

(a) Three dollars ($3.00) of each steelhead trout or anadromous salmon permit sold. Moneys from this source shall be used for the acquisition, development and maintenance of parking areas, access sites, boat ramps and sanitation facilities in salmon and steelhead fishing areas, for management of and research on steelhead trout and anadromous salmon problems, and for technical assistance with litigation concerning steelhead and anadromous salmon originating in Idaho.

(b) Two dollars ($2.00) from each combination hunting and fishing license, or each hunting license sold, as provided in sections 36-406 and 36-407, Idaho Code, except that class 4 licenses shall be exempt from this provision. Moneys from this source shall be used for the purposes of acquiring access to and acquiring and rehabilitating big game ranges and upland bird and waterfowl habitats. Unless it is inconsistent with the goals of the commission, it is the intent of the legislature that the commission negotiate lease arrangements as compared with outright purchase of private property.

(c) One dollar and fifty cents ($1.50) from each antelope, elk and deer tag sold as provided in section 36-409, Idaho Code. Not less than seventy-five cents (75¢) of each one dollar and fifty cents ($1.50) collected shall be placed in a separate account to be designated as a feeding account. Moneys ~~from~~ in this ~~source~~ account shall be used exclusively for the purposes of winter feeding of and rehabilitation of winter range for antelope, elk and deer~~,~~. The balance of moneys realized from this source may be used for the control of depredation of private property by antelope, elk and deer~~,~~ and control of predators affecting antelope, elk and

~~deer, and rehabilitation of winter range for antelope, elk and deer.~~ Moneys in the feeding account shall not be used for any purpose other than winter feeding as herein specified until the total funds in the account, including any interest earnings thereon, equal or exceed four hundred thousand dollars ($400,000). Moneys in the feeding account may not be expended except upon the declaration of a feeding emergency by the director of the department of fish and game. Such emergency need not exist on a statewide basis but can be declared with respect to one (1) or more regions of the state. The department shall by rule establish the criteria for a feeding emergency.

(d) Those amounts designated by individuals in accordance with section 63-3067A(c)(i), Idaho Code, and from fees paid under the provisions of section 49-417, Idaho Code. Moneys from these sources shall be used for a nongame management and protection program under the direction of the fish and game commission.

(e) All moneys received from the sale of upland game permits. Moneys from this source shall be used as provided by section 36-409(h), Idaho Code.

(f) Moneys received from the sale of migratory waterfowl stamps. Moneys received from this source shall be used as provided by section 36-414, Idaho Code.

(2) Moneys in the fish and game set-aside account and the feeding account established in subsection (1)(c) of this section are subject to appropriation, and the provisions of section 67-3516, Idaho Code. Moneys in the fish and game set-aside account and the feeding account shall be invested by the state treasurer in the manner provided for investment of idle state moneys in the state treasury by section 67-1210, Idaho Code~~.~~, with i~~I~~nterest earned on ~~all such~~ investments ~~shall~~ from each account to be paid into ~~the fish and game set aside~~ that account.

Approved March 30, 1994.

CHAPTER 270
(S.B. No. 1523)

AN ACT

RELATING TO CONTINUANCE FOR TRIALS; AMENDING SECTION 19-3502, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO TERMS OF COURT.

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

SECTION 1. That Section 19-3502, Idaho Code, be, and the same is hereby amended to read as follows:

19-3502. CONTINUANCE FOR CAUSE. If the defendant is not indicted or tried, as provided in the last section, and sufficient reason therefor is shown, the court may order the action to be continued ~~from term-to-term~~ to a date subsequent, and in the meantime may discharge

the defendant from custody on his own undertaking of bail for his appearance to answer the charge at the time to which the action is continued.

Approved March 30, 1994.

CHAPTER 271
(S.B. No. 1531)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5220, IDAHO CODE, TO REQUIRE SPECIFIC CITATION TO FEDERAL STATUTE OR REGULATION IN THE NOTICE OF THE PROPOSED RULEMAKING; AMENDING SECTION 67-5221, IDAHO CODE, TO REQUIRE SPECIFIC CITATION TO FEDERAL STATUTE OR REGULATION IN THE NOTICE OF THE PROPOSED RULEMAKING AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-5223, IDAHO CODE, TO REQUIRE THAT A COPY OF A SPECIFIC FEDERAL STATUTE OR REGULATION ACCOMPANY THE SUBMISSION TO THE LEGISLATIVE COUNCIL.

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

SECTION 1. That Section 67-5220, Idaho Code, be, and the same is hereby amended to read as follows:

67-5220. NOTICE OF INTENT TO PROMULGATE RULES. (1) An agency may publish in the bulletin a notice of intent to promulgate a rule. The notice shall contain a brief, nontechnical statement of the subject matter to be addressed in the proposed rulemaking, and shall include the purpose of the rule, the statutory authority for the rulemaking, citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking, and the principal issues involved. The notice shall identify an individual to whom comments on the proposal may be sent.

(2) The notice of intent to promulgate a rule is intended to facilitate negotiated rulemaking, a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged to proceed through such informal rulemaking whenever it is feasible to do so.

SECTION 2. That Section 67-5221, Idaho Code, be, and the same is hereby amended to read as follows:

67-5221. PUBLIC NOTICE OF PROPOSED RULEMAKING. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall publish notice of proposed rulemaking in the bulletin. The notice of proposed rulemaking shall include:

(a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;

(b) a statement in nontechnical language of the substance of the proposed rule;

(c) the text of the proposed rule prepared in legislative format;
(d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
(e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;
(f) the manner in which persons may request an opportunity for an oral presentation as provided in section 67-5222, Idaho Code; and
(g) the deadline for public comments on the proposed rule.
(2) (a) Coinciding with each issue of the bulletin, the coordinator shall cause the publication of an abbreviated notice with a brief description of the subject matter, showing any agency's intent to propose a new or changed rule that is a new addition to that issue of the bulletin. The form of the notice shall be substantially as follows: typefaces used shall measure greater than seven (7) points, but less than twelve (12) points, and space width shall not be less than two (2) newspaper columns. The content of the notice shall be substantially as follows:

PUBLIC NOTICE
OF INTENT TO PROPOSE OR PROMULGATE NEW
OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state administrative bulletin:

Agency Name and Address Rule Number Rule Subject Matter
Comment Deadline

Citizens of (county name) can view all issues of the administrative bulletin in the county law libraries.

(b) The coordinator shall cause the notice required in paragraph (a) of this subsection to be published in at least the accepting newspaper of largest paid circulation that is published in each county in Idaho or, if no newspaper is published in the county, then in an accepting newspaper of largest paid circulation published in Idaho and circulated in the county. The newspaper of largest circulation shall be established by the sworn statement of average annual paid weekday issue circulation that has been filed by a newspaper with the United States post office for the calendar year immediately preceding the calendar year during which the advertisement in this section is required to be published. The coordinator is authorized to negotiate a rate or rates with any or all newspapers publishing these notices which will provide adequate exposure to the notices by the least expensive means.

SECTION 3. That Section 67-5223, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

Approved March 30, 1994.

CHAPTER 272
(S.B. No. 1544, As Amended)

AN ACT

RELATING TO STATE EMPLOYEES; AMENDING SECTION 67-5301, IDAHO CODE, TO ADD PERSONAL AND PROFESSIONAL TRAINING TO THE MISSION OF THE IDAHO PERSONNEL COMMISSION; AMENDING SECTION 67-5309, IDAHO CODE, TO CLARIFY THE REFERENCE TO THE JOB CLASSIFICATION SYSTEM, TO REQUIRE THAT RELEVANT LABOR MARKETS AND BENCHMARK CLASSIFICATIONS FOR USE IN SALARY SURVEYS BE PROMULGATED BY RULE, TO CLARIFY REFERENCES TO COMPENSATION RANGES AND COMPENSATION POLICIES, TO DELETE OBSOLETE PHASE-IN DATES FOR SHIFT DIFFERENTIAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5309A, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT THE PERSONNEL COMMISSION CONDUCT BENEFIT SURVEYS AND EXPRESSING THE INTENT OF THE LEGISLATURE TO AUTHORIZE BENEFIT SURVEYS FROM TIME TO TIME; AMENDING SECTION 67-5309B, IDAHO CODE, TO INCLUDE THE CONSIDERATION OF FACTORING BENCHMARK JOB CLASSIFICATIONS IN THE VALUATION OF JOBS TO ENSURE INTERNAL EQUITY IN THE CLASSIFIED SERVICE, TO PROVIDE FOR THE ASSIGNMENT OF NEW OR REVISED CLASSIFICATIONS TO A PAY GRADE SUBJECT TO THE APPROVAL OF THE ADMINISTRATOR OF THE DIVISION OF FINANCIAL MANAGEMENT BASED ON FUNDING CONSIDERATIONS, TO PROVIDE FOR SALARY SURVEYS TO DETERMINE

SALARY RANGES THAT REPRESENT COMPETITIVE LABOR MARKET AVERAGE RATES, TO DELETE REFERENCE TO FACTORING AHEAD, TO CLARIFY LANGUAGE RELATING TO THE PERSONNEL COMMISSION'S REPORT OF SALARY RANGE CHANGES AND TO PROVIDE FOR IMPLEMENTATION OF SUCH CHANGES BY RULE; AMENDING SECTION 67-5309C, IDAHO CODE, TO PROVIDE A PAY GRADE SCHEDULE CONSISTING OF PAY GRADES AND ASSOCIATED POINT FACTORING RANGES, TO DELETE LONGEVITY INCREASES, TO EXPRESS LEGISLATIVE INTENT THAT EMPLOYEES MAY EXPECT TO ADVANCE IN PAY TO THE MARKET AVERAGE RATE FOR THEIR CLASSIFICATION BASED ON PERFORMANCE, TO DELETE ADVANCED STEP APPOINTMENTS AND REFERENCES TO STEP A OF THE PAY SCHEDULE, TO CLARIFY LANGUAGE RELATING TO PERFORMANCE EVALUATIONS AND TO PROVIDE FOR BONUSES BASED ON EXCELLENT PERFORMANCE; AMENDING SECTION 59-1603, IDAHO CODE, TO DELETE LONGEVITY INCREASES FOR NONCLASSIFIED EMPLOYEES; AMENDING SECTION 59-1604, IDAHO CODE, TO DELETE A REFERENCE TO LONGEVITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-5301, Idaho Code, be, and the same is hereby amended to read as follows:

67-5301. ESTABLISHMENT OF PERSONNEL COMMISSION AND DECLARATION OF POLICY. There is hereby established the Idaho personnel commission, in the department of administration, which is authorized and directed to administer a personnel system, including the provision of personal and professional training, for classified Idaho employees. The commission shall not be subject to the administrative control of the director of the department of administration. The purpose of said personnel system is to provide a means whereby classified employees of the state of Idaho shall be examined, selected, retained and promoted on the basis of merit and their performance of duties, thus effecting economy and efficiency in the administration of state government. The legislature declares that, in its considered judgment, the public good and the general welfare of the citizens of this state require enactment of this measure, under the powers of the state.

SECTION 2. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE PERSONNEL COMMISSION. The commission shall have the power and authority to adopt, amend, or rescind such rules ~~and--regulations~~ as may be necessary for proper administration of this act. Such rules shall include:

(a) A rule requiring the personnel commission, after consulting with each department to develop, adopt, and make effective, a job classification ~~plan~~ system for positions covered by this act, based upon an analysis of the duties and responsibilities of the positions. The job classification ~~plan will~~ 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 ~~requiring the personnel commission, after consulting with each department to develop, and adopt a comprehensive compensation plan for all classes of positions covered under this act. The compensation plan shall include salary schedules with the salary of each position consistent with the responsibility and difficulty of the work as outlined in the job specifications~~ describing the relevant labor markets and benchmark job classifications used in the commission'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 commission of the personnel system including classifications and compensation ~~plans,~~ policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind or the industrial commission certifies, with the concurrence of personnel commission staff, that the individual (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this act, on the basis of open competitive merit examinations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the examination was open; the application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time for any position for which the commission maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any war veteran and the widow of any war veteran as long as she remains unmarried. Ten (10) points shall be added to the earned rating of any disabled war veteran, the widow of any disabled war veteran as long as she remains unmarried or the spouse of any dis-

abled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference. Employment registers shall be established in order of final score except that the names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating, and the names of all ten (10) point preference eligibles shall be placed at the top of the register above the names of all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the five (5) top ranking available eligibles plus the names of all individuals with scores identical to the fifth ranking eligible on the register; however, selective certification shall be permitted when justified by the hiring department, under rules to be made by the commission defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified permanent employee of the agency in which the vacancy occurs. An inter-agency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the commission.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, or other nonmerit factors, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed six (6) months for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of one (1) year, and for the appointing authority to provide the employee and the commission a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the state personnel director to extend the probationary period for good cause for an additional specified period not to exceed six (6) months. If an employee is performing in an unsatis-

factory 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 ~~and regulations~~ of the employee's department, or rules ~~and regulations~~ of the personnel commission.

2. Inefficiency, incompetency, or negligence in the performance of duties.

3. Physical or mental incapability for performing assigned duties.

4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.

5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.

6. Intoxication on duty.

7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.

8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.

9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.

10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.

11. Habitual pattern of failure to report for duty at the assigned place and time.

12. Habitual improper use of sick leave privileges.

13. Unauthorized disclosure of confidential information from official records.

14. Absence without leave.

15. Misstatement or deception in the application for the position.

16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.

17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system.

(p) Rules to provide for recruitment programs in cooperation with

department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this act.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties, including but not limited to sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing for five percent (5%) shift differential pay. ~~Beginning the first full pay period in fiscal year 1992, the rate of such differential pay shall be one and one-half percent (1-1/2%) of the employee's hourly rate; beginning the first full pay period in fiscal year 1993, the differential pay rate shall be three percent (3%); and beginning the first full pay period of fiscal year 1994 and each fiscal year thereafter, the rate of differential pay shall be five percent (5%).~~

SECTION 3. That Section 67-5309A, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309A. PERSONNEL BENEFITS. ~~(1)~~ It is hereby declared to be the policy of the legislature of the state of Idaho that all classified employees of like classification and pay grade allocation shall be treated equally with reference to personnel benefits. ~~In order to provide a mechanism for the legislature and the executive department to determine~~ It is the intent of the legislature that from time to time it shall authorize a benefit survey for the purpose of determining the relative level of personnel benefits provided to state employees~~, the personnel commission shall compile data and accept departmental recommendations and compare~~ by comparing the benefits provided to state employees with the benefits provided to employees ~~of a selected sample~~ of private employers within the state of Idaho~~, which most nearly provides a benefit range comparable for jobs of like value.~~

~~(2) For the fiscal year beginning July 1, 1987, and each fiscal year thereafter, the commission shall compile a report of department proposed adjustments to existing statutory and nonstatutory personnel benefits, together with the estimated costs therefor, as recommended by the departments, and shall submit the report to the office of the governor not later than the first day of October of each year. If the governor accepts the commission's report, he shall submit it to the legislature prior to the seventh legislative day of each session. If the governor does not accept the report of the commission, he shall submit his own report on proposed adjustments, and the commission's report, to the legislature prior to the seventh legislative day of each session. The legislature may, by concurrent resolution, accept, modify or reject so much of either report as relates to nonstatutory benefits. The failure of the legislature to accept, modify or reject~~

~~so--much-of-either-report-as-relates-to-nonstatutory-benefits-prior-to adjournment-sine-die--shall--constitute--approval--of--the--governor's report.~~

SECTION 4. That Section 67-5309B, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309B. ESTABLISHING SALARIES. (a) The commission shall determine the relative worth of each job classification established pursuant to section 67-5309, Idaho Code, and, in making such determination, shall utilize ~~a--job-profile-system-similar-in-content-and-method-to~~ the guide chart profile method and correlated factoring benchmark job classifications developed by Hay ~~Associates~~ management consultants, to ensure internal equity within the classified service.

(b) ~~For--positions~~ Job classifications established ~~by-the-commission-after-April-1,-1976,-and,-commencing-July-1,-1977,--and--annually thereafter-for-all-positions-established~~ or revised by the commission~~, such--job--classifications~~ shall be~~,--by--the--commission,-allocated~~ assigned by the commission to a pay grade ~~in-the-salary-schedule~~ subject to the approval of the administrator of the division of financial management, based on funding considerations ~~established-by-act-of-the legislature-of-the-state-of-Idaho,-which-most-nearly-provides-a-salary range-comparable-to-rates-paid-by-private-industry-and--other--governmental--units--for-jobs-of-like-value,-based-upon-a-job-profile-system described-in-subsection-(a)-of-this-section.~~

(c) The ~~determination-of-rate-comparability~~ commission shall~~,-for purposes-of-subsection-(b)-hereof,-be-based-upon~~ conduct or approve salary surveys ~~conducted-or-approved-by-the-commission~~ within relevant labor markets to determine salary ranges that represent competitive labor market average rates paid by private industry and other governmental units for jobs of like value, based upon the guide chart profile system described in subsection (a) of this section. The results of such surveys shall be ~~factored-ahead,~~ based on statistical, historical, or other economic factors ~~to-the-anticipated-time-of-allocation of-the-particular-job-classification-to-an-initial-or-new-pay-grade-in the-salary-schedule-established-by-the-legislature~~. The factors herein referred to shall include, but are not limited to, anticipated salary adjustments for the positions surveyed, changes in cost-of-living as measured by the consumer price index, and anticipated adjustments in the average weekly wage in the state of Idaho, as defined and determined pursuant to section 72-409, Idaho Code.

(d) ~~After-the-initial-allocation-of-a-job-classification-to-a-pay grade-in-the-salary-schedule,--reallocations--of--job--classifications within--the--salary-schedule-by-the-commission-shall-not-be-effective, except-upon-the-approval-of-the--administrator,--division--of--budget, policy-planning-and-coordination,-office-of-the-governor,-and-the-legislature.~~ A report of ~~proposed-reallocations~~ the results of salary surveys and recommendations for changes in salaries, together with their estimated costs of implementation based on the competitive labor market average rate of each pay grade, as approved by the commission, shall be submitted to the office of the governor not later than the first day of October of each year. If the governor accepts the commission's report, he shall submit it to the legislature prior to

the seventh legislative day of each session. If the governor does not accept the report of the commission, he shall submit his own report on proposed ~~reallocations~~ changes in salaries, and the commission's report, to the legislature prior to the seventh legislative day of each session. The legislature may, by concurrent resolution, accept, modify or reject either report. The failure of the legislature to accept, modify or reject either report prior to adjournment sine die shall constitute approval of the governor's report. The commission shall implement the results of such salary changes by rule, using the payline formulas approved by the legislature and the mid-point of each pay grade established in section 67-5309C, Idaho Code.

SECTION 5. That Section 67-5309C, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309C. ~~SALARY SCHEDULE~~ PAY GRADES AND MERIT INCREASES. (a) The following schedule ~~is--adopted--as-the-hourly-salary-schedule~~ establishes the pay grades for all positions classified pursuant to chapter 53, title 67, Idaho Code.

STATE OF IDAHO
~~COMPENSATION SCHEDULE~~
~~HOURLY BASE RATES~~

Pay Grade	Step A--	Step B--	Step C--	Step D--	Step E--	Step F--	Pay Grade
~~12~~	~~$3.75~~	~~$3.86~~	~~$3.95~~	~~$4.05~~	~~$4.14~~	~~$4.24~~	~~12~~
~~13~~	~~3.95~~	~~4.05~~	~~4.14~~	~~4.24~~	~~4.35~~	~~4.46~~	~~13~~
~~14~~	~~4.14~~	~~4.24~~	~~4.35~~	~~4.46~~	~~4.56~~	~~4.67~~	~~14~~
~~15~~	~~4.35~~	~~4.46~~	~~4.56~~	~~4.67~~	~~4.78~~	~~4.91~~	~~15~~
~~16~~	~~4.56~~	~~4.67~~	~~4.78~~	~~4.91~~	~~5.02~~	~~5.14~~	~~16~~
~~17~~	~~4.78~~	~~4.91~~	~~5.02~~	~~5.14~~	~~5.26~~	~~5.41~~	~~17~~
~~18~~	~~5.02~~	~~5.14~~	~~5.26~~	~~5.41~~	~~5.54~~	~~5.67~~	~~18~~
~~19~~	~~5.26~~	~~5.41~~	~~5.54~~	~~5.67~~	~~5.81~~	~~5.96~~	~~19~~
~~20~~	~~5.54~~	~~5.67~~	~~5.81~~	~~5.96~~	~~6.10~~	~~6.25~~	~~20~~
~~21~~	~~5.81~~	~~5.96~~	~~6.10~~	~~6.25~~	~~6.41~~	~~6.57~~	~~21~~
~~22~~	~~6.10~~	~~6.25~~	~~6.41~~	~~6.57~~	~~6.72~~	~~6.89~~	~~22~~
~~23~~	~~6.41~~	~~6.57~~	~~6.72~~	~~6.89~~	~~7.07~~	~~7.24~~	~~23~~
~~24~~	~~6.72~~	~~6.89~~	~~7.07~~	~~7.24~~	~~7.42~~	~~7.60~~	~~24~~
~~25~~	~~7.07~~	~~7.24~~	~~7.42~~	~~7.60~~	~~7.78~~	~~7.98~~	~~25~~
~~26~~	~~7.42~~	~~7.60~~	~~7.78~~	~~7.98~~	~~8.17~~	~~8.37~~	~~26~~
~~27~~	~~7.78~~	~~7.98~~	~~8.17~~	~~8.37~~	~~8.59~~	~~8.80~~	~~27~~
~~28~~	~~8.17~~	~~8.37~~	~~8.59~~	~~8.80~~	~~9.02~~	~~9.24~~	~~28~~
~~29~~	~~8.59~~	~~8.80~~	~~9.02~~	~~9.24~~	~~9.47~~	~~9.70~~	~~29~~
~~30~~	~~9.02~~	~~9.24~~	~~9.47~~	~~9.70~~	~~9.93~~	~~10.19~~	~~30~~
~~31~~	~~9.47~~	~~9.70~~	~~9.93~~	~~10.19~~	~~10.43~~	~~10.69~~	~~31~~
~~32~~	~~9.93~~	~~10.19~~	~~10.43~~	~~10.69~~	~~10.95~~	~~11.23~~	~~32~~
~~33~~	~~10.43~~	~~10.69~~	~~10.95~~	~~11.23~~	~~11.51~~	~~11.79~~	~~33~~
~~34~~	~~10.95~~	~~11.23~~	~~11.51~~	~~11.79~~	~~12.08~~	~~12.37~~	~~34~~
~~35~~	~~11.51~~	~~11.79~~	~~12.08~~	~~12.37~~	~~12.68~~	~~12.99~~	~~35~~
~~36~~	~~12.08~~	~~12.37~~	~~12.68~~	~~12.99~~	~~13.32~~	~~13.65~~	~~36~~
~~37~~	~~12.68~~	~~12.99~~	~~13.32~~	~~13.65~~	~~13.98~~	~~14.33~~	~~37~~
~~38~~	~~13.32~~	~~13.65~~	~~13.98~~	~~14.33~~	~~14.69~~	~~15.06~~	~~38~~
~~39~~	~~13.98~~	~~14.33~~	~~14.69~~	~~15.06~~	~~15.42~~	~~15.81~~	~~39~~

40	14.69	15.06	15.42	15.81	16.20	16.60	40
41	15.42	15.81	16.20	16.60	17.00	17.42	41
42	16.20	16.60	17.00	17.42	17.86	18.30	42
43	17.00	17.42	17.86	18.30	18.75	19.23	43
44	17.86	18.30	18.75	19.23	19.69	20.18	44
45	18.75	19.23	19.69	20.18	20.67	21.19	45
46	19.69	20.18	20.67	21.19	21.71	22.26	46
47	20.67	21.19	21.71	22.26	22.80	23.37	47
48	21.71	22.26	22.80	23.37	23.94	24.53	48
49	22.80	23.37	23.94	24.53	25.13	25.77	49
50	23.94	24.53	25.13	25.77	26.39	27.05	50
51	25.13	25.77	26.39	27.05	27.71	28.41	51
52	26.39	27.05	27.71	28.41	29.10	29.82	52
53	27.71	28.41	29.10	29.82	30.56	31.31	53
54	29.10	29.82	30.56	31.31	32.09	32.88	54
55	30.56	31.31	32.09	32.88	33.69	34.54	55
56	32.09	32.88	33.69	34.54	35.37	36.26	56
57	33.69	34.54	35.37	36.26	37.14	38.07	57
58	35.37	36.26	37.14	38.07	38.99	39.97	58
59	37.14	38.07	38.99	39.97	40.95	41.97	59
60	38.99	39.97	40.95	41.97	42.99	44.07	60

Pay Grade	Step G--	Step H--	Step I--	Step J--	Step K--	Step L--	Step M--	Pay Grade
12	$4.35	$4.46	$4.56	$4.67	$4.78	$4.91	$5.02	12
13	4.56	4.67	4.78	4.91	5.02	5.14	5.26	13
14	4.78	4.91	5.02	5.14	5.26	5.41	5.54	14
15	5.02	5.14	5.26	5.41	5.54	5.67	5.81	15
16	5.26	5.41	5.54	5.67	5.81	5.96	6.10	16
17	5.54	5.67	5.81	5.96	6.10	6.25	6.41	17
18	5.81	5.96	6.10	6.25	6.41	6.57	6.72	18
19	6.10	6.25	6.41	6.57	6.72	6.89	7.07	19
20	6.41	6.57	6.72	6.89	7.07	7.24	7.42	20
21	6.72	6.89	7.07	7.24	7.42	7.60	7.78	21
22	7.07	7.24	7.42	7.60	7.78	7.98	8.17	22
23	7.42	7.60	7.78	7.98	8.17	8.37	8.59	23
24	7.78	7.98	8.17	8.37	8.59	8.80	9.02	24
25	8.17	8.37	8.59	8.80	9.02	9.24	9.47	25
26	8.59	8.80	9.02	9.24	9.47	9.70	9.93	26
27	9.02	9.24	9.47	9.70	9.93	10.19	10.43	27
28	9.47	9.70	9.93	10.19	10.43	10.69	10.95	28
29	9.93	10.19	10.43	10.69	10.95	11.23	11.51	29
30	10.43	10.69	10.95	11.23	11.51	11.79	12.08	30
31	10.95	11.23	11.51	11.79	12.08	12.37	12.68	31
32	11.51	11.79	12.08	12.37	12.68	12.99	13.32	32
33	12.08	12.37	12.68	12.99	13.32	13.65	13.98	33
34	12.68	12.99	13.32	13.65	13.98	14.33	14.69	34
35	13.32	13.65	13.98	14.33	14.69	15.06	15.42	35
36	13.98	14.33	14.69	15.06	15.42	15.81	16.20	36
37	14.69	15.06	15.42	15.81	16.20	16.60	17.00	37
38	15.42	15.81	16.20	16.60	17.00	17.42	17.86	38
39	16.20	16.60	17.00	17.42	17.86	18.30	18.75	39
40	17.00	17.42	17.86	18.30	18.75	19.23	19.69	40

~~41~~	~~17.86~~	~~18.30~~	~~18.75~~	~~19.23~~	~~19.69~~	~~20.18~~	~~20.67~~	~~41~~
~~42~~	~~18.75~~	~~19.23~~	~~19.69~~	~~20.18~~	~~20.67~~	~~21.19~~	~~21.71~~	~~42~~
~~43~~	~~19.69~~	~~20.18~~	~~20.67~~	~~21.19~~	~~21.71~~	~~22.26~~	~~22.88~~	~~43~~
~~44~~	~~20.67~~	~~21.19~~	~~21.71~~	~~22.26~~	~~22.88~~	~~23.37~~	~~23.94~~	~~44~~
~~45~~	~~21.71~~	~~22.26~~	~~22.88~~	~~23.37~~	~~23.94~~	~~24.53~~	~~25.13~~	~~45~~
~~46~~	~~22.88~~	~~23.37~~	~~23.94~~	~~24.53~~	~~25.13~~	~~25.77~~	~~26.39~~	~~46~~
~~47~~	~~23.94~~	~~24.53~~	~~25.13~~	~~25.77~~	~~26.39~~	~~27.05~~	~~27.71~~	~~47~~
~~48~~	~~25.13~~	~~25.77~~	~~26.39~~	~~27.05~~	~~27.71~~	~~28.41~~	~~29.18~~	~~48~~
~~49~~	~~26.39~~	~~27.05~~	~~27.71~~	~~28.41~~	~~29.18~~	~~29.82~~	~~30.56~~	~~49~~
~~50~~	~~27.71~~	~~28.41~~	~~29.18~~	~~29.82~~	~~30.56~~	~~31.31~~	~~32.09~~	~~50~~
~~51~~	~~29.18~~	~~29.82~~	~~30.56~~	~~31.31~~	~~32.09~~	~~32.88~~	~~33.69~~	~~51~~
~~52~~	~~30.56~~	~~31.31~~	~~32.09~~	~~32.88~~	~~33.69~~	~~34.54~~	~~35.37~~	~~52~~
~~53~~	~~32.09~~	~~32.88~~	~~33.69~~	~~34.54~~	~~35.37~~	~~36.26~~	~~37.14~~	~~53~~
~~54~~	~~33.69~~	~~34.54~~	~~35.37~~	~~36.26~~	~~37.14~~	~~38.07~~	~~38.99~~	~~54~~
~~55~~	~~35.37~~	~~36.26~~	~~37.14~~	~~38.07~~	~~38.99~~	~~39.97~~	~~40.95~~	~~55~~
~~56~~	~~37.14~~	~~38.07~~	~~38.99~~	~~39.97~~	~~40.95~~	~~41.97~~	~~42.99~~	~~56~~
~~57~~	~~38.99~~	~~39.97~~	~~40.95~~	~~41.97~~	~~42.99~~	~~44.07~~	~~45.14~~	~~57~~
~~58~~	~~40.95~~	~~41.97~~	~~42.99~~	~~44.07~~	~~45.14~~	~~46.27~~	~~47.40~~	~~58~~
~~59~~	~~42.99~~	~~44.07~~	~~45.14~~	~~46.27~~	~~47.40~~	~~48.58~~	~~49.77~~	~~59~~
~~60~~	~~45.14~~	~~46.27~~	~~47.40~~	~~48.58~~	~~49.77~~	~~51.01~~	~~52.25~~	~~60~~

PAY GRADE SCHEDULE

GRADE	JOB EVALUATION POINTS			GRADE	JOB EVALUATION POINTS		
	Minimum	Mid-point	Maximum		Minimum	Mid-point	Maximum
A	93 or less	99	106	M	493	531	566
B	107	114	122	N	567	610	655
C	123	131	140	O	656	702	753
D	141	151	161	P	754	807	867
E	162	173	185	Q	868	928	997
F	186	200	213	R	998	1067	1146
G	214	229	245	S	1147	1227	1319
H	246	263	281	T	1320	1412	1516
I	282	303	325	U	1517	1623	1744
J	326	349	374	V	1745	1867	2006
K	375	401	430	W	2007	2147	2307
L	431	461	492	X	2308	2469	--

(b) ~~Each employee in classified service shall, separate and apart from the salary schedule established by subsection (a) hereof, receive two and one-half percent (2-1/2%) of his base salary for each ten thousand four hundred (10,400) hours of service with the state. No additional longevity credit shall be awarded after the twentieth year of service. For purposes of this subsection, employees of former community college districts which have become state colleges or state universities shall be credited with one (1) year's service with the state for each year's employment with a community college district regardless of the time of that employment.~~

~~(c)~~ It is hereby declared to be the intent of the legislature that ~~the advancement of~~ an employee ~~to steps providing an increased~~ may expect to advance in the salary ~~within each~~ range to the labor market average rate for the pay grade assigned to a classification. Advancement in pay shall be based solely on ~~merit~~ performance, including factors such as ~~increased~~ productivity, reliability, effectiveness, and the ability to achieve the goals and objectives of the particular position. No employee shall advance ~~to a higher step within a~~

~~pay-grade~~ in a salary range without ~~an-affirmative--certification--for such-purpose~~ performance evaluation by the employee's immediate supervisor, approved by the departmental director or the director's designee~~,-in-accordance-with-the-following-schedule-and-criteria:~~ certifying that the employee meets the performance criteria of the assigned position.

(i) ~~Step-A-in-the-salary-schedule-shall-normally-be-the-rate--at which-an-employee-is-paid-within-a-grade-when-originally-employed. However,--when--necessary-to-obtain-a-particularly-qualified-individual,-the-appointing-authority-may-make-an--initial--appointment at--a-higher-step-in-the-authorized-pay-grade.-These-advanced-step appointments-shall-be-accompanied-by-a-written-statement--containing--the--appointing-authority's-justification-for-the-higher-than normal-starting-rate.~~ When necessary to obtain qualified personnel in a particular classification, upon petition of the appointing authority to the commission containing acceptable reasons therefor, a higher temporary pay grade may be authorized by the commission which, if granted, shall be reviewed annually to determine the need for continuance.

(ii) Each employee's work performance shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each two thousand eighty (2,080) hours of credited state service thereafter by his or her immediate supervisor. Employees may be eligible for advancement ~~to--step--B--after--completion--of-one-thousand-forty (1,040)-hours-of-credited-state-service-at-step-A,--provided--that such--service--is--certified--as-meeting-the-merit-requirement-set forth-in-paragraph-(c)-above.-Effective-July--1,--1979,--employees may--advance--to--steps--G--through-M-only~~ in pay, if certified as meeting the ~~merit~~ performance requirements of paragraph (~~c~~b) above~~.--However~~; however, such in-grade advancement shall not be construed as a vested right. The department director shall designate, upon agreement with the employee, whether such in-grade advancement is temporary, conditional or permanent. It shall be the specific responsibility of the supervisor and the departmental director to effect the evaluation prescribed in paragraph (~~c~~b) above on an evaluation form approved by the commission for that purpose.

(iii) In addition to ~~merit~~ pay increases authorized in paragraph (ii) above, the department director may grant a classified employee holding permanent status a lump sum bonus not to exceed one thousand dollars ($1,000) in any given fiscal year based upon ~~an-affirmative-certification-of-meritorious-service~~ excellent performance as indicated by the performance evaluation as outlined in subsection (b) of this section. ~~The-department-director-shall--use a-performance-evaluation-as-justification-for-the-increase.~~ Exceptions to the one thousand dollar ($1,000) limit provided in this section may be granted if approved in advance by the state board of examiners.

SECTION 6. That Section 59-1603, Idaho Code, be, and the same is hereby amended to read as follows:

59-1603. CONFORMITY WITH CLASSIFIED POSITIONS. (1) To the extent possible, each nonclassified position in the executive department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications. Temporary employees and agricultural inspectors referred to in subsections (n) and (p) of section 67-5303, Idaho Code, shall not be entitled to sick leave accruals provided in section 59-1605, Idaho Code, vacation leave provided in section 59-1606, Idaho Code, nor holiday pay defined in subsection (12) of section 67-5302, Idaho Code, unless contributions are being made to the public employees retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the retirement board. Vacation and sick leave accruals, but not holiday pay, shall be awarded retroactively, if necessary, to the date such employees become eligible for retirement system membership. ~~Officers--and--employees-who-are-not-paid-from-the-salary schedule-established-in-section-67-5309C(a),-Idaho-Code,-are-not--eligible-for-the-longevity-factors-provided-by-section-67-5309C(b),-Idaho Code.~~

(2) To the extent possible, each nonclassified position in the legislative department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications. ~~Officers-and--employees--who--are not--paid-from-the-salary-schedule-established-in-section-67-5309C(a), Idaho-Code,-are-not-eligible-for-the--longevity--factors--provided--by section-67-5309C(b),-Idaho-Code.~~

(3) The supreme court shall determine the schedules of salary and compensation for all officers and employees of the judicial department which are not otherwise fixed by law. To the extent possible, the supreme court shall adopt schedules which are compatible with the state's accounting system. The judicial department may also maintain personnel records and files under such system as is ordered by the supreme court.

(4) The state board of education shall determine the schedules of salary and compensation, ~~longevity,~~ and prescribe policies for overtime and compensatory time off from duty, for all officers and employees of the state board of education who are not subject to the provisions of chapter 53, title 67, Idaho Code, and which are not otherwise fixed by law. To the extent possible, the state board of education shall adopt schedules and policies which are compatible with the state's accounting system. The state board of education may also maintain personnel records and files under a system of its own, if approved by the state auditor.

(5) Members of the legislature, the lieutenant governor, other officers whose salaries are fixed by law, and members of part-time boards, commissions and committees shall be paid according to law.

(6) Any schedule of salary and compensation, if not the schedule prescribed by section 67-5309C(a), Idaho Code, must be approved by the appointing authority and be communicated to the state auditor in writing at least thirty (30) days in advance of the effective date of the schedule.

(7) In addition to salary increases provided by any compensation schedule adopted pursuant to paragraph (6) of this section, nonclassified officers and employees, except those who are elected

officials or whose salaries are fixed by law, may be granted a lump sum bonus not to exceed one thousand dollars ($1,000) in any given fiscal year based upon an affirmative certification of meritorious service. Exceptions to the one thousand dollar ($1,000) limit provided in this section may be granted if approved in advance by the state board of examiners.

(8) Each appointing authority, including the elective offices in the executive department, the legislative department, the judicial department, and the state board of education and the board of regents, shall comply with all reporting requirements necessary to produce the list of employee positions prescribed by section 67-3519, Idaho Code.

(9) The adjutant general, with the approval of the governor, shall prescribe personnel policies for all officers and employees of the national guard which are not otherwise fixed by law. Such policies will include an employee grievance procedure with appeal to the adjutant general. The adjutant general shall determine schedules of salary and compensation which are, to the extent possible, comparable to the schedules used for federal civil service employees of the national guard and those employees serving in military status. Schedules adopted shall be compatible with the state's accounting system to the extent possible.

SECTION 7. That Section 59-1604, Idaho Code, be, and the same is hereby amended to read as follows:

59-1604. CREDITED STATE SERVICE. (1) For the purposes of payroll, vacation or annual leave, sick leave and other applicable purposes, credited state service shall be earned by:

(a) The elective officers of the executive department, except the lieutenant governor;

(b) Nonclassified officers and employees of any department, commission, division, agency or board of the executive department, except for part-time members of boards, commissions and committees;

(c) Officers and employees of the legislative department, except members of the house of representatives and the senate.

(2) One (1) hour of credited state service shall be earned by each eligible state officer or employee specified in subsection (1) above for each hour, or major fraction thereof, that the officer or employee receives pay, whether for hours worked or on approved leave. The state board of examiners shall adopt comparative tables and charts to compute credited state service on daily, weekly, bi-weekly, calendar month and annual periods.

(3) Members of the legislature, the lieutenant governor, and members of part-time boards, commissions and committees, shall not be eligible for annual leave or sick leave. Members of the legislature, the lieutenant governor, and members of part-time boards, commissions and committees shall, for retirement ~~and longevity~~ purposes only, be credited for each calendar month of service actually served, whether in session or not.

(4) Credited state service for those officers and employees identified by section 67-5303(i), Idaho Code, shall be as determined by the state board of education, except no such officer or employee shall

be credited with more than two thousand eighty (2080) hours during any twelve (12) month period.

Any policy and procedures determined by the state board of education must be communicated to the state auditor in writing at least one hundred eighty (180) days in advance of the effective date of the policy and procedures.

(5) Service for retirement purposes shall be as provided in chapter 13, title 59, Idaho Code, or in chapter 20, title 1, Idaho Code.

SECTION 8. This act shall be in full force and effect on and after June 5, 1994.

Approved March 30, 1994.

CHAPTER 273
(S.B. No. 1563)

AN ACT

RELATING TO RECHARGE OF GROUND WATER BASINS; AMENDING SECTION 42-4201, IDAHO CODE, TO PROVIDE THAT THE FEE REQUIRED FOR AN APPLICATION FOR A PERMIT TO APPROPRIATE WATER IS WAIVED FOR A TIME CERTAIN FOR RECHARGE PROJECTS FOR RECHARGE DISTRICTS FORMED UNDER THIS SECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-4201, Idaho Code, be, and the same is hereby amended to read as follows:

42-4201. JEROME, LINCOLN, GOODING AND TWIN FALLS COUNTIES -- PROJECT TO RECHARGE GROUND WATER BASINS -- DIRECTOR'S AUTHORITY TO ISSUE PERMIT -- LIMITATIONS. (1) The welfare of the people of the state of Idaho is dependent upon the conservation, development, augmentation and optimum use of the water resources of this state. The legislature deems it essential therefore that every effort be made to foster and encourage water projects designed to promote these objectives. The legislature hereby acknowledges that the proposed project to recharge ground water basins in Jerome, Lincoln and Gooding counties by means of the storage of unappropriated waters of the Snake River and its tributaries in underground lava beds within that vicinity represents a unique and innovative endeavor to further water conservation and increase the water available for beneficial use. The legislature approves this undertaking as a pilot effort to bring about maximum realization of our water resource potential and finds, in particular, that this project shall serve the interests of the public and advance the multiple use water policy of this state by:

(a) sustaining and increasing the flow of springs in the general vicinity of the Hagerman Valley;

(b) increasing the water available for withdrawal from ground water basins located in Jerome, Gooding and Lincoln counties;

(c) supplementing the supply of water available for irrigation

downstream from the Hagerman Valley;

(d) providing additional aquatic habitats for migratory fowl and wildlife; and

(e) increasing and sustaining the flow of the Snake River during the summer months and in times of drought when additional flow is needed for the generation of hydroelectric power and the maintenance of water recreation facilities.

(2) In view of the public betterment to be achieved by the completion of this water project, the legislature hereby declares that the appropriation and underground storage of water by the aquifer recharge district hereinafter created for purposes of ground water recharge shall constitute a beneficial use and hereby authorizes the department of water resources to issue to the aquifer recharge district a permit, pursuant to section 42-203, Idaho Code, for the appropriation and underground storage of the unappropriated waters of the Snake River in Jerome, Lincoln and Gooding counties and its tributaries in Gooding and Lincoln counties. The department of water resources is further authorized to issue to the aquifer recharge district a license confirming the right to appropriate such waters for the beneficial use herein established upon compliance by the district with the requirements specified in chapter 2, title 42, Idaho Code. The rights acquired by the aquifer recharge district pursuant to any permit and license obtained as herein authorized shall be secondary to all prior perfected water rights, including those held by any privately-owned electrical generating company to appropriate waters in the reaches of the Snake River downstream from the Milner diversion for purposes of hydroelectric power generation.

(3) The director of the department of water resources may regulate the amount of water which the aquifer recharge district may appropriate from the Snake River and may reduce such amount, even though there is sufficient water to supply the entire amount originally authorized, but only if the following conditions are met:

(a) the amount of water available for appropriation by the district at the time the reduction is sought exceeds two hundred thousand (200,000) acre feet per year and the reduction, if granted, will not operate to deplete that amount to less than two hundred thousand (200,000) acre feet per year;

(b) the persons or entities seeking the reduction propose to use the water for purposes of surface reservoir storage and appropriation by the district of the entire amount originally authorized will prevent or adversely affect accomplishment of those purposes;

(c) the persons or entities seeking the reduction present substantial and compelling evidence to show that the accomplishment of such purposes will be prevented or adversely affected and the director finds on the basis of such evidence that sufficient justification for the reduction exists.

Even if the foregoing conditions are satisfied and a reduction is granted, such a reduction shall remain in effect only so long as the amount of water available for appropriation by the district exceeds two hundred thousand (200,000) acre feet per year.

The provisions of this subsection shall not apply to appropriation of water by the district from the Big Wood River or the Little Wood River.

(4) To insure that other water rights are not injured by the operations of the aquifer recharge district, the director of the department of water resources shall have the authority to approve, disapprove, or require alterations in the methods employed by the district to achieve ground water recharge. In the event that the director determines that the district's methods of operation are adversely affecting existing water rights or are creating conditions adverse to the beneficial use of water under existing water rights, the director shall order the cessation of operations until such alterations as may be ordered by the director have been accomplished or such adverse effects otherwise have been corrected.

(5) The fee required for an application for a permit to appropriate water as provided in section 42-221, Idaho Code, is hereby waived from the effective date of this act until July 1, 1996, for recharge projects for recharge districts formed 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.

Approved March 30, 1994.

CHAPTER 274
(S.B. No. 1574)

AN ACT

RELATING TO RECHARGE OF GROUND WATER BASINS; AMENDING SECTION 42-4201A, IDAHO CODE, TO PROVIDE FOR ENCOURAGEMENT FOR PERSONS AND ENTITIES TO USE WATER IN A WAY THAT WILL AUGMENT GROUND WATER BASIN RECHARGE, TO PROVIDE THAT THE LEGISLATURE DECLARES THAT THE APPROPRIATION AND UNDERGROUND STORAGE OF WATER BY ANY PERSON, AQUIFER RECHARGE DISTRICT, IRRIGATION DISTRICT, CANAL COMPANY OR WATER DISTRICT ARE A BENEFICIAL USE, TO PROVIDE THE EFFECT OF CERTAIN WATER RIGHTS FOR POWER PURPOSES AND TO PROVIDE THAT THE DIRECTOR MAY REGULATE THE AMOUNT OF WATER WHICH MAY BE DIVERTED FOR RECHARGE PURPOSES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-4201A, Idaho Code, be, and the same is hereby amended to read as follows:

42-4201A. RECHARGE OF GROUND WATER BASINS -- DIRECTOR'S AUTHORITY TO ISSUE PERMIT ~~---LIMITATIONS~~. (1) The welfare of the people of the state of Idaho is dependent upon the conservation, development, augmentation and optimum use of the water resources of this state. The legislature deems it essential therefore that every effort be made to foster and encourage water projects ~~designed to promote these objectives~~ and water use that will augment ground water basin recharge. The legislature hereby acknowledges that certain water uses and proposed projects to recharge water basins in the state by means of the storage

of unappropriated waters of the public waters of the state in underground aquifers represents a unique and innovative endeavor to further water conservation and increase the water available for beneficial use.

(2) In view of the public betterment to be achieved by the completion of aquifer recharge projects, the legislature hereby declares that the appropriation and underground storage of water by ~~an aquifer recharge district hereinafter created and operated pursuant to the provisions of chapter 42, title 42, Idaho Code,~~ any person, aquifer recharge district, irrigation district, canal company or water district for purposes of ground water recharge ~~or by an irrigation district organized and operated pursuant to title 43, Idaho Code,~~ shall constitute a beneficial use and hereby authorizes the department of water resources to issue ~~to the aquifer recharge district, or the irrigation district,~~ a permit, pursuant to section 42-203, Idaho Code, for the appropriation and underground storage of the unappropriated waters of the state. The department of water resources is further authorized to issue ~~to an aquifer recharge district, or an irrigation district,~~ a license confirming the right to appropriate such waters for the beneficial use herein established upon compliance ~~by the district~~ with the requirements specified in chapter 2, title 42, Idaho Code. The rights acquired ~~by an aquifer recharge district, or an irrigation district,~~ pursuant to any permit and license obtained as herein authorized shall be secondary to all prior perfected water rights, including those ~~held by any privately owned electrical generating company to appropriate waters in the reaches downstream from a recharge project diversion for purposes of hydroelectric power generation~~ water rights for power purposes that may otherwise be subordinated by contract entered into by the governor and Idaho power company on October 25, 1984, and ratified by the legislature pursuant to section 42-203B, Idaho Code.

(3) The director of the department of water resources may regulate the amount of water which ~~an aquifer recharge district, or an irrigation district,~~ may ~~divert~~ be diverted for recharge purposes and may reduce such amount, even though there is sufficient water to supply the entire amount originally authorized by permit or license. To facilitate necessary financing of an aquifer recharge project, the director may fix a term of years in the permit or license during which the amount of water authorized to be diverted shall not be reduced by the director under the provisions of this subsection.

(4) To insure that other water rights are not injured by the operations of an aquifer recharge project, the director of the department of water resources shall have the authority to approve, disapprove, or require alterations in the methods employed ~~by a district~~ to achieve ground water recharge. In the event that the director determines that the ~~district's~~ methods of operation are adversely affecting existing water rights or are creating conditions adverse to the beneficial use of water under existing water rights, the director shall order the cessation of operations until such alterations as may be ordered by the director have been accomplished or such adverse effects otherwise have been corrected.

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

Approved March 30, 1994.

CHAPTER 275
(H.B. No. 886)

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING CHAPTER 28, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2872, IDAHO CODE, TO PROVIDE HEALTH CARE PROVIDER CONTRACTS WITH QUALIFIED HEALTH CARE PROVIDERS, TO PROVIDE A GRIEVANCE SYSTEM AND TO PROVIDE APPLICATION; AMENDING SECTION 41-3408, IDAHO CODE, TO PROVIDE GROUNDS FOR REFUSING TO CONTRACT AND TO PROVIDE A GRIEVANCE PROCEDURE; AMENDING CHAPTER 39, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3937, IDAHO CODE, TO PROVIDE HEALTH CARE PROVIDER CONTRACTS WITH QUALIFIED HEALTH CARE PROVIDERS, TO PROVIDE A GRIEVANCE SYSTEM AND TO PROVIDE APPLICATION.

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

SECTION 1. That Chapter 28, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-2872, Idaho Code, and to read as follows:

41-2872. HEALTH CARE PROVIDER CONTRACTS -- GRIEVANCE PROCEDURE. (1) Any stock or mutual insurer (hereinafter insurance company) issuing benefits pursuant to the provisions of this chapter shall be ready and willing at all times to enter into health care provider service contracts with all qualified health care providers of the category or categories which are necessary to provide the health care services covered by the insurance company's policy of insurance if such health care providers: are qualified under the laws of the state of Idaho, desire to become participant health care providers of the insurance company, meet the requirements of the insurance company, and practice within the general area served by the insurance company.

(2) Nothing in this section shall preclude an insurance company from refusing to contract with a health care provider who is unqualified or who does not meet the terms and conditions of the participating provider contract of the insurance company or from terminating or refusing to renew the contract of a participating health care provider who is unqualified or who does not comply with, or who refuses to comply with, the terms and conditions of the participating health care provider contract including, but not limited to, practice standards and quality requirements. The contract shall provide for written notice to the participating health care provider setting forth any breach of contract for which the insurance company proposes that the contract be terminated or not renewed and shall provide for a reason-

able period of time for the participating health care provider to cure such breach prior to termination or nonrenewal. If the breach has not been cured within such period of time the contract may be terminated or not renewed. Provided however, that if the breach of contract for which the insurance company proposes that the contract be terminated or not renewed is a willful breach, fraud or a breach which poses an immediate danger to the public health or safety, the contract may be terminated or not renewed immediately.

(3) Every insurance company issuing benefits pursuant to this chapter shall establish a grievance system for health care providers. Such grievance system shall provide for arbitration according to chapter 9, title 7, Idaho Code, or for such other system which provides reasonable due process provisions for the resolution of grievances and the protection of the rights of the parties.

(4) Subsections (1) and (2) of this section shall apply to health care provider participation contracts entered into after July 1, 1994.

SECTION 2. That Section 41-3408, Idaho Code, be, and the same is hereby amended to read as follows:

41-3408. QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY. The director shall not issue or permit to exist a certificate of authority to be or act as a service corporation, as to any corporation not fulfilling the following qualifications:

(1) Must be incorporated as provided in section 41-3406, Idaho Code, as a professional service corporation, or as a hospital service corporation, or as a combined professional and hospital service corporation.

(2) Must intend to and actually conduct its business in good faith as a nonprofit corporation.

(3) If a hospital service corporation, it must have in force at all times while so authorized, service agreements with participant hospitals located in the areas of the subscribers' residences, convenient as to location and sufficient as to capacity and facilities reasonably to furnish the hospital services provided or proposed to be provided by the corporation to its subscribers.

(4) If a professional service corporation, it must have in force service agreements with participant licensees located in the areas of the subscribers' residences convenient as to location and sufficient in numbers, capacity and facilities reasonably to furnish respective categories of health care services then provided or proposed to be provided by the corporation to its subscribers. Said professional service corporation shall be ready and willing at all times to enter into service agreements with all licensees of the category or categories specified in its articles of incorporation who are qualified under the laws of the state of Idaho and who desire to become participant licensees of said corporation and who practice within the general area served by said professional service corporation.

(5) If a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated cost of acquisition of new business and operating expenses, other than payment for hospital or professional services, for a period of not less than the six (6) months next following the date of issuance of the certifi-

cate of authority, if issued.

(6) Nothing in this section shall preclude a service corporation from refusing to contract with a health care licensee who is unqualified or who does not meet the terms and conditions of the participating licensee contract of the service corporation or from terminating or refusing to renew the contract of a participating health care licensee who is unqualified or who does not comply with, or who refuses to comply with, the terms and conditions of the participating health care licensee contract including, but not limited to, practice standards and quality requirements. The contract shall provide for written notice to the participating health care licensee setting forth any breach of contract for which the service corporation proposes that the contract be terminated or not renewed and shall provide for a reasonable period of time for the participating health care licensee to cure such breach prior to termination or nonrenewal. If the breach has not been cured within such period of time the contract may be terminated or not renewed. Provided however, that if the breach of contract for which the service corporation proposes that the contract be terminated or not renewed is a willful breach, fraud or a breach which poses an immediate danger to the public health or safety, the contract may be terminated or not renewed immediately.

(7) Every service corporation issuing benefits pursuant to this chapter shall establish a grievance system for licensees. Such grievance system shall provide for arbitration according to chapter 9, title 7, Idaho Code, or for such other system which provides reasonable due process provisions for the resolution of grievances and the protection of the rights of the parties.

(8) Must fulfill all other applicable requirements of this chapter.

SECTION 3. That Chapter 39, 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 41-3937, Idaho Code, and to read as follows:

41-3937. HEALTH CARE PROVIDER CONTRACTS -- GRIEVANCE PROCEDURE. (1) Any organization issuing benefits pursuant to the provisions of this chapter shall be ready and willing at all times to enter into care provider service agreements with all qualified providers of the category or categories which are necessary to provide the health care services covered by an organization if the health care providers: are qualified under the laws of the state of Idaho, desire to become participant providers of the organization, meet the requirements of the organization, and practice within the general area served by the organization.

(2) Nothing in this section shall preclude an organization from refusing to contract with a provider who is unqualified or who does not meet the terms and conditions of the organization's participating provider contract or from terminating or refusing to renew the contract of a health care provider who is unqualified or who does not comply with, or who refuses to comply with, the terms and conditions of the participating provider contract including, but not limited to, practice standards and quality requirements. The contract shall pro-

vide for written notice to the participating health care provider setting forth any breach of contract for which the organization proposes that the contract be terminated or not renewed and shall provide for a reasonable period of time for the participating health care provider to cure such breach prior to termination or nonrenewal. If the breach has not been cured within such period of time the contract may be terminated or not renewed. Provided however, that if the breach of contract for which the organization proposes that the contract be terminated or not renewed is a willful breach, fraud or a breach which poses an immediate danger to the public health or safety, the contract may be terminated or not renewed immediately.

(3) Every organization issuing benefits pursuant to this chapter shall establish a grievance system for providers. Such grievance system shall provide for arbitration according to chapter 9, title 7, Idaho Code, or for such other system which provides reasonable due process provisions for the resolution of grievances and the protection of the rights of the parties.

(4) Subsections (1) and (2) of this section shall apply to provider participation contracts entered into after July 1, 1994.

Law without signature.

CHAPTER 276
(H.B. No. 896)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO ELIMINATE THE OCTOBER 1, 1995, ADJUSTMENTS IN COMPUTATION OF CALENDAR MONTHS; REPEALING SECTION 59-1309, IDAHO CODE; AMENDING SECTION 59-1342, IDAHO CODE, TO ELIMINATE THE OCTOBER 1, 1995, ADJUSTMENTS IN COMPUTATION OF SERVICE RETIREMENT ALLOWANCES; AND AMENDING SECTION 59-1346, IDAHO CODE, TO ELIMINATE THE OCTOBER 1, 1995, ADJUSTMENTS IN COMPUTATION OF EARLY RETIREMENT ALLOWANCES.

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 secu-

rity for that same service.

(3) "Accumulated contributions" mean the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" mean such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to regulations adopted by the retirement board.

(5B) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

(i) The highest average salary; and

(ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

A. Military service;

B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and

C. Workers' compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42). ~~Effective October 1, 1995, the consecutive calendar months shall be thirty-six (36).~~

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) That the member will remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and nonmedical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer; or

(b) Elected officials or appointed officials of an employer who receive a salary; or

(c) A person who is separated from service with less than five (5) months of employment and who is reemployed or reinstated by the same employer within thirty (30) days.

(B) "Employee" does not include:

(a) Persons rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) Workers whose employment with any employer does not total five (5) consecutive months; or

(c) Persons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons; or

(d) Inmates of a state institution or persons enrolled full time in a state institution principally for purposes of training, whether or not receiving compensation for services performed for the institution; or

(e) Persons making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that those persons who receive separate remuneration for work currently performed for an employer and the United States government may elect to be members of the retirement system in accordance with rules of the board.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, and military service which occurs after the commencement of such contributions.

(23) "Military service" means active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United

States code. Provided, however, for the purposes of this chapter, military service SHALL NOT include:

(a) any period ended by dishonorable discharge or during which termination of such service is available but not accepted;

(b) any period which commences more than ninety (90) days after the person ceases to be an employee or ends more than ninety (90) days before the person again becomes an employee unless such ninety (90) day requirements are waived by the board due to circumstances beyond the employee's control; or

(c) any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) "Salary" means the total salary or wages paid to a person who meets the definition of employee by an employer for personal services currently performed, including the cash value of all remuneration in any medium other than cash in the amount reported by the employer for income tax purposes and also including the amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. Service of fifteen (15) days or more during any calendar month shall be credited as one (1) month of service. Service of fourteen (14) days or less during any calendar month shall

not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested retirement allowance" means the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. That Section 59-1309, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 59-1342, Idaho Code, be, and the same is hereby amended to read as follows:

59-1342. COMPUTATION OF SERVICE RETIREMENT ALLOWANCES -- MINIMUM BENEFITS. (1) The annual amount of accrued retirement allowance for each month of credited service for which a member was not classified as a police member or firefighter shall equal one and two-thirds per cent (1 2/3%) of the member's average monthly salary. Effective October 1, 1992, the annual amount of accrued retirement allowance for all service for which a member was not classified as a police member or firefighter shall equal one and seventy-five hundredths per cent (1.75%) of the member's average monthly salary; effective October 1, 1993, the annual amount of accrued retirement allowance shall equal one and eight hundred thirty-three thousandths per cent (1.833%) of the member's average monthly salary; <u>and</u> effective October 1, 1994, the annual amount of accrued retirement allowance shall equal one and nine hundred seventeen thousandths per cent (1.917%) of the member's average monthly salary~~;--and--effective--October-1,-1995,-the-annual amount-of-accrued-retirement-allowance-shall-equal-two-per--cent--(2%) of--the--member's--average--monthly--salary~~. Entitlement to an annual amount of accrued retirement allowance shall not vest until the effective date of that annual amount of accrued retirement allowance. The retirement benefits shall be calculated on the amounts, terms and conditions in effect on the date of the final contribution by the member. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) the member's accrued retirement allowance; or

(b) five dollars ($5.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1355, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(2) The annual amount of accrued retirement allowance for each month of credited service for which a member was classified as a police member or firefighter shall equal two per cent (2%) of the member's average monthly salary. Effective October 1, 1992, the annual amount of accrued retirement allowance for all service for which a member was classified as a police member or firefighter shall equal two and seventy-five thousandths per cent (2.075%) of the member's

average monthly salary; effective October 1, 1993, the annual amount of accrued retirement allowance shall equal two and one hundred fifty hundredths per cent (2.15%) of the member's average monthly salary; and effective October 1, 1994, the annual amount of accrued retirement allowance shall equal two and two hundred twenty-five thousandths per cent (2.225%) of the member's average monthly salary~~;--and-effective October-1,-1995,-the-annual-amount--of--accrued--retirement--allowance shall-equal-two-and-three-tenths-per-cent-(2.3%)-of-the-member's-average--monthly--salary~~. Entitlement to an annual amount of accrued retirement allowance shall not vest until the effective date of that annual amount of accrued retirement allowance. The retirement benefits shall be calculated on the amounts, terms and conditions in effect on the date of the final contribution by the member. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) the member's accrued retirement allowance; or

(b) six dollars ($6.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1355, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(3) Provisions of this section shall be applicable to members and contingent annuitants of the employee system and to members, annuitants and beneficiaries of the teachers and city systems. In any recomputation of an initial retirement allowance for a person not making a final contribution subsequent to 1974, the bridging factor referred to in subsections (1) and (2) shall be 1.000. Any recomputed retirement allowance shall be payable only prospectively from July 1, 1974.

(4) Benefits payable to a person who became a member prior to July 1, 1974, or to the member's beneficiaries shall never be less than they would have received under this chapter as in effect on June 30, 1974; provided, however, that the member shall have accrued the amount of accumulated contributions required thereby prior to payment of an initial retirement allowance.

(5) If the majority of a member's credited service is as an elected official or as an appointed official, except as a member of the Idaho legislature, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer twenty (20) hours per week or more during the term of office, and that member's initial service retirement allowance for service credited only during that period would be computed under subsection (1)(b) and/or (2)(b) of this section, without consideration of any other credited service, then it will be so computed for that period of service. The initial service retirement allowance of members of the Idaho legislature will be computed under subsection (1) and/or (2) of this section, on the basis of their total months of credited service.

If that member has credited service from any other employment, the accrued service retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

(6) In no case, however, will a member's initial service retire-

ment benefit be equal to more than the member's accrued benefit as of May 1, 1990, or one hundred per cent (100%) of the member's average compensation for the three (3) consecutive years of employment which produce the greatest aggregate compensation, whichever is greater. If the benefit is calculated to exceed one hundred per cent (100%) of the member's average compensation, the member shall be eligible for and may choose either:

(a) an annual service retirement allowance equal to the member's average annual compensation for the three (3) consecutive years of employment which produced the greatest aggregate compensation; or

(b) a separation benefit.

(7) The annual amount of initial service retirement allowance of a member who is over age seventy (70) on the effective date of the member's retirement shall be a percentage of the member's initial service retirement allowance. Such percentage shall be one hundred per cent (100%) increased as determined by the board to compensate for each month that the member's retirement is deferred beyond age seventy (70).

SECTION 4. That Section 59-1346, Idaho Code, be, and the same is hereby amended to read as follows:

59-1346. COMPUTATION OF EARLY RETIREMENT ALLOWANCES. (1) The annual amount of initial early retirement allowance of a member shall be a percentage of the member's accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than the sum indicated below. Otherwise, such percentage shall be one hundred percent (100%) reduced by one-fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date the member would be eligible to receive full accrued benefit without additional credited service, and further reduced by two-thirds of one percent (.6667%) for each additional month. Effective October 1, 1992, the further reduction for each additional month shall equal six thousand and forty-two ten-thousandths of one percent (.6042%) of the member's average monthly salary; effective October 1, 1993, the further reduction for each additional month shall equal five thousand four hundred and seventeen ten-thousandths of one percent (.5417%) of the member's average monthly salary; <u>and</u> effective October 1, 1994, the further reduction for each additional month shall equal four thousand seven hundred and ninety-two ten-thousandths of one percent (.4792%) of the member's average monthly salary~~;--and--effective-October-1,-1995,-the-further reduction-for-each-additional-month-shall-equal-four-thousand-one-hundred-and-sixty-seven-ten-thousandths-of-one-percent--(.4167%)--of--the member's--average--monthly-salary~~. Entitlement to an annual amount of accrued retirement allowance shall not vest until the effective date of that annual amount of accrued retirement allowance. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

If a member's service retirement ratio as defined by section 59-1341, Idaho Code, is:	Then the sum of the member's credited service and age must equal to or greater than:
0.000 to 0.050	90
0.051 to 0.150	89
0.151 to 0.250	88
0.251 to 0.350	87
0.351 to 0.450	86
0.451 to 0.550	85
0.551 to 0.650	84
0.651 to 0.750	83
0.751 to 0.850	82
0.851 to 0.950	81
0.951 to 1.000	80.

(2) If the majority of a member's credited service is as an elected official or as an appointed official, except as a member of the Idaho legislature, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer twenty (20) hours per week or more during the term of office, that member's accrued retirement allowance for service credited only during that period shall be computed from an average monthly salary for salary received during that period of such employment only. The initial service retirement allowance of members of the Idaho legislature will be computed under the provisions of this section, on the basis of their total months of credited service.

(3) If that member has credited service from any other employment, the accrued retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

Approved March 31, 1994.

CHAPTER 277
(H.B. No. 877, As Amended)

AN ACT

RELATING TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION; AMENDING SECTIONS 34-613 AND 67-1501, IDAHO CODE, TO REVISE THE EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS OF CANDIDATES FOR THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-613, Idaho Code, be, and the same is hereby amended to read as follows:

34-613. ELECTION OF SUPERINTENDENT OF PUBLIC INSTRUCTION -- QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a superintendent of public instruction shall be

elected.

(2) No person shall be elected to the office of superintendent of public instruction unless he shall have attained the age of twenty-five (25) years at the time of his election~~;~~, is a citizen of the United States,~~; holds a valid Idaho administrator's certificate; is a graduate of~~ has a bachelor's degree from an ~~approved~~ accredited college or university, ~~as determined by the state board of education; is actively engaged in educational work in the state public schools or in the state educational institutions~~ and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state. Each declaration shall have attached thereto a petition which shall contain the signatures of one thousand (1000) qualified electors.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of one hundred dollars ($100) which shall be deposited in the general fund.

SECTION 2. That Section 67-1501, Idaho Code, be, and the same is hereby amended to read as follows:

67-1501. ELECTION, QUALIFICATIONS, OATH AND BOND. There shall be elected at the general election, 1974, and every four (4) years thereafter, by the qualified electors of the state, a state superintendent of public instruction, who shall reside at the seat of government, and shall perform such duties as are prescribed by the constitution and laws of the state. ~~No person shall be a candidate for the office of state superintendent who does not hold a valid Idaho administrator's certificate, and who is not at the time of nomination a graduate of an approved college, or university as determined by the state board of education, and is also actively engaged in educational work in the state public schools or in the state educational institutions.~~ Before entering upon the duties of his office, the state superintendent of public instruction shall take and subscribe to the oath prescribed by the constitution. The state superintendent of public instruction shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code. Said oath shall be deposited with the secretary of state.

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

Approved March 31, 1994.

CHAPTER 278
(S.B. No. 1325, As Amended)

AN ACT

RELATING TO SPECIAL LICENSE PLATES FOR RADIO AMATEURS; AMENDING SECTION 49-405, IDAHO CODE, TO PROVIDE THE PURPOSE FOR SPECIAL

LICENSE PLATES FOR RADIO AMATEURS AND TO PROVIDE FOR PAYMENT OF A PLATE FEE.

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

SECTION 1. That Section 49-405, Idaho Code, be, and the same is hereby amended to read as follows:

49-405. RADIO AMATEURS -- SPECIAL LICENSE PLATES. (1) In order to enhance visibility and identification of radio amateurs during times of emergency a~~A~~ny radio amateur residing in the state of Idaho, may, upon application to the department, register one (1) motor vehicle per radio license issued by the federal government and receive for that vehicle special license plates in lieu of regular license plates. The number on the plates shall be the same combination of figures and letters that make up the radio call sign of the amateur radio operator.

(2) Proof of holding an amateur license from the federal communications commission must be furnished to the department before the plates will be issued. Should the amateur's radio license expire during any given year and not be renewed, the special license plates must be surrendered to the department and regular license plates obtained.

(3) Radio amateurs will notify the department at a time to be set by the department of their intention to procure special license plates under the terms specified in this section. Failure to do so will result in the amateur being required to accept regular license plates should the department be unable to procure the special plates. Special plates may still be procured when available but amateurs will be subject to the usual transfer fee.

(4) Whenever an amateur transfers or assigns his title or interest to a vehicle especially registered the registration shall expire, but the amateur may hold his special license plates which he may have reissued to him upon the payment of the required transfer fees. He may only display the plates after receipt of new registration from the department.

(5) In addition to the regular registration fee required in section 49-402(1), Idaho Code, the applicant shall pay the ~~initial program fee and the annual program fee specified in section 49-402(9), Idaho Code~~ plate fee specified in section 49-450, Idaho Code.

Approved March 31, 1994.

CHAPTER 279
(S.B. No. 1385)

AN ACT

RELATING TO TELEVISION TRANSLATOR DISTRICTS; AMENDING SECTION 31-4112, IDAHO CODE, TO PROVIDE THAT THE ASSESSMENT LEVIED AGAINST PROPERTY OWNERS IN THE DISTRICT SHALL NOT EXCEED THIRTY DOLLARS PER ANNUM PER SERVICE UNIT.

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

SECTION 1. That Section 31-4112, Idaho Code, be, and the same is hereby amended to read as follows:

31-4112. BUDGET — SPECIAL ASSESSMENT. The board of trustees shall, from the list prepared by the county assessor or assessors, remove therefrom the names of any persons and their property who have claimed exemption under this act and shall prepare a budget for the expenses for the next year, the budget together with the list of real property owners within the district and the number of service units located on each parcel of real property subject to the special assessment after all exemptions have been allowed as provided in this act shall be presented by September first to the board or boards of county commissioners of the counties, in whole or in part within the district, who shall levy the assessment on service units found within their county as requested by the trustees; provided however, the assessment shall not exceed the sum of ~~fifteen~~ thirty dollars ($~~15~~30.00) per annum per service unit and in the event there is more than one (1) service unit located upon the parcel of real property, for example, but not limited to, a motel, hotel, or apartment structure or complex, the second and all subsequent service units' assessments shall be at the rate of twenty per cent (20%) of the assessment made for that year on the first service unit assessed. The board of county commissioners shall levy the assessment in accordance with the request herein mentioned and the assessment shall be certified and collected in the same manner provided by law for the collection of real property taxes.

Approved March 31, 1994.

CHAPTER 280
(S.B. No. 1463, As Amended)

AN ACT

RELATING TO LOCAL HIGHWAY ADMINISTRATION; AMENDING SECTION 40-113, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 40-317, IDAHO CODE, TO DELETE REQUIREMENTS OF THE STATE TRANSPORTATION BOARD TO APPOINT A LOCAL HIGHWAY NEEDS ASSESSMENT COUNCIL; AMENDING SECTION 40-709, IDAHO CODE, TO PROVIDE A DISTRIBUTION OF FUNDS TO THE LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL; AMENDING CHAPTER 7, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-717, IDAHO CODE, TO CREATE THE LOCAL HIGHWAY TECHNICAL ASSISTANCE ACCOUNT AND PROVIDE ADMINISTRATION; AMENDING TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 24, TITLE 40, IDAHO CODE, TO CREATE THE LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL, TO PROVIDE ORGANIZATION OF THE COUNCIL AND PERSONNEL, TO PROVIDE AUTHORITY OF THE COUNCIL, TO PROVIDE A FISCAL YEAR FOR THE COUNCIL AND TO PROVIDE FISCAL AUDITS; AMENDING SECTION 63-2412, IDAHO CODE, TO AMEND DISTRIBUTION OF REVENUE; REPEALING SECTION 40-716, IDAHO CODE; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 40-113, Idaho Code, be, and the same is hereby amended to read as follows:

40-113. DEFINITIONS -- L.

(1) "Lawfully maintained" means a sign maintained on private land in accordance with state law and with the consent or acquiescence of the owner, or his agent, of the property upon which the sign is located.

(2) "Local highway technical assistance council" means the public agency created in chapter 24, title 40, Idaho Code.

(3) "Local highway jurisdiction" means a county with jurisdiction over a highway system, a city with jurisdiction over a highway system, or a highway district.

SECTION 2. That Section 40-317, Idaho Code, be, and the same is hereby amended to read as follows:

40-317. POWERS AND DUTIES -- COOPERATIVE EFFORTS. The board may:

(1) Cooperate with, and receive and expend aid and donations from the federal government for transportation purposes, and receive and expend donations from other sources for the construction and improvement of any state highway or transportation project or any project on the federal-aid primary or secondary systems or on the interstate system, including extensions of them within urban areas; and, when authorized or directed by any act of congress or any rule or regulation of any agency of the federal government, expend funds donated or granted to the state of Idaho by the federal government for that purpose, upon highways and bridges not in the state highway system.

(2) Contract jointly with counties, cities, and highway districts for the improvement and construction of state highways.

(3) Cooperate with the federal government, counties, highway districts, and cities for construction, improvement, and maintenance of secondary or feeder highways not in the state highway system.

(4) Cooperate financially or otherwise with any other state or any county or city of any other state, or with any foreign country or any province or district of any foreign country, or with the government of the United States or its agencies, or private agencies or persons, for the erecting, construction, reconstructing, and maintaining of any bridge, trestle, or other structure for the continuation or connection of any state highway across any stream, body of water, gulch, navigable water, swamp or other topographical formation requiring any such structure and forming a boundary between the state of Idaho and any other state or foreign country, and for the purchase or condemnation or other acquisition of right-of-way.

(5) Serve as the state's representative in the designation of forest highways within the state.

(6) Negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees and taxes which may be required by law, rule and regulation. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for

vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size and weight laws, rules or regulations of the respective states. As to the provisions of title 63, chapter 30, Idaho Code, the state tax commission is hereby authorized to enter into reciprocal agreements with other states concerning the exemption of, or taxation of, persons employed by the state of Idaho or of another state in jointly operated ports of entry. As used is this section, "jointly operated ports of entry" shall mean any state operated facility located within or without this state that employs persons that are direct employees of the state of Idaho and of another state which operates for the mutual benefit of both states.

(7) Enter into all contracts and agreements with the United States government in the name of the state of Idaho, relating to the survey, construction and maintenance of roads, under the provisions of any act of congress including county and city highways, and submit a program of construction and maintenance as may be required by the United States government or any of its agencies, and do all other things necessary to cooperate and complete those programs.

~~(8) Appoint a permanent local highway needs assessment council, consisting of eight (8) members equally representing the cities, counties, highway districts and the department. The appointments shall be made considering recommendations from the respective associations. Length of appointment shall be determined by the board in consultation with the local associations.~~

SECTION 3. That Section 40-709, Idaho Code, be, and the same is hereby amended to read as follows:

40-709. APPORTIONMENT OF FUNDS FROM HIGHWAY DISTRIBUTION ACCOUNT TO LOCAL UNITS OF GOVERNMENT. Commencing July 1, 1994, and each fiscal year thereafter, fFrom the moneys appropriated from the highway distribution account to local units of government, the sum of two hundred fifty thousand dollars ($250,000) is appropriated to the local highway technical assistance council, and the balance of the appropriation shall be distributed as follows:

(1) Thirty per cent (30%) shall be apportioned among incorporated and specially chartered cities, in the same proportion as the population of the incorporated or specially chartered city bears to the total population of all the incorporated or specially chartered cities as shown by the last regular or special federal census.

(2) The remainder shall be apportioned:

(a) Ten per cent (10%) shall be divided equally among all counties of the state.

(b) Forty-five per cent (45%) shall be divided among the counties of the state in the proportion that the amount collected from motor vehicle registrations in each county during the last calendar year bears to the total amount of those collections in all counties in the state.

(c) Forty-five per cent (45%) shall be divided among the counties of the state in the proportion that the number of miles of improved highways in the county highway system of each county bears to the total number of miles of improved highways in the county highway systems of all counties in the state. The director

is directed to certify to the state auditor, on or before January 1 of each year, the number of miles of improved highways in each county.

(3) Moneys paid to counties with highway districts shall be further distributed by the state as follows:

(a) Ten per cent (10%) shall be divided equally among the county, if the county maintains any highways, and the highway districts;

(b) Forty-five per cent (45%) shall be divided among the county, if the county maintains any highways, and the highway districts of the county in the proportion that the amount collected from motor vehicle registrations in each area designated during the last calendar year bears to the total amount of those collections in the entire county;

(c) Forty-five per cent (45%) shall be divided among the county, if the county maintains any highways, and the highway districts in the proportion that the number of miles of improved highways in the county and the highway districts bear to the total number of miles of improved highways in the entire county highway system.

(4) The state auditor shall ascertain the sums set for the apportionment and remit to the local governments their share of the amount computed. The apportionment hereby made shall be remitted to the local governments not later than January 25, April 25, July 25, and October 25 of each year.

(5) Moneys paid to incorporated or specially chartered cities shall be expended by the governing bodies of those cities solely in the construction and maintenance of highways within their corporate limits and to meet the interest and sinking fund requirements for the current year on any unpaid bonds issued by those cities for highway and bridge purposes, or refunding bonds issued to take up those bonds.

(6) Each highway district receiving an apportionment from the highway distribution account shall apportion those funds as follows: To the interest and sinking fund of the district, an amount as may be necessary to meet the interest and sinking fund requirements for that year on any unpaid bonds issued by that district, and any balance of those funds shall be used for highway and bridge maintenance and construction. Each district may expend all or any portion of the balance of those funds in the construction and maintenance of state highways within the district.

(7) No part of highway funds or any apportionment from it shall ever be used for any purposes other than those provided in this section, except as specifically otherwise provided. At the end of any fiscal year an unexpended balance of highway funds shall be carried forward and retained and subsequently applied to the maintenance and construction of highways or the payment of bond interest and principal and sinking fund requirements.

SECTION 4. That Chapter 7, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-717, Idaho Code, and to read as follows:

40-717. ESTABLISHMENT OF A LOCAL HIGHWAY TECHNICAL ASSISTANCE ACCOUNT -- ADMINISTRATION. (1) There is established in the dedicated

fund of the state treasury an account to be known as the "Local Technical Assistance Account."

(2) The local highway technical assistance council is charged with the sole and exclusive administration of the account and shall follow federal guidelines in providing technical assistance to local highway jurisdictions which are funded in part with federal funds.

(3) Interest earned on the investment of idle moneys in the local highway technical assessment account shall be paid to the local highway technical assistance account.

SECTION 5. That Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 24, Title 40, Idaho Code, and to read as follows:

CHAPTER 24
LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL

40-2401. LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL. (1) A local highway technical assistance council is hereby created. The council shall be a public agency, and is the instrumentality of its member jurisdictions. The council and its officers and employees shall not be subject to the administrative or management control of the Idaho transportation department.

(2) The council shall consist of nine (9) members, three (3) each to be appointed by the association of Idaho cities, Idaho association of counties, and the Idaho association of highway districts. Council members shall serve at the pleasure of the appointing authority. The first members shall be appointed by not later than August 1, 1994, and the first meeting of the council shall be on August 1, 1994.

(3) Members of the council shall be entitled to compensation for services and expenses as provided in section 59-509(h), Idaho Code, if not otherwise compensated by the appointing authority. Compensation and reimbursement shall be made from the local highway technical assistance account established in section 40-717, Idaho Code.

40-2402. COUNCIL ORGANIZATION -- PERSONNEL. (1) The offices of the council shall be maintained at Boise, Idaho, and the members shall meet and organize as soon as all appointments have been made, or as provided in section 40-2401, Idaho Code. At the initial meeting, and each year thereafter, the members shall, by a majority vote of the total membership, elect a chairman and a vice chairman.

(2) The council shall meet quarterly for regular business sessions, and at such other times at the call of the chairman, or at the request of any three (3) members.

(3) The council may appoint a local highway administrator and fix his compensation, and the administrator shall hold office at the pleasure of the council. The administrator shall serve as secretary and executive officer of the council and carry out such duties as are delegated by the council. The council may employ other personnel, prescribe duties, and fix compensation.

40-2403. AUTHORITY OF THE COUNCIL. The council shall have the authority to:

(1) Represent its member jurisdictions in conferences, meetings and hearings related to highways, roads and streets and other transportation factors affecting local highway jurisdictions;

(2) Develop uniform standards and procedures that may be recommended to its member jurisdictions for the construction, maintenance, use, operation and administration of local highways;

(3) Cooperate with and receive and expend aid and donations from the federal or state governments, and from other sources for the administration and operation of the council;

(4) Make recommendations to the Idaho transportation board for the distribution and prioritization of federal funds for local highway projects;

(5) Assist the legislature by providing research and data relating to transportation matters affecting local highway jurisdictions within the state;

(6) Maintain and disseminate information to local highway jurisdictions of federal and state legislation and administrative rules and regulations affecting local highway jurisdictions;

(7) Maintain and disseminate information to local highway jurisdictions of activities relating to ground transportation in other states;

(8) When authorized by the participating local jurisdiction, to act for that local jurisdiction through a joint exercise of powers agreement with any other local jurisdiction, and any agency of the state of Idaho, or any agency of the federal government;

(9) Buy, sell, receive and exchange property, both real and personal, as necessary to perform its functions;

(10) Be the sole and exclusive authority for the expenditure of the moneys made available by appropriation or otherwise to the council.

40-2404. COUNCIL FISCAL YEAR -- ANNUAL REPORT. The fiscal year for the local highway technical assistance council shall be July 1 through June 30. On an annual basis, the council shall issue a report outlining its activities for the previous year, including a financial statement. Copies of the report shall be provided to the members of the transportation committees of the legislature.

40-2405. FISCAL AUDITS. The council shall perform fiscal audits in accordance with the provisions of section 67-450B, 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. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-2405, Idaho Code, 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 one hundred fifty thousand dollars ($150,000) 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 fifty thousand dollars ($50,000) 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) ~~As--soon--as--possible-after-the-beginning-of-the-fiscal-year 1987,-the-sum-of-fifty-thousand-dollars-($50,000)--shall--be--distributed-to-the-local-highway-needs-assessment-account-in-the-dedicated-fund-to-pay-amounts-from-the-account-pursuant-to-the-provisions-of-section-40-716,-Idaho-Code.-As-soon-as-possible-after-the beginning--of--each-subsequent-fiscal-year,-only-the-sum-necessary to-bring-the-balance-of-the-local-highway-needs-assessment-account to-fifty-thousand-dollars-($50,000)-shall-be-distributed--to--that account.~~

~~(f)~~ From the balance remaining with the commission after distributing the amounts in paragraphs (a) through (e~~d~~) of subsection (1) of this section:

1. One and twenty-eight hundredths per cent (1.28%) shall be distributed as follows: sixty-six per cent (66%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code. Up to twenty per cent (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 per cent (33%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One per cent (1%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code;

2. One and twenty-eight hundredths per cent (1.28%) shall be distributed as follows: sixty-six per cent (66%) of the one and twenty-eight hundredths per cent (1.28%) shall be dis-

tributed to the off-road motor vehicle account, as created in section 57-1901, Idaho Code. Up to twenty per cent (20%) of the moneys distributed to the off-road motor vehicle account by this subpart 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 per cent (33%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One per cent (1%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code; and

3. Forty-four hundredths per cent (.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 improve roads and bridges 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 40-716, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Sections 1, 3, 4 and 5 of this act shall be in full force and effect on and after July 1, 1994. Sections 2, 6 and 7 of this act shall be in full force and effect on and after July 1, 1995.

Approved March 31, 1994.

CHAPTER 281
(S.B. No. 1489, As Amended)

AN ACT

RELATING TO REGULATION OF CHARITABLE BINGO, RAFFLES AND DUCK RACES; AMENDING SECTION 67-7702, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 67-7703, IDAHO CODE, TO PROVIDE THAT VIOLATIONS

WILL BE PROSECUTED BY THE COUNTY PROSECUTING ATTORNEY AND TO PROVIDE THAT NO PERSON UNDER THE AGE OF EIGHTEEN MAY PLAY BINGO FOR A CASH PRIZE ON OR IN GAMES WHERE THE PRIZE EXCEEDS TWENTY-FIVE DOLLARS IN VALUE FOR MERCHANDISE; AMENDING SECTION 67-7705, IDAHO CODE, TO REVISE PROCEDURES FOR ACCOUNTING AND USE OF PROCEEDS; AMENDING SECTION 67-7706, IDAHO CODE, TO DEFINE NET PROCEEDS OF A DUCK RACE AND TO PROVIDE FOR STATEMENTS FOR PERSONS CONDUCTING RAFFLES TO BE FILED WITH THE LOTTERY COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-7707, IDAHO CODE, TO REVISE LICENSING PROCEDURES FOR CHARITABLE ORGANIZATIONS DESIRING TO OPERATE BINGO GAMES OR RAFFLES; AMENDING SECTION 67-7708, IDAHO CODE, TO PROVIDE THAT LICENSE FEES SHALL BE PAID TO THE STATE LOTTERY AND THAT THE STATE LOTTERY SHALL HAVE THE AUTHORITY TO SUSPEND OR REVOKE A LICENSE AND TO DELETE LANGUAGE REGARDING PROSECUTIONS OF OFFENSES; REPEALING SECTION 67-7709, IDAHO CODE; AMENDING SECTION 3, CHAPTER 391, LAWS OF 1993, TO REMOVE THE SUNSET CLAUSE; AND TO PROVIDE AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-7702, Idaho Code, be, and the same is hereby amended to read as follows:

67-7702. DEFINITIONS. As used in this chapter:

(1) ~~"Bingo game" means a specific game of chance played with individual cards having numbered squares ranging from one (1) to seventy-five (75), in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers~~ "Bingo" means the traditional game of chance played for a prize determined prior to the start of the game, using cards containing five (5) rows of five (5) squares, each imprinted with randomly placed numbers, one (1) through seventy-five (75), except for the center square which may be a free space, and a set of designators, similarly numbered, which are contained in a selection device. The letters "B-I-N-G-O" must also be imprinted on the card, in order above each of the five (5) columns. Players who have paid consideration for the cards they are holding compete for prizes by covering numbers imprinted on their cards when similarly numbered designators are randomly drawn and called. A winner is the first player to cover a predetermined arrangement of numbers on such cards. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares bingo and the winning card is independently verified. Bingo shall not include "instant bingo" which is a game of chance played by the selection of one (1) or more prepackaged cards, with the winners determined either by the appearance of a preselected designation on the card or by covering a card with preselected winning numbers.

(2) "Charitable organization" means an organization that has been in continuous existence in the county of operation of the charitable bingo game or raffle for at least one (1) year and that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the Internal Revenue Code and is exempt from income taxation under title 63, Idaho Code, as a bona fide

nonprofit charitable, civic, religious, fraternal, patriotic or veterans organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad, or as a nonprofit volunteer educational booster group, parent-teacher organization or association. If the organization has local branches or chapters, the term "charitable organization" means the local branch or chapter operating the bingo game.

(3) "Duck race" means a charitable raffle played by releasing numbered, inanimate toys (ducks) into a body of moving water. A person who has been assigned the same number as the first duck to cross a predetermined point in the water (the finish line) is the winner. Other prizes may be awarded on the basis of the order in which the ducks cross the finish line. With the exception of determining "net proceeds," all restrictions and requirements applicable to the conduct of charitable raffles in this chapter shall also apply to the conduct of duck races.

(4) "Gross revenues" shall mean all moneys paid by players during a bingo game for the playing of bingo and shall not include money paid for concessions.

(~~4~~5) "Raffle" means a game in which the prize is won by random drawing of the name or number of one (1) or more persons purchasing chances.

SECTION 2. That Section 67-7703, Idaho Code, be, and the same is hereby amended to read as follows:

67-7703. CONDUCT OF CHARITABLE BINGO. (1) It is lawful for a charitable organization to conduct charitable bingo games in accordance with the provisions of this chapter. Any charitable organization, or any member of such charitable organization, or any person that conducts a bingo game in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally any person knowingly conducting a bingo game in violation of the provisions of this chapter may be charged under the gambling laws contained in chapter 38, title 18, Idaho Code. Violations will be prosecuted by the county prosecuting attorney.

(2) No person under the age of eighteen (18) may play bingo for a cash prize or in games where the prize exceeds twenty-five dollars ($25.00) in value for merchandise.

SECTION 3. That Section 67-7705, Idaho Code, be, and the same is hereby amended to read as follows:

67-7705. ACCOUNTING AND USE OF CHARITABLE BINGO PROCEEDS. (1) All funds received in connection with a bingo game which is required to be licensed pursuant to this chapter shall be placed in a separate bank account. No funds may be disbursed from this account except the charitable organization may expend proceeds for prizes, advertising, utilities and the purchase of supplies and equipment in ~~conducting the raffle or in~~ playing bingo, taxes and license fees related to charitable bingo ~~or raffles~~, and the payment of compensation as authorized in this subsection, and for the purposes set forth below for the remain-

ing proceeds. Any proceeds available in the account after payment of the above expenses shall inure to the charitable organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned by and for the charitable organization and used for civic purposes or made available by the charitable organization for use by the general public from time to time, or to foster amateur sports competition or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended directly or indirectly to compensate officers or directors. No employees of the charitable organization may be compensated from bingo proceeds except as provided in this subsection. All gross revenues received from charitable bingo games by a charitable organization must be disbursed in the following manner ~~for every three (3) month period~~: not more than sixty-five percent (65%) of the gross revenues shall be utilized for prizes in the charitable bingo game, not less than ~~eighteen~~ twenty percent (~~18~~20%) of gross revenues shall be used for charitable purposes enumerated in this subsection and not more than ~~seventeen~~ fifteen percent (1~~7~~5%) of the gross revenues shall be used for administrative expenses associated with the charitable bingo game. If agreed upon by its board of directors, a charitable organization may decrease gross revenues spent on administrative expenses associated with bingo games and allocate those revenues to prizes so long as no more than seventy percent (70%) of the gross revenues is utilized for prizes on the bingo game. ~~One~~ Two hundred fifty dollars ($~~1~~250) per charitable bingo session may be paid as wages for the conduct of the bingo game. Such pay shall be on an hourly basis and shall be directly related to the preparation, conduct of and cleaning following a bingo game. Such wages shall be part of the ~~seventeen~~ fifteen percent (1~~7~~5%) gross revenues used for administrative expenses.

(2) Any person or entity conducting charitable bingo games ~~or raffles~~ pursuant to this chapter shall prepare a statement ~~one (1) year from the date of the issuance of the license~~ at the close of its fiscal year and shall file such statement with the ~~county clerk of the county where the bingo game or raffle has been operated. The county clerk shall send a copy of the statement to the~~ state lottery ~~within five (5) working days of its receipt by the clerk~~. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of bingo games conducted or sponsored by the charitable organization;

(b) The location and date at which each bingo game was conducted;

(c) The gross revenues of each bingo game;

(d) The fair market value of any prize given at each bingo game;

(e) The amount paid in prizes at each game;

(f) The amount paid to the charitable organization;

(g) The disbursements from the separate account and the purpose of those disbursements, including the date of each transaction and the name and address of each payee for all payments in excess of ten dollars ($10.00); and

(h) An accounting of all gross revenues and the disbursements required in subsection (1) of this section.

(3) Any person who shall willfully or knowingly furnish, supply or otherwise give false information in any statement filed pursuant to this section shall be guilty of a misdemeanor.

(4) All financial books, papers, records and documents ~~relevant to--determining--whether~~ of an organization ~~has acted or is acting in compliance with this section~~ shall be kept as determined by the state lottery and shall be open to inspection by the county sheriff of the county, or the chief of police of the city, or the prosecuting attorney of the county where the charitable bingo game or charitable raffle was held, or the attorney general or the state lottery at reasonable times and during reasonable hours.

(5) Every charitable organization whose annual gross revenues exceed one hundred thousand dollars ($100,000) from the operation of charitable bingo games shall provide the state lottery with a copy of an annual audit of the charitable bingo operation. The audit shall be performed by an independent certified public accountant.

SECTION 4. That Section 67-7706, Idaho Code, be, and the same is hereby amended to read as follows:

67-7706. RAFFLES. (1) It is lawful for any charitable organization to conduct raffles in accordance with the provisions of this chapter. Any person or charitable organization who conducts a raffle in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally, any person knowingly conducting a raffle in violation of any provision of this chapter may be charged under the gambling laws of the state contained in chapter 38, title 18, Idaho Code. It shall not constitute a violation of state law to advertise a charitable raffle conducted pursuant to this section. It is lawful to participate in a charitable raffle conducted pursuant to this chapter. A charitable raffle conducted lawfully pursuant to this chapter is not gambling for purposes of chapter 38, title 18, Idaho Code.

(2) Raffles shall be limited to twelve (12) per charitable organization per year.

(3) The maximum cash prize that may be offered or paid for any one (1) raffle is one thousand dollars ($1,000) and if merchandise is used as a prize and it is not redeemable for cash, there shall be no limit on the maximum amount of value for the merchandise.

(4) As used in this subsection, "net proceeds of a charitable raffle" means the receipts less the cost of prizes awarded. "Net proceeds of a duck race" shall mean receipts, less the cost of prizes awarded and the rental cost of the ducks used in the race. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the charitable organization for charitable, religious, educational, civic or other nonprofit purposes.

(5) Any person or entity conducting raffles pursuant to this chapter shall prepare a statement at the close of its fiscal year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

(a) The number of raffles conducted or sponsored by the charitable organization;

(b) The location and date at which each raffle was conducted;
(c) The gross revenues of each raffle game;
(d) The fair market value of any prize given at each raffle game;
(e) The amount paid in prizes at each game;
(f) The amount paid to the charitable organization.

SECTION 5. That Section 67-7707, Idaho Code, be, and the same is hereby amended to read as follows:

67-7707. LICENSING PROCEDURE. (1) Any charitable organization not exempt pursuant to section 67-7710, Idaho Code, desiring to operate charitable bingo games or charitable raffles shall make application for a license to the ~~county clerk of the county where the bingo game or raffle will be operated or where the applicant resides on forms prescribed by the state lottery. The county clerk shall analyze the contents of the application, and either approve or deny the application. If the application is approved, the county clerk shall submit the application to the~~ state lottery ~~within five (5) working days following approval~~. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application ~~from the county clerk if the state lottery concurs in the determination of the county clerk. If the state lottery takes no action on the application within the fifteen (15) calendar day time period, the application shall be deemed approved~~. The ~~county clerk or the~~ state lottery may deny the application if either determines that the applicant has not met requirements imposed in this act and rules promulgated pursuant hereto. Whenever an application is denied, it shall be returned to the applicant by the ~~denying entity~~ state lottery with specific reasons for the denial. When a license application is approved by the state lottery ~~or becomes approved by lack of a denial~~, the state lottery shall ~~notify the county clerk and the clerk shall~~ issue a license to the applicant. ~~If the state lottery does not notify the county clerk of a denial in the time required in this subsection, the county clerk shall issue a license to the applicant. A copy of the license shall be provided to the applicant by the county clerk.~~ No person or charitable organization shall operate or conduct a charitable bingo game or charitable raffle until it has received a license from the ~~county clerk and such license is in force and effect~~ state lottery. Such license shall expire one (1) year after the issuance of the license ~~by the county clerk~~. A copy of the license shall be furnished to the county sheriff of the county or the chief of police of the city in which the licensee intends to operate a charitable bingo game or sell charitable raffle tickets before a charitable bingo game or a charitable raffle is conducted by the licensee.

(2) ~~In lieu of the licensure procedure contained in subsection (1) of this section, when an applicant is going to conduct a raffle in more than one (1) county, the applicant may make application to the state lottery for licensure and shall indicate on the application the counties of operation of the raffle. The fee for such license shall be two hundred dollars ($200) and such license shall expire one (1) year after the issuance of the license by the state lottery. A copy of the license issued pursuant to this subsection shall be furnished to the~~

~~county--clerk--and-county-sheriff-of-the-county-in-which-the-applicant resides.-The-state-lottery-shall-utilize-the-procedures--available--to it-in-subsection-(1)-of-this-section-for-approval-or-denial.-The-state lottery-shall-have-the-power-of-the-county-clerk-as-enumerated-in-subsection--(2)-of-section-67-7708,-Idaho-Code,-for-suspension-or-revocation-of-the-license-issued-pursuant-to-this-subsection.~~

~~(3)~~ Each application and renewal application shall contain the following information:

(a) The name, ~~and~~ address, date of birth and social security number of the applicant and if the applicant is a corporation, association or other similar legal entity, the name, ~~and~~ home address, date of birth and social security number of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization;

(b) The name, ~~and~~ home address, date of birth and social security number of each of the person or persons responsible for managing the game;

(c) A copy of the application for recognition of exemptions and a determination letter from the internal revenue service and the state tax commission that indicates that the organization is a charitable organization and stating the section under which that exemption is granted, except that if the organization is a state or local branch, lodge, post or chapter of a national organization, a copy of the determination letter of the national organization shall satisfy this requirement; and

(d) The location at which the applicant will conduct the bingo games or drawings for the raffles.

(~~4~~3) The operation of charitable bingo games or charitable raffles shall be the direct responsibility of, and controlled by, a special committee selected by the governing body of the charitable organization. If the governing body has not appointed a special committee, the members of the governing body shall be held responsible for the conduct of the bingo games or raffles. No directors or officers of a charitable organization or persons related to them either by blood or marriage within the second degree shall receive any compensation derived from the proceeds of a bingo game or raffle regulated under the provisions of this chapter. A charitable organization shall not contract with any person for the purpose of conducting a bingo game or raffle.

(4) Different chapters of an organization may apply for and share one (1) license to conduct charitable raffles so long as the information required in subsection (2) of this section is provided to the lottery prior to the issuance of the license.

SECTION 6. That Section 67-7708, Idaho Code, be, and the same is hereby amended to read as follows:

67-7708. LICENSE FEES -- SUSPENSION OR REVOCATION. (1) Each charitable organization that makes application to the ~~county--clerk~~ state lottery for a license pursuant to this chapter shall pay the ~~county clerk~~ state lottery a nonrefundable license fee of one hundred dollars ($100) which shall be due upon submission of the application. ~~When-the county-clerk-submits-the-application-to-the-state--lottery,--it--shall~~

~~also--remit--twenty-five--dollars--($25.00)--with-each-application-for licensure-to-the-state-lottery-to-assist-the-state-lottery-in-carrying out-its-duties-under-this-chapter.~~

(2) Any license issued pursuant to this chapter shall be suspended or revoked by the ~~county-clerk-or~~ state lottery if it is found that the licensee or any person connected therewith has violated any provision of this chapter or any rule of the lottery commission or ordinance of a county adopted pursuant to this chapter or:

(a) Has continued to operate charitable bingo games after losing its tax exempt status or ceases to exercise independent control over its activities or budget as required under the provisions of this chapter;

(b) Has violated or has failed or refused to comply with the provisions of this chapter, or has violated the provisions of a rule of the lottery commission ~~or-an-ordinance-of-the--county,~~ or has allowed such a violation to occur upon premises over which the licensee has substantial control;

(c) Has knowingly caused, aided or abetted, or conspired with another to cause, any person to fail or refuse to comply with the provisions, requirements, conditions, limitation or duties imposed in this chapter, or to fail or refuse to comply with a rule adopted by the lottery commission ~~or-any-ordinance-adopted-by-a county~~;

(d) Has obtained a license or permit by fraud, misrepresentation or concealment, or through inadvertence or mistake;

(e) Has been convicted, forfeited bond, or has been granted a withheld judgment, upon a charge involving forgery, theft, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports to a governmental agency, or any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving gambling activity, physical injury to individuals or moral turpitude;

(f) Denies ~~the-county-or-its-designee-or~~ the state lottery access to any place where a licensed game is conducted, denies such access to any law enforcement officer, or fails promptly to produce for inspection or audit any records or items as required by law;

(g) Fails to have the license available for verification where the licensed game is conducted;

(h) Misrepresents or fails to disclose to the ~~county--or~~ state lottery any material fact;

(i) Fails to demonstrate to the ~~county-or~~ state lottery by clear and convincing evidence, qualifications for the license according to state law and the rules of the state lottery establishing such qualifications;

(j) Is subject to current prosecution or pending charges, or to a conviction regardless of whether it has been appealed, for any offense described in paragraph (e) of this subsection. At the request of an applicant for an original license, the ~~county~~ state lottery may defer decision upon the application during the pendency of the prosecution or appeal;

(k) Has pursued or is pursuing economic gain in a manner or context which violates criminal or civil public policy of this state and creates a reasonable belief that the participation of such person in charitable gaming operations would be harmful to the proper operation of a lawful charitable gaming operation.

(3) The ~~county or~~ state lottery may, upon its own motion or upon a written verified complaint of any other person, investigate the action and operation of any charitable gaming hereunder. If the ~~county or~~ state lottery ~~shall have~~ has reasonable cause to believe that any charitable gaming violates any of the provisions of this chapter or rules relating to charitable gaming, it may, in its discretion revoke, cancel, rescind or suspend for a period not to exceed one (1) year, any license, or it may refuse to grant a renewal of the license or it may take such other action as may be appropriate under this act and any rules promulgated pursuant thereto. If the ~~county clerk or~~ state lottery shall refuse to grant a license or refuse to grant a renewal of a license or revoke, cancel, rescind or suspend a license, it shall give the applicant or licensee ~~and the state lottery~~ fifteen (15) calendar days' written notice of its intended action stating generally the basis for its action. Within the fifteen (15) calendar day notice period, the applicant or licensee shall indicate its acceptance of the decision of the ~~county clerk or~~ state lottery or shall request a hearing to be held in the same manner as hearings in contested cases pursuant to chapter 52, title 67, Idaho Code. The hearing shall be conducted within twenty-one (21) days of the request. The applicant or licensee may appeal the decision of the ~~county clerk or~~ state lottery after the hearing within the same time and manner as provided for judicial review of actions pursuant to chapter 52, title 67, Idaho Code. Failure to make the request for a hearing as provided herein, shall render the decision of the ~~county or~~ state lottery final and not subject to further appeal.

~~(4) Violations will be prosecuted by the county prosecuting attorney on behalf of the county or the state lottery.~~

SECTION 7. That Section 67-7709, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 3, Chapter 391, Laws of 1993, be, and the same is hereby amended to read as follows:

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 May 1, 1993. ~~This act shall be null, void and of no force and effect on and after July 1, 1994.~~

SECTION 9. This act shall be in full force and effect on and after July 1, 1994.

Approved March 31, 1994.

CHAPTER 282
(S.B. No. 1494)

AN ACT

RELATING TO HEALTH INSURANCE BENEFITS FOR NONCERTIFICATED EMPLOYEES OF SCHOOL DISTRICTS; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-517A, IDAHO CODE, TO PROVIDE THAT WHEN THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT PROVIDES GROUP HEALTH INSURANCE BENEFITS TO CERTIFICATED EMPLOYEES, THE SAME BENEFITS SHALL BE PROVIDED TO NONCERTIFICATED EMPLOYEES WHO WORK TWENTY HOURS OR MORE PER WEEK.

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

SECTION 1. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-517A, Idaho Code, and to read as follows:

33-517A. SCHOOL DISTRICTS -- NONCERTIFICATED EMPLOYEES -- GROUP HEALTH INSURANCE. The board of trustees of each school district, including any specially chartered district, shall provide the same group health insurance benefits to all noncertificated employees who work twenty (20) hours or more per week, as provided to certificated employees.

Approved March 31, 1994.

CHAPTER 283
(S.B. No. 1500, As Amended)

AN ACT

RELATING TO PLANNING FOR HEALTH CARE; REPEALING CHAPTER 49, TITLE 39, IDAHO CODE; AND AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 49, TITLE 39, IDAHO CODE, TO PROVIDE PURPOSE AND POLICY, TO DEFINE TERMS, TO PROVIDE FOR COOPERATIVE AGREEMENTS AND CERTIFICATION AND TO PROVIDE FOR JUDICIAL REVIEW.

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

SECTION 1. That Chapter 49, Title 39, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 49, Title 39, Idaho Code, and to read as follows:

CHAPTER 49
IDAHO HEALTH PLANNING ACT

39-4901. PURPOSE AND POLICY. It is the intent of the legislature to provide to all of Idaho residents a quality health care system for a reasonable cost and to prevent the deterioration of such system by the duplication of services or the introduction of new categories of services that are not necessary to their health. It is further the intent of the legislature to promote cooperation among health care providers in health planning activities and to provide access to necessary care for all who require it. It is hereby declared that it is in the public interest of the state, to provide for the relief from penalties of state and federal law, cooperative planning in health care that is likely to benefit the residents of the state.

39-4902. DEFINITIONS. As used in this chapter:

(1) "Cooperative agreement" means a written agreement between two (2) or more health care providers for the sharing, allocation or referral of patients, or the sharing or allocation of personnel, instructional programs, support services and facilities, medical, diagnostic, therapeutic or procedures or other services customarily offered by health care providers.

(2) "Certificate of public advantage" means a document issued by the attorney general to parties to a cooperative agreement, verifying that the attorney general declares that the purposes and objectives of the cooperative agreement meet the standards for such agreements set forth by statute.

(3) "Health care provider" means any person or health care facility licensed, registered, certified, permitted or otherwise officially recognized by the state to provide health care services in this state; or, in the case of a freestanding outpatient facility, one for which a facility fee is charged for health care services performed within.

39-4903. COOPERATIVE AGREEMENTS -- CERTIFICATION. (1) A health care provider may negotiate and enter into cooperative agreements with other health care providers in the state if the likely benefits resulting from the agreements outweigh the disadvantages attributable to a reduction in competition that may result from such agreements.

(2) Parties to a cooperative agreement may apply to the Idaho attorney general for a certificate of public advantage governing that cooperative agreement. The application must include an executed written copy of the cooperative agreement and describe the nature and scope of the cooperation in the agreement and any consideration passing to any party under the agreement.

(3) The attorney general shall review the application in accordance with the standards set forth in subsection (4) of this section and may hold a public hearing in accordance with rules adopted by the attorney general under chapter 52, title 67, Idaho Code. The attorney general shall grant or deny the application within sixty (60) days of the date of filing of the application and that decision must be in writing and set forth the basis for the decision. The attorney general shall furnish a copy of the decision to the applicants and any intervenor.

(4) The attorney general shall issue a certificate of public advantage for a cooperative agreement if he determines that the applicants have demonstrated by clear and convincing evidence that the likely benefits resulting from the agreement outweigh any disadvantages attributable to a reduction in competition that may result from the agreement.

(5) In evaluating the potential benefits of a cooperative agreement, the attorney general shall consider whether one (1) or more of the following benefits may result from such agreement:

(a) The quality of health care provided to the consumers in the state will be enhanced;

(b) A hospital, if any, and other health care facilities that customarily serve the communities in the area likely affected by the cooperative agreement will be preserved;

(c) Services provided by the parties to the cooperative agreement will gain cost efficiency;

(d) The utilization of health care resources and equipment in the area likely affected by the cooperative agreement will improve;

(e) Duplication of health care resources in the area likely affected by the cooperative agreement will be avoided.

(6) The attorney general's evaluation of any disadvantages attributable to any reduction in competition likely to result from the cooperative agreement may include, but need not be limited to, the following:

(a) The likely adverse impact, if any, on the ability of health maintenance organizations, preferred provider plans, hospital provider organizations, persons performing utilization review, or other health care payers to negotiate optimal payment and service arrangements with hospitals and other health care providers;

(b) Whether any reduction in competition among physicians, allied health professionals or other health care providers is likely to result directly or indirectly from the cooperative agreement;

(c) Whether any arrangements that are less restrictive to competition could likely achieve substantially the same benefits or a more favorable balance of benefits over disadvantages than that likely to be achieved from reducing competition.

(7) Participants in an approved cooperative agreement issued under the provisions of this section are immune from civil enforcement action and criminal prosecution for actions that might otherwise violate antitrust laws of the state of Idaho taken in furtherance of the cooperative agreement. Nothing in this section shall limit the authority of the attorney general to initiate civil enforcement or criminal prosecution if he determines that the health care providers have exceeded the scope of the cooperative agreement approved under this act.

(8) The attorney general may request periodic written updates of the progress of the approved cooperative agreement. If updates are requested, the attorney general shall specify the intervals at which they must be submitted, which shall not be less than every ninety (90) days.

(9) Nothing in this act shall obligate health care providers to submit a request for approval of a cooperative agreement as set forth under the provisions of this section. Any person who implements any

cooperative action or agreement without securing the approval of the attorney general under the provisions of this section is subject to any civil or criminal enforcement action for violations that may result from this action.

(10) It is the intent of this section to require the state of Idaho, through the office of the attorney general, to provide direction, supervision and control over approved cooperative agreements entered into under the provisions of this section. To achieve the goals specified in this section, this state direction, supervision and control of cooperative agreements will provide state action immunity under federal antitrust laws to health care providers who participate in discussions or negotiations authorized in this section, and to persons authorized by such persons to implement cooperative agreements.

(11) The attorney general may adopt rules for the implementation of this act, including rules establishing procedures and criteria for the review and evaluation of proposed cooperative agreements under this act. Rules adopted shall ensure that there is opportunity for public comment during the review and evaluation of proposed cooperative agreements.

(12) If the attorney general determines that the benefits resulting from or likely to result from a cooperative agreement under a certificate of public advantage no longer outweighs any disadvantages attributable to any actual or potential reduction in competition resulting from the cooperative agreement, he may revoke the certificate of public advantage governing the agreement and, if revoked, shall so notify the holders of the certificate. A holder of a certificate of public advantage whose certificate is revoked by the attorney general may contest the revocation by sending a written request for a hearing to the attorney general within ten (10) days after receipt of the notice of revocation.

(13) If a party to a cooperative agreement that is issued a certificate of public advantage terminates its participation in the agreement, the party shall file a notice of termination with the attorney general within thirty (30) days after the termination takes effect. If all parties to the cooperative agreement terminate their participation in the agreement, the attorney general shall revoke the certificate of public advantage for the agreement.

(14) The attorney general shall maintain files on all cooperative agreements for which certificates of public advantage are issued and that are in effect.

39-4904. JUDICIAL REVIEW. Any applicant or intervenor aggrieved by a decision of the attorney general in granting or denying an application for a certificate of public advantage, refusing to act on such application or termination of a certificate of public advantage, is entitled to judicial review of the decision in accordance with chapter 52, title 67, Idaho Code.

Approved March 31, 1994.

CHAPTER 284
(S.B. No. 1501, As Amended)

AN ACT

RELATING TO RESIDENTIAL CARE FOR THE ELDERLY; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION THERETO OF NEW SECTIONS 39-3560, 39-3561, 39-3562, 39-3563, 39-3564, 39-3565, 39-3566, 39-3567, 39-3568, 39-3569, 39-3570, 39-3571, 39-3572, 39-3573, 39-3574, 39-3575, 39-3576, 39-3577, 39-3578 AND 39-3579, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE, TO AUTHORIZE RULES, TO PROVIDE APPLICATION FOR CERTIFICATION, TO AUTHORIZE ISSUANCE AND RENEWAL OF CERTIFICATION, TO PROVIDE TEMPORARY CERTIFICATION, TO PROVIDE DENIAL OR REVOCATION OF A CERTIFICATE, TO PROVIDE PROCEDURE FOR DENIAL OR REVOCATION OF A CERTIFICATE, TO GOVERN THE EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A CERTIFICATE, TO REQUIRE THAT RULES BE PROVIDED, TO PROVIDE MANDATORY INSPECTIONS, TO SPECIFY ENFORCEMENT PROCESS, TO PROVIDE PENALTIES FOR OPERATION WITHOUT CERTIFICATION, TO PROVIDE FOR PLACEMENT OF PERSONS INTO AN UNLICENSED HOME, TO REQUIRE MAINTENANCE OF A PLAN OF CARE, TO REQUIRE A WRITTEN SERVICE AGREEMENT, TO GOVERN FOSTER CARE AGREEMENTS, TO PROTECT RESIDENT RIGHTS, TO REQUIRE TRAINING, TO GOVERN PHYSICAL AND ENVIRONMENTAL STANDARDS, AND TO PROVIDE SEPARABILITY; AMENDING SECTION 39-3502, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AND AMENDING SECTION 39-3503, IDAHO CODE, TO INCLUDE ADULT FOSTER CARE HOMES WITHIN DEFINITIONS OF PAYMENT LEVELS.

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

SECTION 1. That Chapter 35, Title 39, Idaho Code, be, and the same is hereby amended be the addition thereto of NEW SECTIONS, to be known and designated as Sections 39-3560, 39-3561, 39-3562, 39-3563, 39-3564, 39-3565, 39-3566, 39-3567, 39-3568, 39-3569, 39-3570, 39-3571, 39-3572, 39-3573, 39-3574, 39-3575, 39-3576, 39-3577, 39-3578 and 39-3579, Idaho Code, and to read as follows:

39-3560. PURPOSE OF ADULT FOSTER CARE HOMES. The purpose of an adult foster care home in Idaho is to provide a residential alternative designed to allow elderly persons to remain in more normal family-style living, usually within their own communities. Families who provide adult foster care share their homes with elderly persons who are able to administer their own medications but who need assistance with activities of daily living. Persons who live in adult foster care are those who are elderly, unable to live alone and/or whose mental, emotional and physical conditions are such that the care given by the foster care provider will meet the person's needs. Individuals requiring nursing home care, or who are unable to administer their own medication, are not suitable for adult foster care.

39-3561. RULES. The board shall have the power and it shall be its duty to promulgate appropriate rules necessary to implement and enforce the standards for certifying adult foster care homes pursuant to this act including, but not limited to, the following:

(1) A home shall be certified for no more than two (2) adults.

(2) An adult foster care provider may be a couple or a single individual.

(3) A home cannot be certified for adult foster care if it also provides room and board for other persons.

(4) A home cannot be certified for adult foster care and child foster care at the same time.

(5) The adult foster care provider must have sufficient income to maintain the home and the services offered.

(6) Information obtained by the foster care provider shall be held confidential except to representatives of the department to provide services or determine compliance with this chapter or upon consent of the individual or his legal guardian.

(7) Recordkeeping and reporting requirements as may be deemed necessary.

(8) Requirements to assure the safety and adequate care of residents.

(9) Until July 1, 1994, residential care facilities serving four (4) or fewer residents and holding a valid license or with an application for a license pending with the department as of July 1, 1994, shall have the option of being certified as an adult foster care home. Certification as an adult foster care home under this subsection shall not be transferable to another person or entity. Adult foster care home providers certified under this subsection shall not be subject to residential care administrator licensing requirements of chapter 42, title 54, Idaho Code, or section 39-3340, Idaho Code, licensing of residential care facilities for the mentally ill, developmentally disabled and physically disabled, or section 39-3540, Idaho Code, licensing of residential care facilities for the elderly. This provision in and of itself shall not be construed to authorize increased group size for providers of any form of care other than adult foster care.

39-3562. APPLICATION FOR CERTIFICATION. An application for certification shall be made to regional offices of the department upon forms provided by the department and shall contain such information as the department reasonably requires which will include a background check and fingerprinting with the Idaho department of law enforcement. Following receipt of an application, the department shall conduct a study, including a visit to the home, to determine the capability of the provider to provide adult foster care.

39-3563. ISSUANCE AND RENEWAL OF CERTIFICATION. Each certificate shall be issued only for the home and foster care provider named in the application and shall not be transferable or assignable. Each adult foster care home is required to renew their certification annually. The application for renewal shall be filed with the regional office of the department within thirty (30) days prior to the date of expiration. The existing certificate, unless suspended or revoked, shall remain in force and effect until the department has acted upon the application renewal when such application for renewal is timely filed.

39-3564. TEMPORARY CERTIFICATION. Upon initial investigation,

should an applicant for a certificate be unable to meet a standard because of conditions that are unlikely to endure beyond six (6) months, the department may grant a temporary certificate pending the satisfactory correction of all deficiencies and provided that the deficiencies do not jeopardize the health and safety of residents. No more than one (1) provisional certificate shall be issued to the same adult foster care home in any twelve (12) month period.

39-3565. DENIAL OR REVOCATION OF A CERTIFICATE. The department may deny the issuance of a certificate or revoke any certificate when persuaded by a preponderance of evidence that such conditions exist as to endanger the health or safety of any resident, or when the home is not in substantial compliance with the provisions of this chapter or rules promulgated pursuant to this chapter.

39-3566. PROCEDURE FOR DENIAL OR REVOCATION OF A CERTIFICATE. Immediately upon the denial of any application for a certificate, or the revocation of a certificate, the department shall notify the applicant in writing. Within twenty-one (21) days after the department mails the notice, the applicant may present his written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with the Idaho administrative procedure act and the department has all the powers granted therein.

39-3567. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A CERTIFICATE. The department is not required to review the application of an applicant who has had a certificate denied or revoked until five (5) years have elapsed from the date of certificate denial, revocation, or appeals.

39-3568. RULES PROVIDED. Upon initial certification, adult foster care homes shall be provided a printed copy of all applicable rules by the department, without charge.

39-3569. MANDATORY INSPECTIONS. For the purpose of determining whether every adult foster care home consistently maintains conformity with the standards established under the authority herein, the department, through a certifying agent, shall visit the premises of each home as it deems necessary but in any event at intervals not to exceed six (6) months.

39-3570. ENFORCEMENT PROCESS. Section 39-3557, Idaho Code, governing residential care facilities shall also govern adult foster care homes.

39-3571. OPERATING WITHOUT CERTIFICATION -- MISDEMEANOR. Any person who operates an adult foster care home within the state without first obtaining certification as provided in this chapter shall be guilty of a misdemeanor.

39-3572. PLACEMENT OF PERSONS INTO AN UNLICENSED ADULT FOSTER

CARE HOME. Section 39-3553, Idaho Code, governing residential care facilities shall also govern unlicensed adult foster care homes.

39-3573. PLAN OF CARE. The plan of care as set out in section 39-3508, Idaho Code, shall govern the content, preparation and review of the plan of care for residents of adult foster care homes.

39-3574. WRITTEN SERVICE AGREEMENT. The department and the foster care providers serving clients of the department shall negotiate a written agreement annually. The purpose of the agreement shall be to ensure that a client receives the level of care based upon the plan of care as described in sections 39-3503 and 39-3508, Idaho Code. The agreement is to establish a basis for coordination and communication between the foster family and the department. The agreement shall be maintained in the home.

39-3575. FOSTER CARE AGREEMENTS. Each foster care provider shall negotiate a written, signed and dated agreement between the foster care provider and a resident specifying the amount of monthly payment to be paid by the resident and the method for payment.

39-3576. RESIDENT RIGHTS. Section 39-3516, Idaho Code, governing residential care facilities shall also govern adult foster care homes.

39-3577. TRAINING. The department shall insure that foster care providers receive, at a minimum, training which shall include the rights of the resident, and a basic understanding of the psychosocial and physical needs of residents to be served. The department will specify annual continuing education requirements for foster care providers.

39-3578. PHYSICAL AND ENVIRONMENTAL STANDARDS. Standards shall be developed through the regulatory process by the department to insure a safe, sanitary and comfortable environment for residents of adult foster care homes.

39-3579. SEPARABILITY. If any section, subsection, paragraph, sentence, or any other part of this chapter is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined to this section, subsection, paragraph, sentence, or any other part of this chapter directly involved in the controversy in which the judgment has been rendered.

SECTION 2. That Section 39-3502, Idaho Code, be, and the same is hereby amended to read as follows:

39-3502. DEFINITIONS. As used in this chapter:

(1) "Activities of daily living" mean the performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment.

(2) "Administrator/operator" means any person who has responsibility for day-to-day administration or operation of a residential

care facility for the elderly.

(3) "Adult" means a person who has attained the age of eighteen (18) years.

(4) "Adult foster care family" means all individuals related by blood or marriage, other than residents, residing in the adult foster care home.

(5) "Adult foster care home" means a family home in which two (2) or fewer adults are placed to live who are not able to reside in their own home and who require family care, help in daily living, protection and security (may be referred to as a "home").

(6) "Advocate" means an authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by the facility.

(~~5~~7) "Board" means the board of health and welfare.

(8) "Certificate" means a one (1) year certificate issued by the certifying agent of the department to adult foster care homes complying with this chapter.

(9) "Certifying agent" means a person representing the areas of social services or mental health, acting under the authority of the department to participate in the certification, inspection, and regulation of an adult foster care home.

(~~6~~10) "Client" means any person who receives financial aid and/or services from an organized program of the department.

(~~7~~11) "Continuing" means personal assistance services required over an extended period of time.

(~~8~~12) "Department" means the Idaho department of health and welfare.

(~~9~~13) "Director" means the director of the Idaho department of health and welfare.

(~~10~~4) "Facility" means a residential care facility for the elderly.

(15) "Foster care provider" means an adult member or members of the foster care family responsible for maintaining the adult foster care home. The foster care provider(s) and the legal owner may not necessarily be the same person.

(~~11~~6) "Governmental unit" means the state, any county, any city, other political subdivision, or any department, division, board or other agency thereof.

(~~12~~7) "Him or his" means him or her.

(~~13~~8) "License" means a basic permit to operate a residential care facility for the elderly.

(~~14~~9) "Licensee" means the holder of a license to operate a residential care facility for the elderly under this chapter.

(~~15~~20) "Licensing agency" means the unit of the department of health and welfare that conducts inspections and surveys and issues licenses based on compliance with this chapter.

(~~16~~21) "Mixed populations" mean that two (2) or more of the following populations: mentally ill, developmentally disabled, physically disabled, and/or elderly, are provided care and/or housing within the facility.

(~~17~~22) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal

successor thereof.

(~~18~~23) "Personal assistance" means the provision by the staff of the facility of one (1) or more of the following services:

(a) Assisting the resident with activities of daily living.

(b) Arranging for supportive services.

(c) Being aware of the resident's general whereabouts.

(d) Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety and well-being.

(~~19~~24) "Plan of care" means a written description of the functional capabilities of an individual, the individual's need for personal assistance and supervision, and the services to be provided to meet the individual's needs.

(20~~5~~) "Political subdivision" means a city or county.

(21~~6~~) "Representative of the department" means an employee of the department.

(22~~7~~) "Resident" means an individual who, by reason of age or infirmity, requires personal assistance and who is not related by blood or marriage to the licensee of the facility.

(23~~8~~) "Residential care council for the elderly" means the interdisciplinary group appointed by the director to advise the agency and legislature on matters of policy relating to residential care facilities for the elderly.

(24~~9~~) "Residential care facility for the elderly" means a facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals and lodging to three (3) or more elderly adults not related to the owner.

(~~25~~30) "Room and board" means lodging and meals.

(~~26~~31) "Service coordinator" means an employee of the department who is qualified, by training and experience as defined by rules promulgated by the board, and designated at the regional level to develop or coordinate plans of care for clients of the department.

(~~27~~32) "Substantial compliance" means there are no deficiencies which would endanger the health, safety or welfare of the residents.

(~~28~~33) "Supervision" means administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts and assistance with activities of daily living. The operator is responsible for providing appropriate supervision based on each resident's plan of care.

(~~29~~34) "Supportive services" mean the specific services that are provided to the resident in the community and that are required by the plan of care or reasonably requested by the resident.

SECTION 3. That Section 39-3503, Idaho Code, be, and the same is hereby amended to read as follows:

39-3503. PAYMENT LEVELS. Clients of the department receiving financial aid as set out in sections 56-207, 56-208 and 56-209a, Idaho Code, seeking placement in a residential care facility for the elderly or an adult foster care home will be assessed by a service coordinator. Based upon the assessed need and plan of care, the specific types of services and supports required will determine the level of payment

to be received by the resident according to the following criteria:

(1) Level I. The client requires room, board, and supervision and may require one (1) or more of the following:

(a) Minimal assistance with activities of daily living and non-medical personal assistance.

(b) Minimal assistance with mobility, i.e., client is independently mobile.

(c) Minimal assistance in an emergency, i.e., client is capable of self-preservation in an emergency.

(d) Minimal assistance with medications, i.e., client does not require medication management or supervision.

(e) Minimal behavior management substantiated by the client's history.

(2) Level II. The client requires room, board and supervision and may require one (1) or more of the following:

(a) Moderate assistance with activities of daily living and non-medical personal assistance.

(b) Moderate assistance with mobility, but easily mobile with assistance.

(c) Moderate assistance in an emergency, but client is capable of self-preservation with assistance.

(d) Moderate assistance with medications.

(e) Moderate assistance with behavior management.

(3) Level III. The client requires room, board, and staff up and awake on a twenty-four (24) hour basis and may require one (1) or more of the following:

(a) Extensive assistance with activities of daily living.

(b) Extensive personal assistance.

(c) Extensive assistance with mobility and may be immobile without extensive assistance.

(d) Extensive assistance in an emergency and may be incapable of self-preservation without assistance.

(e) Extensive assistance with and monitoring of medications.

(f) Extensive assistance with training and/or behavior management.

Approved March 31, 1994.

CHAPTER 285
(H.B. No. 483)

AN ACT

RELATING TO FORFEITURES OF CONTROLLED SUBSTANCES AND PROPERTY USED OR INTENDED FOR USE IN THE COMMISSION OF VIOLATIONS OF THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2744, IDAHO CODE, TO SPECIFICALLY PROVIDE FOR THE FORFEITURE OF WEAPONS OR FIREARMS USED IN A VIOLATION OF THE UNIFORM CONTROLLED SUBSTANCES ACT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744. FORFEITURES. (a) The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, acquired, possessed or held in violation of this act or with respect to which there has been any act by any person in violation of this act;

(2) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances or counterfeit substances in violation of this act;

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2) hereof;

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, delivery, receipt, possession or concealment, for the purpose of distribution or receipt of property described in paragraph (1) or (2) hereof, but:

(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act;

(B) No conveyance is subject to forfeiture under this section if the owner establishes that he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a)(4) of this section;

(C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the security interest was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged.

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this act.

(6) (A) All moneys, currency, negotiable instruments, securities or other items easily liquidated for cash, such as, but not limited to, jewelry, stocks and bonds, or other property described in paragraphs (2) and (3) hereof, found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section or which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession of property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section;

(B) Items described in paragraph (6)(A) above or other things of value furnished or intended to be furnished by any person in exchange for a contraband controlled substance in

violation of this chapter, all proceeds, including items of property traceable to such an exchange, and all moneys or other things of value used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All drug paraphernalia as defined by section 37-2701, Idaho Code.

(8) All simulated controlled substances, which are used or intended for use in violation of this chapter.

(9) All weapons, or firearms, which are used in any manner to facilitate a violation of the provisions of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by the director, or any peace officer of this state, upon process issued by any district court, or magistrate's division thereof, having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal racketeering or civil forfeiture proceeding based upon a violation of this chapter;

(3) Probable cause exists to believe that the property is directly or indirectly dangerous to health or safety; or

(4) Probable cause exists to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted promptly.

(1) When property is seized under this section, the director or the peace officer who seized the property may:

(A) Place the property under seal;

(B) Remove the property to a place designated by it; or

(C) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) The peace officer who seized the property shall within five (5) days notify the director of such seizure.

(3) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted within thirty (30) days by the director.

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the director subject only to the orders and decrees of the district court, or magistrate's division thereof, having jurisdiction over the forfeiture proceedings. Forfeiture proceedings shall be civil actions against the property subject to forfeiture and the standard of proof shall be preponderance of the evidence.

(1) All property described in paragraphs (1), (7) and (8) of subsection (a) hereof shall be deemed contraband and shall be sum-

marily forfeited to the state. Controlled substances which are seized or come into possession of the state, the owners of which are unknown, shall be deemed contraband and shall be summarily forfeited to the state.

(2) When property described in paragraphs (2), (3), (4), (5) and (6) of subsection (a) hereof is seized pursuant to this section, forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such property is seized. The procedure governing such proceedings shall be the same as that prescribed for civil proceedings by the Idaho Rules of Civil Procedure. The court shall order the property forfeited to the director if he determines that such property was used, or intended for use, in violation of this chapter, or, in the case of items described in paragraph (6)(A) of subsection (a), was found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section.

(3) When conveyances, including aircraft, vehicles, or vessels are seized pursuant to this section a complaint instituting forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such conveyance is seized.

(A) Notice of forfeiture proceedings shall be given each owner or party in interest who has a right, title, or interest which in the case of a conveyance shall be determined by the record in the Idaho transportation department or a similar department of another state if the records are maintained in that state, by serving a copy of the complaint and summons according to one (1) of the following methods:

(I) Upon each owner or party in interest by mailing a copy of the complaint and summons by certified mail to the address as given upon the records of the appropriate department.

(II) Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last-known address.

(B) Within twenty (20) days after the mailing or publication of the notice, the owner of the conveyance or claimant may file a verified answer and claim to the property described in the complaint instituting forfeiture proceedings.

(C) If at the end of twenty (20) days after the notice has been mailed there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use, or intent to use, and shall order the property forfeited to the director, if such fact is proved.

(D) If a verified answer is filed, the forfeiture proceeding shall be set for hearing before the court without a jury on a day not less than thirty (30) days therefrom; and the proceeding shall have priority over other civil cases.

(I) At the hearing any owner who has a verified answer on file may show by competent evidence that the conveyance was not used or intended to be used in any manner described in subsection (a)(4) of this section.

(II) At the hearing any owner who has a verified answer

on file may show by competent evidence that his interest in the conveyance is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a)(4) of this section.

(III) If the court finds that the property was not used or was not intended to be used in violation of this act, or is not subject to forfeiture under this act, the court shall order the property released to the owner as his right, title, or interest appears on records in the appropriate department as of the seizure.

(IV) An owner, co-owner or claimant of any right, title, or interest in the conveyance may prove that his right, title, or interest, whether under a lien, mortgage, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged;

(i) In the event of such proof, the court shall order the conveyance released to the bona fide or innocent owner, purchaser, ~~lien-holder~~ lienholder, mortgagee, or conditional sales vendor. The court may order payment of all costs incurred by the state or law enforcement agency as a result of such seizure.

(ii) If the amount due to such person is less than the value of the conveyance, the conveyance may be sold at public auction by the director. The director shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the conveyance. The proceeds from such sale shall be distributed as follows in the order indicated;

1. To the bona fide or innocent owner, purchaser, conditional sales vendor, ~~lien--holder~~ lienholder or mortgagee of the conveyance, if any, up to the value of his interest in the conveyance.

2. The balance, if any, in the following order:

A. To the director for all expenditures made or incurred by it in connection with the sale, including expenditure for any necessary repairs, storage, or transportation of the conveyance, and for all expenditures made or incurred by him in connection with the forfeiture proceedings including, but not limited to,

expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

B. To the law enforcement agency of this state which seized the conveyance for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any conveyance seized under this act.

C. The remainder, if any, to the director for credit to the drug enforcement donation account.

(iii) In any case, the director may, within thirty (30) days after judgment, pay the balance due to the bona fide ~~lien-holder~~ lienholder, mortgagee or conditional sales vendor and thereby purchase the conveyance for use to enforce this act.

(e) When property is forfeited under this section, or is received from a federal enforcement agency, the director may:

(1) Retain it for official use;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public.

The director shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the property. The proceeds from such sale shall be distributed as follows in the order indicated:

(A) To the director, or by the director, to his agent, county or city law enforcement agency, for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs, maintenance, storage or transportation, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

(B) To the law enforcement agency of this state which seized the property for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under this act.

(C) The remainder, if any, to the director for credit to the drug enforcement donation account.

(3) Take custody of the property and remove it for disposition in accordance with law; or

(4) Upon the recommendation of the director only, the court may order property forfeited, in whole or in part, to a city or county the law enforcement agency of which participated in the events leading to the seizure of the property. Upon such order, the city or county shall use the property for drug enforcement purposes consistent with this act.

(f) (1) The director or any peace officer of this state seizing any of the property described in paragraphs (1) and (2) of subsec-

tion (a) of this section shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency. After all legal actions have been exhausted with respect to such property, the property shall be surrendered by the court, law enforcement agency, or person having custody of the same to the director to be destroyed pursuant to paragraph (2) hereof. The property shall be accompanied with a written inventory on forms furnished by the director.

(2) All property described in paragraphs (1) and (2) of subsection (a) which is seized or surrendered under the provisions of this act may be destroyed after all legal actions have been exhausted. The destruction shall be done under the supervision of the supervisory drug analyst of the department of law enforcement, a representative of the office of the director and a representative of the state board of pharmacy. An official record listing the property destroyed and the location of destruction shall be kept on file at the office of the director. Except, however, that the director of the department of law enforcement or his designee may authorize the destruction of drug or nondrug evidence, or store those items at government expense when, in the opinion of the director or his designee, it is not reasonable to remove or transport such items from the location of the seizure for destruction. In such case, a representative sample will be removed and preserved for evidentiary purposes and, when practicable, destroyed as otherwise is in accordance with this chapter. On-site destruction of such items shall be witnessed by at least two (2) persons, one (1) of whom shall be the director or his designee who shall make a record of the destruction.

(g) Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(h) The failure, upon demand by the director, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(i) The director shall have the authority to enter upon any land or into any dwelling pursuant to a search warrant, to cut, harvest, carry off or destroy such plants described in subsection (g) hereof.

Approved March 31, 1994.

CHAPTER 286
(H.B. No. 484)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2744, IDAHO CODE, TO PERMIT THE APPROPRIATE PROSECUTING ATTORNEY, WITHOUT THE ASSISTANCE OF THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT, TO RECEIVE FORFEITED PROPERTY OR DISPOSE OF PROPERTY FOR DEPOSIT TO THEIR LOCAL DRUG ENFORCEMENT DONATION ACCOUNT, OR EQUIVALENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744. FORFEITURES. (a) The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, acquired, possessed or held in violation of this act or with respect to which there has been any act by any person in violation of this act;

(2) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances or counterfeit substances in violation of this act;

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2) hereof;

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, delivery, receipt, possession or concealment, for the purpose of distribution or receipt of property described in paragraph (1) or (2) hereof, but:

(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act;

(B) No conveyance is subject to forfeiture under this section if the owner establishes that he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a)(4) of this section;

(C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the security interest was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged.

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or

intended for use, in violation of this act.

(6) (A) All moneys, currency, negotiable instruments, securities or other items easily liquidated for cash, such as, but not limited to, jewelry, stocks and bonds, or other property described in paragraphs (2) and (3) hereof, found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section or which has been used or intended for use in connection with the illegal manufacture, distribution, dispensing or possession of property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section;

(B) Items described in paragraph (6)(A) above or other things of value furnished or intended to be furnished by any person in exchange for a contraband controlled substance in violation of this chapter, all proceeds, including items of property traceable to such an exchange, and all moneys or other things of value used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All drug paraphernalia as defined by section 37-2701, Idaho Code.

(8) All simulated controlled substances, which are used or intended for use in violation of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by the director, or any peace officer of this state, upon process issued by any district court, or magistrate's division thereof, having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal racketeering or civil forfeiture proceeding based upon a violation of this chapter;

(3) Probable cause exists to believe that the property is directly or indirectly dangerous to health or safety; or

(4) Probable cause exists to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted promptly.

(1) When property is seized under this section, the director or the peace officer who seized the property may:

(A) Place the property under seal;

(B) Remove the property to a place designated by it; or

(C) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) The peace officer who seized the property shall within five (5) days notify the director of such seizure.

(3) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted within thirty (30) days by the director.

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the director, or appropriate prosecuting attorney, subject only to the orders and decrees of the district court, or magistrate's division thereof, having jurisdiction over the forfeiture proceedings. Forfeiture proceedings shall be civil actions against the property subject to forfeiture and the standard of proof shall be preponderance of the evidence.

(1) All property described in paragraphs (1), (7) and (8) of subsection (a) hereof shall be deemed contraband and shall be summarily forfeited to the state. Controlled substances which are seized or come into possession of the state, the owners of which are unknown, shall be deemed contraband and shall be summarily forfeited to the state.

(2) When property described in paragraphs (2), (3), (4), (5) and (6) of subsection (a) hereof is seized pursuant to this section, forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such property is seized. The procedure governing such proceedings shall be the same as that prescribed for civil proceedings by the Idaho Rules of Civil Procedure. The court shall order the property forfeited to the director, or appropriate prosecuting attorney, if he determines that such property was used, or intended for use, in violation of this chapter, or, in the case of items described in paragraph (6)(A) of subsection (a), was found in close proximity to property described in paragraphs (1), (2), (3), (5), (7) or (8) of subsection (a) of this section.

(3) When conveyances, including aircraft, vehicles, or vessels are seized pursuant to this section a complaint instituting forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such conveyance is seized.

(A) Notice of forfeiture proceedings shall be given each owner or party in interest who has a right, title, or interest which in the case of a conveyance shall be determined by the record in the Idaho transportation department or a similar department of another state if the records are maintained in that state, by serving a copy of the complaint and summons according to one (1) of the following methods:

(I) Upon each owner or party in interest by mailing a copy of the complaint and summons by certified mail to the address as given upon the records of the appropriate department.

(II) Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last-known address.

(B) Within twenty (20) days after the mailing or publication of the notice, the owner of the conveyance or claimant may file a verified answer and claim to the property described in the complaint instituting forfeiture proceedings.

(C) If at the end of twenty (20) days after the notice has been mailed there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use, or intent to use, and shall order the property forfeited to the director, or appropriate prosecuting attorney, if such fact is proved.

(D) If a verified answer is filed, the forfeiture proceeding shall be set for hearing before the court without a jury on a day not less than thirty (30) days therefrom; and the proceeding shall have priority over other civil cases.

(I) At the hearing any owner who has a verified answer on file may show by competent evidence that the conveyance was not used or intended to be used in any manner described in subsection (a)(4) of this section.

(II) At the hearing any owner who has a verified answer on file may show by competent evidence that his interest in the conveyance is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a)(4) of this section.

(III) If the court finds that the property was not used or was not intended to be used in violation of this act, or is not subject to forfeiture under this act, the court shall order the property released to the owner as his right, title, or interest appears on records in the appropriate department as of the seizure.

(IV) An owner, co-owner or claimant of any right, title, or interest in the conveyance may prove that his right, title, or interest, whether under a lien, mortgage, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged;

(i) In the event of such proof, the court shall order the conveyance released to the bona fide or innocent owner, purchaser, ~~lien-holder~~ lienholder, mortgagee, or conditional sales vendor. The court may order payment of all costs incurred by the state or law enforcement agency as a result of such seizure.

(ii) If the amount due to such person is less than the value of the conveyance, the conveyance may be sold at public auction by the director or appropriate prosecuting attorney. The director, or appropriate prosecuting attorney, shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the conveyance. The proceeds from such sale shall be

distributed as follows in the order indicated;

1. To the bona fide or innocent owner, purchaser, conditional sales vendor, ~~lien--holder~~ lienholder or mortgagee of the conveyance, if any, up to the value of his interest in the conveyance.

2. The balance, if any, in the following order:

A. To the director, or appropriate prosecuting attorney, for all expenditures made or incurred by it in connection with the sale, including expenditure for any necessary repairs, storage, or transportation of the conveyance, and for all expenditures made or incurred by him in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

B. To the law enforcement agency of this state which seized the conveyance for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any conveyance seized under this act.

C. The remainder, if any, to the director for credit to the drug enforcement donation account or to the appropriate prosecuting attorney for credit to the local drug enforcement donation account, or its equivalent.

(iii) In any case, the director, or appropriate prosecuting attorney, may, within thirty (30) days after judgment, pay the balance due to the bona fide ~~lien--holder~~ lienholder, mortgagee or conditional sales vendor and thereby purchase the conveyance for use to enforce this act.

(e) When property is forfeited under this section, or is received from a federal enforcement agency, the director, or appropriate prosecuting attorney, may:

(1) Retain it for official use;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public.

The director, or appropriate prosecuting attorney, shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the property. The proceeds from such sale shall be distributed as follows in the order indicated:

(A) To the director, or ~~by the director, to his agent,~~ prosecuting attorney on behalf of the county or city law enforce-

ment agency, for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs, maintenance, storage or transportation, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited, to expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

(B) To the law enforcement agency of this state which seized the property for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under this act.

(C) The remainder, if any, to the director for credit to the drug enforcement donation account or to the appropriate prosecuting attorney for credit to the local agency's drug enforcement donation account.

(3) Take custody of the property and remove it for disposition in accordance with law; or

~~(4)--Upon--the--recommendation-of-the-director-only,-the-court-may order-property-forfeited,-in-whole-or-in-part,-to-a-city-or-county the-law-enforcement-agency-of-which--participated--in--the--events leading--to-the-seizure-of-the-property.-Upon-such-order,-the-city or-county-shall-use-the-property--for--drug--enforcement--purposes consistent-with-this-act.~~

(f) (1) The director or any peace officer of this state seizing any of the property described in paragraphs (1) and (2) of subsection (a) of this section shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency. After all legal actions have been exhausted with respect to such property, the property shall be surrendered by the court, law enforcement agency, or person having custody of the same to the director to be destroyed pursuant to paragraph (2) hereof. The property shall be accompanied with a written inventory on forms furnished by the director.

(2) All property described in paragraphs (1) and (2) of subsection (a) which is seized or surrendered under the provisions of this act may be destroyed after all legal actions have been exhausted. The destruction shall be done under the supervision of the supervisory drug analyst of the department of law enforcement, a representative of the office of the director and a representative of the state board of pharmacy. An official record listing the property destroyed and the location of destruction shall be kept on file at the office of the director. Except, however, that the director of the department of law enforcement or his designee may authorize the destruction of drug or nondrug evidence, or store those items at government expense when, in the opinion of the director or his designee, it is not reasonable to remove or transport such items from the location of the seizure for destruction. In such case, a representative sample will be removed and preserved for evidentiary purposes and, when practicable, destroyed as otherwise is in accordance with this chapter. On-site

destruction of such items shall be witnessed by at least two (2) persons, one (1) of whom shall be the director or his designee who shall make a record of the destruction.

(g) Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(h) The failure, upon demand by the director, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(i) The director shall have the authority to enter upon any land or into any dwelling pursuant to a search warrant, to cut, harvest, carry off or destroy such plants described in subsection (g) hereof.

Approved March 31, 1994.

CHAPTER 287
(H.B. No. 489, As Amended)

AN ACT

RELATING TO DETERMINATION OF THE AMOUNT OF ASSISTANCE; AMENDING SECTION 56-210, IDAHO CODE, TO REVISE CRITERIA TO BE CONSIDERED IN THE DETERMINATION OF ASSISTANCE AMOUNTS.

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

SECTION 1. That Section 56-210, Idaho Code, be, and the same is hereby amended to read as follows:

56-210. AMOUNT OF ASSISTANCE. (1) The amount of assistance which any aid to dependent children recipient ~~shall~~ may be eligible to receive shall be determined~~,~~ in accordance with the rules and regulations of the state department.~~, with due regard to his requirements, and the conditions existing in his case, and to the income and resources available to him from whatever source, and which shall be sufficient, when added to the income and resources determined to be available to him, to provide him with a reasonable subsistence compatible with health and his well being, the amount of assistance being subject to reduction according to the amount of funds as are available to the department for such assistance~~ The department shall establish a standardized level of need for individuals in Idaho based on resources needed to provide a subsistence compatible with reasonable health and well-being. The department may periodically redetermine the need standard as funds are available.

The calculation of the amount of actual payments made to individuals shall reflect reduction for the income and other resources available to the recipient: provided that the department may disregard

income to the extent and in the manner permitted or required by title IV-A of the social security act as now or hereafter amended or other federal legislation affecting federal financial participation in his assistance.

The amount of assistance payments made at any time shall be subject to the amount of funds available to the department for such purposes. The department may also increase or decrease the payment standard for groups of cases where the circumstances are specifically identified which distinguish application of the need standard in those cases.

(2) The amount of assistance which any recipient of old age assistance, aid to the blind, or aid to the disabled shall be eligible to receive shall be determined in accordance with the rules and regulations of the state department subject to the availability of funds and in accordance with title XVI of the social security act.

(3) The amount of assistance which any medical assistance recipient shall be eligible to receive shall be subject to reduction according to the amount of funds as are available to the department for such assistance.

Approved March 31, 1994.

CHAPTER 288
(H.B. No. 655)

AN ACT

RELATING TO OFF-HIGHWAY VEHICLES; AMENDING SECTION 67-7122, IDAHO CODE, TO INCREASE THE FEE ON OFF-HIGHWAY VEHICLE REGISTRATION STICKERS; AMENDING SECTION 67-7123, IDAHO CODE, TO INCREASE THE TRANSFER FEE; AND AMENDING SECTION 67-7126, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF REGISTRATION STICKER FEES FROM THE MOTORBIKE RECREATION ACCOUNT.

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

SECTION 1. That Section 67-7122, Idaho Code, be, and the same is hereby amended to read as follows:

67-7122. REQUIREMENTS -- REGISTRATION -- PROCEDURE. (1) Commencing January 1, 1987 and on or before January 1 of each subsequent year, the owner of any all terrain vehicle or motorbike as defined in section 67-7101, Idaho Code, used off public highways but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes, shall register that vehicle at any vendor authorized by the department. A fee of ~~six~~ ten dollars ($6~~1~~0.00) shall be charged for each registration, which fee includes a one dollar and fifty cent ($1.~~0~~50) vendor fee. At the time of sale from any dealer, each motorbike or all terrain vehicle must be registered before it leaves the premises. Application blanks and stickers shall be supplied by the department and the registration sticker shall be issued to the person making application for registra-

tion. The vendor issuing the registration sticker shall, upon receipt of the application in approved form, issue to the applicant an off-highway vehicle sticker and shall note the number of the sticker in his records and shall supply a duplicate copy of the application form, noting the number of the sticker issued, to the department. All stickers which are issued shall be in force through January 1 of the following year. All registration stickers shall be renewed by the owner of the off-highway vehicle in the same manner provided for in the initial securing of the same. The issued sticker shall be placed upon the off-highway vehicle in such a manner that it is completely visible and shall be kept in a legible condition at all times.

(2) For operation of an all terrain vehicle on the public highways, the vehicle shall also be registered pursuant to the provisions of section 49-402, Idaho Code.

SECTION 2. That Section 67-7123, Idaho Code, be, and the same is hereby amended to read as follows:

67-7123. TRANSFER OF STICKER. The purchaser of an off-highway motor vehicle, which has been previously registered, shall within fifteen (15) days after acquiring same, make application to a vendor for transfer to him of the sticker of registration issued to the off-highway vehicle, giving the same information as on the original application and the number of the sticker, and shall at the same time pay a transfer fee of one dollar and fifty cents ($1.050).

SECTION 3. That Section 67-7126, Idaho Code, be, and the same is hereby amended to read as follows:

67-7126. ESTABLISHMENT OF ACCOUNT -- DISTRIBUTION OF FEES. There is established in the state treasurer's office an account to be known and designated as the "motorbike recreation account." The ~~six~~ ten dollar ($610.00) fee collected for off-highway vehicle registration stickers shall be allocated as follows:

(1) Vendors shall charge one dollar and fifty cents ($1.050) for a handling fee;

(2) ~~Seventy-five cents (75¢)~~ Up to fifteen percent (15%) shall be allotted to the department for administration and for the production of registration stickers, which moneys shall be placed in the motorbike recreation account; and

(3) The remaining ~~four--dollars--and--twenty-five-cents-($4.25)~~ funds shall be transmitted to the state treasurer's office for deposit to the credit of the motorbike recreation account, all such moneys to be transmitted to the state treasurer on or before the 10th day of each month.

Approved March 31, 1994.

CHAPTER 289
(H.B. No. 733)

AN ACT

RELATING TO THE COLLECTION OF A DEBT INCURRED AS A RESULT OF PAYMENT OF PUBLIC ASSISTANCE FOR A DEPENDENT CHILD; AMENDING SECTION 56-203B, IDAHO CODE, TO PROVIDE THAT A DEBT RESULTING FROM THE PAYMENT OF PUBLIC ASSISTANCE MONEY TO OR FOR THE BENEFIT OF ANY DEPENDENT CHILD SHALL NOT BE INCURRED BY, NOR AT ANY TIME BE COLLECTED FROM A PARENT OR OTHER PERSON WHO WOULD BE OR IS ELIGIBLE FOR OR WHO IS THE RECIPIENT OF PUBLIC ASSISTANCE MONEYS FOR THE BENEFIT OF MINOR DEPENDENT CHILDREN FOR THE PERIOD SUCH PERSON OR PERSONS ARE IN SUCH STATUS AND THE COLLECTION OF THE DEBT FROM SUCH PERSON WOULD NOT BE IN THE FISCAL INTEREST OF THE STATE OR WOULD NOT BE IN THE BEST INTEREST OF THE CHILD(REN) FOR WHOM SUCH PERSON OWES SUPPORT AND TO CORRECT PUNCTUATION.

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

SECTION 1. That Section 56-203B, Idaho Code, be, and the same is hereby amended to read as follows:

56-203B. PAYMENT OF PUBLIC ASSISTANCE FOR CHILD CONSTITUTES DEBT TO DEPARTMENT BY NATURAL OR ADOPTIVE PARENTS -- LIMITATIONS -- DEPARTMENT SUBROGATED TO RIGHTS. Any payment of public assistance money made to or for the benefit of any dependent child or children creates a debt due or owing to the department by the natural or adoptive parent or parents who are responsible for support of such children in an amount equal to the amount of public assistance money so paid. Provided, that where there has been a district court order, the debt shall be limited to the amount provided for by said order. The department shall have the right to petition the appropriate district court for modification of a district court order on the same grounds as a party to said cause. Where a child has been placed in foster care, and a written agreement for payment of support has been entered into by the responsible parent or parents and the department, the debt shall be limited to the amount provided for in said agreement. Provided, that if a court order for support is or has been entered, the provisions of said order shall prevail over the agreement.

The department shall be subrogated to the right of said child or children or person having the care, custody and control of said child or children to prosecute or maintain any support action existing under the laws of the state of Idaho to obtain reimbursement of moneys thus expended. If a district court order enters judgment for an amount of support to be paid by an obligor parent, the department shall be subrogated to the debt created by such order, and said money judgment shall be deemed to be in favor of the department. This subrogation shall specifically be applicable to temporary spouse support orders, family maintenance orders and alimony orders up to the amount paid by the department in public assistance moneys to or for the benefit of a dependent child or children but allocated to the benefit of said children on the basis of providing necessities for the caretaker of said

children.

Debt under this section shall not be incurred~~,~~ by, nor at any time be collected from a parent or other person who would be or is eligible for or who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person or persons are in such status and the collection of the debt from such person would not be in the fiscal interest of the state or would not be in the best interest of the child(ren) for whom such person owes support.

Approved March 31, 1994.

CHAPTER 290
(H.B. No. 756, As Amended)

AN ACT

RELATING TO AQUACULTURE FACILITIES; AMENDING SECTION 39-118, IDAHO CODE, TO REQUIRE REVIEW OF PLANS AND SPECIFICATIONS OF WASTE TREATMENT OR DISPOSAL FACILITIES FOR AQUACULTURE FACILITIES.

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

SECTION 1. That Section 39-118, Idaho Code, be, and the same is hereby amended to read as follows:

39-118. REVIEW OF PLANS. 1. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities, public water supply systems or public water treatment systems or for modification or expansion to existing sewage treatment plants or systems, waste treatment or disposal facilities, public water supply systems or public water treatment systems, shall be submitted to and approved by the department of health and welfare before construction may begin, and all construction shall be in compliance therewith. No deviation shall be made from the approved plans and specifications without the prior approval of the department. Within thirty (30) days of the completion of construction, alteration, or modification of any new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities, public water supply systems or public water treatment systems, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed must be submitted to the department of health and welfare. If construction does not deviate from the original plans previously submitted for approval, a statement to that effect shall be filed with the department.

2. All plans and specifications submitted to satisfy the requirements of this section shall conform in style and quality to regularly accepted engineering standards. Except with respect to plans and specifications for facilities addressed in subsection 3 of this section, and confined animal feeding operations, t~~T~~he board may require that certain types of plans and specifications must be certified by registered professional engineers. If the department determines that any

particular facility or category of facilities will produce no significant impact on the environment or on the public health, the department shall be authorized to waive the submittal or approval requirement for that facility or category of facilities.

3. All plans and specifications for the construction, modification, expansion, or alteration of waste treatment or disposal facilities for aquaculture facilities licensed by the department of agriculture for both commercial fish propagation facilities as defined in section 22-4601, Idaho Code, and sport fish propagation facilities whether private or operated or licensed by the department of fish and game and other aquaculture facilities as defined in the Idaho waste management guidelines for aquaculture operations, shall be submitted and approved by the department of health and welfare before construction may begin and all construction shall be in compliance therewith. The department shall review plans and specifications within forty-five (45) days of submittal and notify the owner or responsible party of approval or disapproval. In the event of disapproval the department shall provide reasons for disapproval in writing to the owner or responsible party. Plans and specifications shall conform in style and quality to standard industry practices and guidelines developed pursuant to this subsection. The director shall establish industry guidelines or best management practices subcommittees composed of members of the department, specific regulatory agencies for the industry, general public, and persons involved in the industry to develop and update guidelines or best management practices as needed. Within thirty (30) days of the completion of the construction, modification, expansion or alteration of facilities subject to this subsection, the owner or responsible party shall submit a statement to the department that the construction has been completed and is in substantial compliance with the plans and specifications as submitted and approved. The department shall conduct an inspection within sixty (60) days of the date of submission of the statement and shall inform the owner or responsible party of its approval of the construction or in the event of nonapproval, the reasons for nonapproval.

Approved March 31, 1994.

CHAPTER 291
(H.B. No. 765, As Amended)

AN ACT

RELATING TO COMMERCIAL VEHICLES TRANSPORTING CERTAIN PRODUCTS; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-434A, IDAHO CODE, TO PROVIDE PENALTIES FOR FAILURE TO PAY OPERATING FEES ON CERTAIN COMMERCIAL VEHICLES; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 49-434A, Idaho Code, and to read as follows:

49-434A. PENALTIES FOR FAILURE TO PAY OPERATING FEES. Any motor vehicle or combination of vehicles owned by a nonresident and operated in Idaho for which the proper registration and operating fees in Idaho have not been paid under the provisions of section 49-432, 49-433, 49-434(5) or 49-435, Idaho Code, shall, upon discovery, be subject to the following penalties:

Seizure and detention for up to seventy-two (72) hours by any law enforcement agency of the vehicle and its entire cargo if the cargo does not consist of perishable food products or livestock;

(1) Release from detention shall be accomplished only by presentation of proper evidence that the applicable fees have been paid; or

(2) Off-loading of any cargo onto a properly licensed and registered vehicle.

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 April 1, 1994.

Approved March 31, 1994.

CHAPTER 292
(H.B. No. 799)

AN ACT

RELATING TO THE STREAM CHANNEL PROTECTION ACT; AMENDING SECTION 42-3802, IDAHO CODE, TO SUBSTITUTE A DEFINITION OF "PERSON" FOR "APPLICANT," TO PROVIDE A DEFINITION OF "MEAN HIGH WATERMARK" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-3803, IDAHO CODE, TO SUBSTITUTE THE TERM "PERSON" FOR "APPLICANT" AND TO ADD A FILING FEE REQUIREMENT; AMENDING SECTION 42-3809, IDAHO CODE, TO SUBSTITUTE THE TERM "PERSON" FOR "APPLICANT"; AMENDING SECTION 42-3812, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO ENFORCE THE ACT, INCLUDING THE USE OF ADMINISTRATIVE ENFORCEMENT ACTIONS AND TO AUTHORIZE THE DIRECTOR TO DELEGATE CITATION AUTHORITY TO EMPLOYEES OF THE DEPARTMENT OF WATER RESOURCES; AND AMENDING CHAPTER 38, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3813, IDAHO CODE, TO PROVIDE AN ADMINISTRATIVE ENFORCEMENT OPTION USING A NOTICE OF VIOLATION AND CIVIL PENALTY PROCEDURE.

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

SECTION 1. That Section 42-3802, Idaho Code, be, and the same is hereby amended to read as follows:

42-3802. DEFINITIONS. Whenever used in this act, the term:

(a) "~~Applicant~~ Person" means any individual, partnership, company, corporation, municipality, county, state or federal agency, or

other entity proposing to alter a stream channel.

(b) "Alter" means to obstruct, diminish, destroy, alter, modify, relocate, or change the natural existing shape or direction of water flow of any stream channel within or below the mean high ~~water--mark~~ watermark thereof.

(c) "Board" means the Idaho water resource board.

(d) "Stream channel" means a natural watercourse of perceptible extent, with definite bed and banks, which confines and conducts continuously flowing water.

(e) "Department" means the Idaho department of water resources.

(f) "Director" means the director of the Idaho department of water resources.

(g) "Plans" means maps, sketches, engineering drawings, word descriptions and specifications sufficient to describe the extent, nature and location of the proposed stream channel alteration and the proposed method of accomplishing same.

(h) "Mean high watermark" means a water level corresponding to the natural or ordinary high watermark and is the line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its terrestrial vegetation and destroy its value for commonly accepted agricultural purposes.

SECTION 2. That Section 42-3803, Idaho Code, be, and the same is hereby amended to read as follows:

42-3803. ALTERATION OF CHANNELS -- PERMIT REQUIRED -- PLANS. (a) No ~~applicant~~ person shall engage in any project or activity which will alter a stream channel without first applying to and receiving a permit therefor from the director. Such application shall be submitted not less than sixty (60) days prior to the intended date of commencement of construction of such stream channel alteration and shall be upon forms to be furnished by the director or in such other form as deemed appropriate by memorandum of agreement with other state and federal agencies and shall be accompanied by plans of the proposed stream channel alteration and the statutory filing fee.

(b) The board shall provide that each permit granted shall show whether it constitutes a permit from the department of lands as authorized by the department of lands, or whether an additional permit from the department of lands shall be required.

(c) The board may adopt, revise and rescind such rules and regulations and issue such general orders as may be necessary to effectuate the purposes and policy of this chapter within the limitations and standards set forth in this chapter. Rules, regulations and orders adopted or issued pursuant to this section may include, but are not limited to, minimum standards to govern projects or activities for which a permit or permits have been received under this chapter and regulations governing procedures for processing applications and issuing permits under this chapter. Minimum standards and procedural regulations shall not be adopted pursuant to this section until after they have been offered for review and comment to other state agencies having an interest in activities regulated under this chapter. Any standards, rules, regulations and orders adopted or issued pursuant to this section shall be promulgated in accordance with the provisions of

chapter 52, title 67, Idaho Code, to the extent that the provisions of chapter 52, title 67, Idaho Code, are not inconsistent herewith.

(d) The board may, by regulation, dispense with procedural requirements for permit application and approval contained in this chapter for projects and activities which, in all respects, at least meet minimum standards adopted pursuant to this section.

SECTION 3. That Section 42-3809, Idaho Code, be, and the same is hereby amended to read as follows:

42-3809. PENALTY FOR VIOLATION -- INJUNCTIVE RELIEF. Any ~~applicant~~ person who violates any of the provisions of this act, any regulation, rule, order or standard of the board promulgated pursuant to section 42-3803, Idaho Code, or of any order or condition of approval of the director issued pursuant thereto, where a copy of the order has been served upon said ~~applicant~~ person in person or by certified mail and said ~~applicant~~ person fails to comply therewith within the time therein provided, or within ten (10) days of such service if not otherwise provided, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred fifty dollars ($150) nor more than five hundred dollars ($500); provided further, that each day such violation of an order or condition of approval has taken place shall constitute a separate offense punishable by a fine of not less than one hundred fifty dollars ($150) for each day until such activity is abated or voluntarily ceased. Any stream channel alteration engaged in by any ~~applicant~~ person without approval having been obtained therefor as prescribed in this act is hereby declared to be a public nuisance and shall be subject to proceedings for immediate abatement. The director shall have authority and it shall be his duty to seek a temporary injunction from the appropriate district court to restrain ~~an applicant~~ person from altering a stream channel until approval therefor has been obtained by the ~~applicant~~ person as provided in this act.

SECTION 4. That Section 42-3812, Idaho Code, be, and the same is hereby amended to read as follows:

42-3812. ENFORCEMENT OF ~~STREAM-CHANNEL-PROTECTION-ACT~~ AUTHORITY. The ~~employees~~ director of the department of water resources ~~are~~ is hereby vested with the power and authority to enforce the provisions of chapter 38, title 42, Idaho Code, and rules and regulations promulgated pursuant to it. The director may delegate to e~~E~~mployees of the department of water resources ~~are empowered~~ authority to issue Idaho uniform citations, as provided for by the rules of the court for magistrates division of the district court and district court, to violators of the provisions of chapter 38, title 42, Idaho Code, and rules and regulations promulgated pursuant to it.

SECTION 5. That Chapter 38, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3813, Idaho Code, and to read as follows:

42-3813. ENFORCEMENT PROCEDURE -- NOTICE -- CONSENT ORDER -- CIVIL ACTION. (1) When the director of the department of water resources determines that any person is in violation of any provision of this chapter or any rule, permit, condition of approval or order issued or promulgated pursuant to this chapter, the director may commence an administrative enforcement action by issuing a written notice of violation. The notice of violation shall be served upon the alleged violator in person or by certified mail. The notice of violation shall identify the alleged violation and shall specify each provision of the chapter, rule, permit, condition of approval or order which has been violated. The notice of violation shall state the remedy, including all restoration and mitigation measures, and the amount of any civil penalty the director seeks for redress of the violation.

(2) The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference concerning the alleged violation. A written response may be required within fifteen (15) days of the receipt of the notice of violation by the person to whom it is directed. If a recipient of a notice of violation contacts the department within fifteen (15) days of the receipt of the notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty (20) days of the receipt of the notice unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in subsection (4) of this section. Nothing in this section shall preclude employees of the department designated by the director from issuing Idaho uniform citations or written administrative orders directing persons to cease and desist all activities that are in violation of this chapter.

(3) The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstances of the alleged violation and, where appropriate, to present a proposal for remedying the damage caused by the violation and assuring future compliance. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty. The consent order shall be effective immediately upon signing by both parties and shall preclude a civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain in any appropriate district court, specific performance of the consent order and such other relief as authorized by law. If the parties cannot reach agreement of a consent order within sixty (60) days after the receipt of the notice of violation, or if the recipient does not request a compliance conference, the director may commence and prosecute a civil enforcement action in the district court in accordance with subsection (4) of this section.

(4) The director may initiate a civil enforcement action through the attorney general as provided in subsection (6) of this section. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to have

violated any provision of this chapter, or any rule promulgated pursuant thereto. Such action may be brought to compel compliance with any provision of this chapter, or any rule promulgated pursuant thereto. The director shall not be required to prosecute an administrative enforcement action before initiating a civil enforcement action.

(5) Any person determined in a civil enforcement action to have violated any provision of this chapter, or any rule promulgated pursuant thereto, shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) per violation or one hundred fifty dollars ($150) per day for a continuing violation, whichever is greater. The court shall determine the amount of the penalty based upon the willfulness of the violation, the economic value obtained by the violator and the damage to public resources and other water right holders. A method of recovery of the penalty shall be a civil enforcement action in and for the county where the violation occurred. All civil penalties collected under this section shall be paid into the water administration account. Parties to an administrative enforcement action may agree to a civil penalty as provided in this subsection. In addition to any civil penalties, any person who has been determined to have violated the provisions of this chapter, or the rules promulgated thereunder, shall be liable for any expense incurred by the state in enforcing the provisions of this chapter, or in enforcing or terminating any nuisance or source of environmental degradation caused by the violation. No action taken pursuant to this section shall relieve any person from any civil action and damages that may exist for injury or damage resulting to others from any violation of this chapter, or the rules promulgated pursuant thereto.

(6) Upon request of the director, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions pursuant to this chapter.

Approved March 31, 1994.

CHAPTER 293
(H.B. No. 824)

AN ACT

RELATING TO LIMITED LIABILITY COMPANIES; AMENDING SECTION 30-1-71, IDAHO CODE, TO ENABLE CORPORATIONS TO MERGE WITH LIMITED LIABILITY COMPANIES AND TO PROVIDE A PROCEDURE THEREFOR; AMENDING SECTION 30-1-72, IDAHO CODE, TO ENABLE CORPORATIONS TO CONSOLIDATE WITH LIMITED LIABILITY COMPANIES AND TO PROVIDE A PROCEDURE THEREFOR; AMENDING SECTION 30-1-76, IDAHO CODE, TO STATE THE EFFECT OF A MERGER OR CONSOLIDATION OF A CORPORATION WITH OTHER ENTITIES; AMENDING SECTION 30-1-77, IDAHO CODE, TO ENABLE LIMITED LIABILITY COMPANIES TO MERGE OR CONSOLIDATE WITH FOREIGN CORPORATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 53-601, IDAHO CODE, TO CORRECT A CLERICAL ERROR; AMENDING SECTION 53-608, IDAHO CODE, TO REQUIRE THAT THE ARTICLES OF ORGANIZATION OF A PROFESSIONAL LIMITED LIABILITY COMPANY SPECIFY THE PROFESSION IT IS AUTHORIZED TO PRACTICE; AMENDING SECTION 53-613, IDAHO CODE, TO MODIFY THE

CONTENTS OF ANNUAL REPORTS OF LIMITED LIABILITY COMPANIES; AMENDING SECTION 53-615, IDAHO CODE, TO ALLOW FOR OTHER THAN INDIVIDUALS TO BE MEMBERS IN PROFESSIONAL LIMITED LIABILITY COMPANIES; AMENDING SECTION 53-628, IDAHO CODE, TO SPECIFY THE BASIS FOR SHARING THE PROFITS OF A LIMITED LIABILITY COMPANY; AMENDING SECTION 53-630, IDAHO CODE, TO CHANGE THE RULES CONCERNING DISTRIBUTIONS ON AN EVENT OF DISSOCIATION OF A MEMBER OF A LIMITED LIABILITY COMPANY; AMENDING SECTION 53-651, IDAHO CODE, TO CORRECT A REFERENCE; AMENDING SECTION 53-655, IDAHO CODE, TO CORRECT A GRAMMATICAL ERROR; AMENDING SECTION 53-665, IDAHO CODE, TO REMOVE FEES FOR SUSPENSION OF LIMITED LIABILITY COMPANIES; AND AMENDING SECTION 72-212, IDAHO CODE, TO CLARIFY THAT A WORKING MEMBER OF A LIMITED LIABILITY COMPANY IS TREATED IN THE SAME FASHION AS A WORKING PARTNER OF A PARTNERSHIP FOR WORKER'S COMPENSATION PURPOSES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 30-1-71, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-71. PROCEDURE FOR MERGER. Any two (2) or more domestic corporations, or any one (1) or more domestic corporation and domestic limited liability companies, may merge into one (1) of such corporations or limited liability companies provided the corporation(s) act pursuant to a plan of merger approved in the manner provided in this act.

The board of directors of each corporation shall, by resolution adopted by each such board, approve a plan of merger setting forth:

(a) The names of the ~~corporations~~ entities proposing to merge, and the name of the ~~corporation~~ entity into which they propose to merge, which is hereinafter designated as the surviving ~~corporation~~ entity.

(b) The terms and conditions of the proposed merger.

(c) The manner and basis of converting the shares of each corporation into shares, membership interests, obligations or other securities of the surviving ~~corporation~~ entity or of any other ~~corporation~~ entity or, in whole or in part, into cash or other property.

(d) A statement of any changes in the articles of incorporation or articles of organization of the surviving ~~corporation~~ entity to be effected by such merger.

(e) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

SECTION 2. That Section 30-1-72, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-72. PROCEDURE FOR CONSOLIDATION. Any two (2) or more domestic corporations, or one (1) or more domestic corporation and one (1) or more domestic limited liability company, may consolidate into a new corporation or a new limited liability company pursuant to a plan of consolidation, provided the corporation(s) acts in the manner approved ~~in the manner provided~~ in this act.

The board of directors of each corporation shall, by a resolution adopted by each such board, approve a plan of consolidation setting forth:

(a) The names of the ~~corporations~~ entities proposing to consolidate, and the name of the new ~~corporation~~ entity into which they propose to consolidate, which is hereinafter designated as the new ~~corporation~~ entity.

(b) The terms and conditions of the proposed consolidation.

(c) The manner and basis of converting the shares of each corporation into shares, membership interests, obligations or other securities of the new ~~corporation~~ entity or of any other ~~corporation~~ entity or, in whole or in part, into cash or other property.

(d) With respect to the new ~~corporation~~ entity, all of the statements required to be set forth in articles of incorporation for corporations organized under this act, if the new entity is to be a corporation, or all of the statements required to be set forth in articles of organization for limited liability companies organized under the Idaho limited liability company act, if the new entity is to be a limited liability company.

(e) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

SECTION 3. That Section 30-1-76, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-76. EFFECT OF MERGER, CONSOLIDATION OR EXCHANGE. A merger, consolidation or exchange shall become effective upon the issuance of a certificate of merger, consolidation or exchange by the Secretary of State, or on such later date, not more than thirty (30) days subsequent to the filing thereof with the Secretary of State, as shall be provided for in the plan.

When a merger or consolidation has become effective:

(a) The several ~~corporations~~ entities which are parties to the plan of merger or consolidation shall be a single ~~corporation~~ entity, which, in the case of a merger, shall be that ~~corporation~~ entity designated in the plan of merger as the surviving ~~corporation~~ entity, and, in the case of a consolidation, shall be the new ~~corporation~~ entity provided for in the plan of consolidation.

(b) The separate existence of all ~~corporations~~ entities which are parties to the plan of merger or consolidation, except the surviving or new ~~corporation~~ entity, shall cease.

(c) Such surviving or new ~~corporation~~ entity shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of ~~a corporation~~ an entity organized under this act or under the Idaho limited liability company act, as appropriate.

(d) Such surviving or new ~~corporation~~ entity shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, of a public as well as of a private nature, of each of the merging or consolidating ~~corporations~~ entities; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the

~~corporations~~ entities so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single ~~corporation~~ entity without further act or deed; and the title to any real estate, or any interest therein, vested in any of such ~~corporations~~ entities shall not revert or be in any way impaired by reason of such merger or consolidation.

(e) Such surviving or new ~~corporation~~ entity shall thenceforth be responsible and liable for all the liabilities and obligations of each of the ~~corporations~~ entities so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such ~~corporations~~ entities may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new ~~corporation~~ entity may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such ~~corporation~~ entity shall be impaired by such merger or consolidation.

(f) In the case of a merger, the articles of incorporation or articles of organization of the surviving ~~corporation~~ entity shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation or articles of organization are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this act shall be deemed to be the original articles of incorporation of the new corporation.

When a merger, consolidation or exchange has become effective, the shares and/or membership interests of the ~~corporation or corporations~~ entities party to the plan that are, under the terms of the plan, to be converted or exchanged, shall cease to exist, in the case of a merger or consolidation, or be deemed to be exchanged in the case of an exchange; and the holders of such shares shall thereafter be entitled only to the shares, membership interests, obligations, other securities, cash or other property into which they shall have been converted or for which they shall have been exchanged, in accordance with the plan, subject to any rights under section 30-1-80, Idaho Code.

SECTION 4. That Section 30-1-77, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-77. MERGER, CONSOLIDATION OR EXCHANGE OF SHARES BETWEEN DOMESTIC AND FOREIGN CORPORATIONS AND/OR LIMITED LIABILITY COMPANIES. One (1) or more foreign corporations and/or limited liability companies and one (1) or more domestic corporations and/or limited liability companies may be merged or consolidated, or participate in an exchange, in the following manner, if such merger, consolidation or exchange is permitted by the laws of the jurisdiction under which each such foreign ~~corporation~~ entity is organized:

(a) Each domestic corporation shall comply with the provisions of this act with respect to the merger, consolidation or exchange, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the jurisdiction under which it is organized.

(b) If the surviving or new ~~corporation~~ entity in a merger or

consolidation is to be governed by the laws of any jurisdiction other than this state, it shall comply with the provisions of this act or the Idaho limited liability company act, as appropriate, with respect to foreign ~~corporations~~ or foreign limited liability companies if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(1) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(2) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding; and

(3) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation, the amount, if any, to which they shall be entitled under provisions of this act with respect to the rights of dissenting shareholders.

SECTION 5. That Section 53-601, Idaho Code, be, and the same is hereby amended to read as follows:

53-601. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

(1) "Articles of organization" mean articles filed under section 53-607, Idaho Code, and those articles as amended or restated.

(2) "Corporation" means a corporation formed under the laws of any state or foreign country.

(3) "Court" includes every court having jurisdiction in the case.

(4) "Event of dissociation" means an event that causes a person to cease to be a member as provided in section 53-641, Idaho Code.

(5) "Foreign limited liability company" means an organization that is:

(a) An unincorporated association;

(b) Organized under laws of a state other than the laws of this state, or under the laws of any foreign country;

(c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity; ~~or~~ and

(d) Not required to be registered or organized under any statute of this state other than the provisions of this chapter.

(6) "Limited liability company" or "domestic limited liability company" means an organization formed under the provisions of this chapter.

(7) "Limited liability company interest" or "interest in the limited liability company" means the interest that can be assigned under section 53-636, Idaho Code, and charged under section 53-637, Idaho Code.

(8) "Limited partnership" means a limited partnership formed under the laws of any state or foreign country.

(9) "Manager" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be

managed by managers, the person or persons designated in accordance with section 53-621, Idaho Code.

(10) "Member" means a person or persons who have been admitted to membership in a limited liability company as provided in section 53-640, Idaho Code, and who have not ceased to be members as provided in section 53-641, Idaho Code.

(11) "Operating agreement" means any agreement, written or oral, among all of the members as to the conduct of the business and affairs of a limited liability company.

(12) "Person" means an individual, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal entity.

(13) "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

SECTION 6. That Section 53-608, Idaho Code, be, and the same is hereby amended to read as follows:

53-608. ARTICLES OF ORGANIZATION. The articles of organization shall be set forth in a form prescribed by the secretary of state:

(1) A name for the limited liability company that satisfies the requirements of section 53-602, Idaho Code;

(2) The address of the registered office and the name and business, residence, or mailing address of the registered agent required to be maintained by the provisions of section 53-604, Idaho Code;

(3) The latest date certain upon which the limited liability company is to dissolve;

(4) If management of the limited liability company is vested in a manager or managers, a statement to that effect;

(5) If the management of the limited liability company is vested in its members, the name and address of one (1) or more of the initial members of the limited liability company;

(6) If the management of the limited liability company is vested in a manager or managers, the name and address of one (1) or more of the initial managers of the limited liability company;

(7) If the limited liability company is a professional service limited liability company, the principal profession for which members are duly licensed or otherwise legally authorized to render professional services.

SECTION 7. That Section 53-613, Idaho Code, be, and the same is hereby amended to read as follows:

53-613. ANNUAL REPORT OF DOMESTIC AND FOREIGN LIMITED LIABILITY COMPANIES. (1) Each domestic limited liability company, and each foreign limited liability company authorized to do business in this state, shall file an annual report setting forth:

(a) The name of the limited liability company and the state or country under the laws of which it is organized;

(b) The address of the registered office of the limited liability company in this state, and the name of its registered agent in this state at such address, and ~~in the case of a foreign limited~~

~~liability company,~~ the address of its principal office ~~in the state or country under the laws of which it is organized~~;

(c) If the management of the limited liability company is vested in its members, the name and address of one (1) or more of the ~~initial~~ current members of the limited liability company;

(d) If the management of the limited liability company is vested in a manager or managers, the name and address of one (1) or more of the ~~initial~~ current managers of the limited liability company.

(2) Such annual report shall be made on forms prescribed and furnished by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report. It shall be executed by the limited liability company by a member if management is vested in the members, or by a manager if management is vested in the managers. If the limited liability company is in the hands of a receiver or trustee, it shall be executed on behalf of the limited liability company by such receiver or trustee.

(3) Such annual report of a domestic or foreign limited liability company shall be delivered to the secretary of state between the 1st day of July and the 1st day of November of each year, except that the first annual report of a domestic or foreign limited liability company shall be filed between the 1st day of July and the 1st day of November of the state fiscal year (July 1-June 30) next succeeding the state fiscal year in which its articles of organization were filed with the secretary of state, or when the certificate of registration was issued by the secretary of state, as the case may be. If the secretary of state finds that such report conforms to the requirements of this chapter, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the limited liability company for any necessary corrections.

SECTION 8. 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 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 ~~individual~~ 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 ~~who is~~, 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.

SECTION 9. That Section 53-628, Idaho Code, be, and the same is hereby amended to read as follows:

53-628. SHARING OF PROFITS. Unless otherwise provided in writing in an operating agreement, each member shall be repaid that member's contributions to capital and share ~~equally in~~ on a per capita basis the profits and assets remaining after all liabilities, including those to members, are satisfied.

SECTION 10. That Section 53-630, Idaho Code, be, and the same is hereby amended to read as follows:

53-630. DISTRIBUTIONS ON AN EVENT OF DISSOCIATION. ~~If~~ Unless otherwise provided in writing in an operating agreement ~~does not provide the amount of or a method for determining the distribution to a dissociating member~~, if a member dissociates from a limited liability company without resulting in a dissolution under section 53-642, Idaho Code;

(1) And if the member is removed as a member pursuant to section 53-641(c), Idaho Code, then the member shall receive within a reasonable time after dissociation the fair value of the member's interest in the limited liability company as of the date of dissociation ~~based upon the member's right to share in distributions from~~ the limited liability company as if the limited liability company were wound up as of that date;

(2) And if the event of dissociation is other than removal pursuant to section 53-641(c), Idaho Code, the member shall be treated as

an assignee from the date of dissociation.

SECTION 11. That Section 53-651, Idaho Code, be, and the same is hereby amended to read as follows:

53-651. REGISTRATION. Before transacting business in this state, a foreign limited liability company shall register with the secretary of state by submitting to the secretary of state an original signed copy of an application for registration as a foreign limited liability company, together with a duplicate copy that may be either a signed, photocopied or conformed copy, executed by a person with authority to do so under the laws of the state or other jurisdiction of its formation. The application shall be prescribed by the secretary of state and set forth:

(1) The name of the foreign limited liability company and, if different, the name under which it proposes to transact business in this state;

(2) The state or other jurisdiction where formed, and date of its formation;

(3) The name and address of a registered agent for service of process required to be maintained by the provisions of section 53-604, Idaho Code;

(4) The address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or jurisdiction or, if not so required, of the principal office of the foreign limited liability company; and

(5) The application for registration of a foreign limited liability company shall be accompanied by a certificate from the filing officer in the jurisdiction of creation evidencing that the foreign limited liability company is a "foreign limited liability company" as defined in section 53-60~~2~~1(5), Idaho Code.

SECTION 12. That Section 53-655, Idaho Code, be, and the same is hereby amended to read as follows:

53-655. CANCELLATION OF REGISTRATION. (1) A foreign limited liability company authorized to transact business in this state may cancel its registration upon procuring from the secretary of state a certificate of cancellation. In order to procure such certificate, the foreign limited liability company shall deliver to the secretary of state an application for cancellation, which shall set forth:

(a) The name of the foreign limited liability company and the state or other jurisdiction under the laws of which it is formed;

(b) That the foreign limited liability company is not transacting business in this state;

(c) That the foreign limited liability company surrenders its ~~certificate of~~ registration to transact business in this state;

(d) That the foreign limited liability company revokes the authority of its registered agent for service of process in this state and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the foreign limited liability company was authorized to transact business in this state may thereafter be made on

such limited liability by service thereon in the manner provided in section 53-606, Idaho Code;

(e) A post-office address to which a copy of any process against the limited liability company may be served on it pursuant to the provisions of section 53-606, Idaho Code.

(2) The application for cancellation shall be in the form and manner designated by the secretary of state and shall be executed on behalf of the foreign limited liability company by a person with authority to do so under the laws of the state or other jurisdiction of its formation, or, if the foreign limited liability company is in the hands of a receiver, trustee or other court-appointed fiduciary, by that fiduciary.

SECTION 13. That Section 53-665, Idaho Code, be, and the same is hereby amended to read as follows:

53-665. FILING, SERVICE, AND COPYING FEES. The secretary of state shall charge and collect:

(1) For filing the original articles of organization, a fee of one hundred dollars ($100) if typed and completely included on the standard form prescribed by the secretary of state or one hundred twenty dollars ($120) if not typed or if attachments are included;

(2) For filing notice of amendment and issuing a certificate of amendment, a fee of thirty dollars ($30.00);

(3) For filing articles of merger or consolidation and issuing a certificate of merger or consolidation, a fee of thirty dollars ($30.00);

(4) For filing articles of dissolution and issuing a certificate of dissolution, a fee of thirty dollars ($30.00);

(5) For accepting an application for reservation of a name, or for filing a notice of the transfer or cancellation of any name reservation, a fee of twenty dollars ($20.00);

(6) For issuing a certificate of registration to a foreign limited liability company, a fee of one hundred dollars ($100) if typed and completely included on the standard form prescribed by the secretary of state or one hundred twenty dollars ($120) if not typed or if attachments are included; and

(7) Reinstatement fees for involuntary ~~suspension or~~ cancellation of a limited liability company's articles of organization or registration of ten dollars ($10.00) for each year or part of a year of suspension and/or cancellation and ten dollars ($10.00) for a certificate.

SECTION 14. That Section 72-212, Idaho Code, be, and the same is hereby amended to read as follows:

72-212. EXEMPTIONS FROM COVERAGE. None of the provisions of this law shall apply to the following employments unless coverage thereof is elected as provided in section 72-213, Idaho Code.

(1) Household domestic service.

(2) Casual employment.

(3) Employment of outworkers.

(4) Employment of members of an employer's family dwelling in his

household.

(5) Employment which is not carried on by the employer for the sake of pecuniary gain.

(6) Employment as the owner of a sole proprietorship; employment of a working member of a partnership or a limited liability company; employment of an officer of a corporation who at all times during the period involved owns not less than ten per cent (10%) of all of the issued and outstanding voting stock of the corporation and, if the corporation has directors, is also a director thereof.

(7) Employment for which a rule of liability for injury, occupational disease, or death is provided by the laws of the United States.

(8) Agricultural pursuits. Agricultural pursuits, as used herein, shall include the raising or harvesting of any agricultural or horticultural commodity including the raising, pelting, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife raised in captivity, on inclosed lands and public ranges. Agricultural pursuits shall include the loading and transporting, by motor vehicle, of any agricultural or horticultural commodity to any storage, processing, distribution or manufacturing destination and the unloading of the commodity at such destination; provided, that the exemption for the transportation, loading or unloading of agricultural or horticultural commodities shall apply only to individuals, corporations, partnerships or other legal entities who are transporting, loading or unloading only those agricultural or horticultural commodities which the individual, corporation, partnership or other legal entity produced, raised or harvested. The return trip from a manufacturing, processing, storage or distribution destination is exempted if: the return trip to the original point of debarkation is by the safest and most direct route reasonably possible, the cargo transported on the return trip, if any, is to be used exclusively by the individual, corporation, partnership, or other legal entity which is transporting the cargo, and the cargo transported is to be used only in direct connection with the agricultural pursuit.

(9) Pilots of agricultural spraying or dusting planes. Employment as a pilot of an aircraft, used to apply fertilizers and pesticides to agricultural crops, when actually operating an aircraft, shall be exempt from the provisions of the workmen's compensation law, if: the employer files with, and has written approval by, the industrial commission, prior to employing a pilot for the purpose of engaging in the application of pesticides to agricultural crops by aircraft, proof of coverage of an insurance policy that will provide to the employed pilot of such aircraft while actually operating an aircraft, benefits in an amount of not less than: twenty-five thousand dollars ($25,000) accidental death and dismemberment, ten thousand dollars ($10,000) medical expense payments, and five hundred dollars ($500) per month disability income for a minimum of forty-eight (48) months.

(10) Associate real estate brokers and real estate salesmen. Service performed by an individual for a real estate broker as an associate real estate broker or as a real estate salesman, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(11) Volunteer ski patrollers.

(12) Officials of athletic contests involving secondary schools, as defined ~~by~~ in section 33-119, Idaho Code.

Approved March 31, 1994.

CHAPTER 294
(H.B. No. 839)

AN ACT

RELATING TO STATE EMPLOYEES; AMENDING SECTION 67-5309, IDAHO CODE, TO FURTHER DEFINE A PROBATIONARY PERIOD AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE PERSONNEL COMMISSION. The commission shall have the power and authority to adopt, amend, or rescind such rules and regulations as may be necessary for proper administration of this act. Such rules shall include:

(a) A rule requiring the personnel commission, after consulting with each department to develop, adopt, and make effective, a classification plan for positions covered by this act, based upon an analysis of the duties and responsibilities of the position. The classification plan will include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule requiring the personnel commission, after consulting with each department to develop, and adopt a comprehensive compensation plan for all classes of positions covered under this act. The compensation plan shall include salary schedules with the salary of each position consistent with the responsibility and difficulty of the work as outlined in the job specifications.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation.

(d) A rule providing for review by the commission of the personnel system including classification and compensation plans, policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind or the industrial commission certifies, with the concurrence of personnel commission staff, that the individual (1) has a disability or handicap as defined under

state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this act, on the basis of open competitive merit examinations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the examination was open; the application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time for any position for which the commission maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any war veteran and the widow of any war veteran as long as she remains unmarried. Ten (10) points shall be added to the earned rating of any disabled war veteran, the widow of any disabled war veteran as long as she remains unmarried or the spouse of any disabled veteran who is physically unable to perform the work in the position to which the spouse seeks to apply the preference. Employment registers shall be established in order of final score except that the names of all five (5) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating, and the names of all ten (10) point preference eligibles shall be placed at the top of the register above the names of all nonpreference eligibles. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the five (5) top ranking available eligibles plus the names of all individuals with scores identical to the fifth ranking eligible on the register; however, selective certification shall be permitted when justified by the hiring department, under rules to be made by the commission defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified permanent

employee of the agency in which the vacancy occurs. An inter-agency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the commission.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, or other nonmerit factors, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed ~~six--(6) months~~ 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 ~~one-(1)-year~~ two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the commission a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the state personnel director to extend the probationary period for good cause for an additional specified period not to exceed ~~six--(6) months~~ 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 ~~and regulations~~ of the employee's department, or rules ~~and regulations~~ of the personnel commission.

2. Inefficiency, incompetency, or negligence in the performance

of duties.

3. Physical or mental incapability for performing assigned duties.

4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.

5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.

6. Intoxication on duty.

7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.

8. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.

9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.

10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.

11. Habitual pattern of failure to report for duty at the assigned place and time.

12. Habitual improper use of sick leave privileges.

13. Unauthorized disclosure of confidential information from official records.

14. Absence without leave.

15. Misstatement or deception in the application for the position.

16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.

17. Prohibited participation in political activities.

(o) A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system.

(p) Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

(q) Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

(r) Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this act.

(s) A rule concerning "project exempt" appointments.

(t) Rules relating to leave for state employees from official duties, including but not limited to sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(u) A rule providing for shift differential pay. Beginning the first full pay period in fiscal year 1992, the rate of such differential pay shall be one and one-half percent (1 1/2%) of the employee's hourly rate; beginning the first full pay period in fiscal year 1993,

the differential pay rate shall be three percent (3%); and beginning the first full pay period of fiscal year 1994 and each fiscal year thereafter, the rate of differential pay shall be five percent (5%).

Approved March 31, 1994.

CHAPTER 295
(H.B. No. 841)

AN ACT

RELATING TO NONPROFIT CORPORATIONS; AMENDING SECTION 30-3-17, IDAHO CODE, TO PROVIDE ASSESSMENTS UPON THE MEMBERSHIP OF NONPROFIT CORPORATIONS; AMENDING SECTION 30-3-40, IDAHO CODE, TO PROVIDE THAT A MEMBER MAY BECOME LIABLE TO THE CORPORATION FOR DUES, ASSESSMENTS AND FEES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 30-3-17, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-17. ARTICLES OF INCORPORATION. (1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of section 30-3-27, Idaho Code;

(b) The purpose or purposes for which the corporation is organized, which may be, either alone or in combination with other purposes, the transaction of any lawful activity;

(c) The names and addresses of the individuals who are to serve as the initial directors;

(d) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

(e) The name and address of each incorporator;

(f) Whether or not the corporation will have members; and

(g) Provisions not inconsistent with law regarding the distribution of assets on dissolution.

(2) The articles of incorporation may set forth:

(a) Provisions not inconsistent with law regarding:

(i) Managing and regulating the affairs of the corporation;

(ii) Defining, limiting and regulating the powers of the corporation, its board of directors, and members or any class of members; and

(iii) The characteristics, qualifications, rights, limitations and obligations attaching to each or any class of members.

(b) Any provision that under this act is required or permitted to be set forth in the bylaws.

(3) Each incorporator named in the articles must sign the articles.

(4) The articles of incorporation need not set forth any of the corporation powers enumerated in this act.

(5) The articles of incorporation may authorize assessments to be levied upon all members or classes of membership alike, or in different amounts or proportions or upon a different basis upon different members or classes of membership, and may exempt some members or classes of membership from assessments. The articles of incorporation may fix the amount and method of collection of assessments, or may authorize the board of directors to fix the amount thereof, from time to time, and may make them payable at such times or intervals, and upon such notice and by such methods as the directors may prescribe. Assessments may be made enforceable by action or by the forfeiture of membership, or both, upon notice given in writing twenty (20) days before commencement of such action or such forfeiture. If the articles of incorporation so provide, assessments may be secured by a lien upon real property to which membership rights are appurtenant, if appropriate.

SECTION 2. That Section 30-3-40, Idaho Code, be, and the same is hereby amended to read as follows:

30-3-40. MEMBER'S LIABILITY FOR DUES, ASSESSMENTS AND FEES. A member may become liable to the corporation for dues, assessments or fees~~;-provided-however,-that-an-article-or-bylaw-provision-or-a--resolution--adopted-by-the-board-authorizing-or-imposing-dues,-assessments or-fees-does-not,-of-itself,-create-liability~~.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to July 1, 1993.

Approved March 31, 1994.

CHAPTER 296
(H.B. No. 878)

AN ACT

RELATING TO SALVAGE-CERTIFIED VEHICLES; AMENDING SECTION 49-123, IDAHO CODE, TO REDEFINE RECONSTRUCTED VEHICLE AND SALVAGE VEHICLE; AMENDING SECTION 49-518, IDAHO CODE, TO PROVIDE PENALTIES FOR TAMPERING WITH SALVAGE CERTIFICATES OF OWNERSHIP AND DECALS AFFIXED TO SALVAGE-CERTIFIED VEHICLES; AMENDING SECTION 49-524, IDAHO CODE, TO REMOVE A CONDITION FOR WHICH ISSUANCE OF A SALVAGE CERTIFICATE IS REQUIRED, TO PROVIDE PROPER NOMENCLATURE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 49-525, IDAHO CODE, TO PROVIDE THAT A BRANDED CERTIFICATE OF TITLE SHALL BE ISSUED ON ANY MOTOR VEHICLE FOR WHICH A SALVAGE CERTIFICATE, SALVAGE BILL OF SALE OR OTHER DOCUMENTATION SHOWING EVIDENCE THAT A VEHICLE HAS BEEN DECLARED SALVAGE HAS BEEN ISSUED, TO PROVIDE THAT IDAHO SALVAGE CERTIFICATION STANDARDS SHALL BE APPLIED TO ALL SALVAGE-CERTIFIED VEHICLES RECEIVED FROM OUT-OF-STATE, AND TO PROVIDE FOR

ISSUANCE OF A "REPAIRED VEHICLE" DECAL.

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

SECTION 1. 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.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, other emergency vehicles designated by the director of the department of law enforcement or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapter 3 of this title, (driver licenses), a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or

2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or

3. Is designed to transport sixteen (16) or more people, including the driver; or

4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4 of this title (motor vehicle registration), a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall

include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the 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 and motorized wheelchairs.

(h) Noncommercial vehicle. For the purposes of chapter 4 of this title, (motor vehicle registration), a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the

owner.

(i) Reconstructed or repaired vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "reconstructed vehicle" or "repaired vehicle" brand is required, and other vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(j) Salvage vehicle. ~~Every~~ Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any motor vehicle, such motor vehicle shall be considered to be a salvage vehicle.

(k) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or

2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

3. A vehicle that has been constructed by using major component parts from one or more manufactured vehicles and cannot be identified as a specific make or model; or

4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model.

(l) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair due to scrapping, dismantling or destruction. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number", section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange

of vehicles. (See also "full-time salesman", section 49-107, Idaho Code, and "part-time salesman", section 49-117, Idaho Code)

(5) "Veteran." (See section 65-509, Idaho Code)

(6) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

SECTION 2. That Section 49-518, Idaho Code, be, and the same is hereby amended to read as follows:

49-518. ALTERING OR FORGING CERTIFICATE -- STOLEN CARS -- DESTROYING OR ALTERING ENGINE OR DECAL NUMBER -- USE OF FICTITIOUS NAME -- FRAUD. It shall be a felony for any person to:

(1) Alter or forge any certificate of title or salvage certificate of ownership to a vehicle, or any assignment thereof, or any cancellation of any liens on a vehicle; or

(2) Hold or use a certificate of title or salvage certificate of ownership or assignment or cancellation knowing it to be altered or forged; or

(3) Procure or attempt to procure a certificate of title to a vehicle, or to pass or attempt to pass a certificate of title or any assignment to a vehicle, knowing or having reason to believe that the vehicle has been stolen; or

(4) Sell or offer for sale in this state a vehicle on which the motor number, manufacturer's serial number, or "repaired vehicle" or "reconstructed vehicle" decal has been destroyed, removed, covered, altered or defaced, with knowledge of that destruction, removal, covering, alteration or defacement of the motor number, manufacturer's serial number, or "repaired vehicle" or "reconstructed vehicle" decal; or

(5) Use a false or fictitious name, or give a false or fictitious address, or make a false statement in any application or affidavit required under the provisions of this chapter, or any bill of sale or sworn statement of ownership, or otherwise commits a fraud in any application; or

(6) Purport to sell or transfer a vehicle without delivering to the purchaser or transferee a certificate of title or salvage certificate of ownership duly assigned to the purchaser.

SECTION 3. That Section 49-524, Idaho Code, be, and the same is hereby amended to read as follows:

49-524. SALVAGE CERTIFICATE OF OWNERSHIP TO REPLACE CERTIFICATE OF TITLE OR ORIGIN ON CERTAIN VEHICLES. (1) Every person acquiring a vehicle which is five (5) years old or less ~~or which has a known market value in excess of five thousand dollars ($5,000)~~ which has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership on that vehicle.

(2) The salvage certificate shall replace the certificate of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership shall be issued by the department, the insurer, or a salvage pool, and shall be on a form prescribed by the department. The form shall provide for assignments of the salvage certificate.

(4) The fee for a salvage certificate shall be the same as for ~~issurance~~ issuance of any regular Idaho certificate of title. The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which is five (5) years old or less ~~or which has a known market value in excess of five thousand dollars ($5,000)~~ which has been determined to be a salvage vehicle, shall within thirty (30) days from receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(6) If a salvage pool receives a certificate of title for a vehicle which is five (5) years old or less ~~or which has a known market value in excess of five thousand dollars ($5,000)~~ which has been determined to be a salvage vehicle, he shall within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(7) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than fifteen (15) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff. The insurer or department shall issue a salvage certificate to the owner prior to any sale or disposition of the salvage vehicle.

(8) If an insurer acquires the certificate of title of a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate in the name of the insurer and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing.

(9) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle.

(10) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which does not require surrender of the certificate of title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or

ownership document, surrender such title or document to the department and apply for a salvage certificate.

(11) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(12) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate unless the salvage vehicle is six (6) years old or older ~~with a fair market value of five thousand dollars ($5,000) or less or was damaged prior to July 1, 1989~~. The salvage vehicle purchaser shall display the salvage certificate upon the request of any peace officer or agent of the department.

SECTION 4. That Section 49-525, Idaho Code, be, and the same is hereby amended to read as follows:

49-525. SALVAGE-CERTIFIED VEHICLE -- INSPECTIONS -- BRANDING -- BRANDED CERTIFICATE OF TITLE. (1) The department shall issue a branded certificate of title on any motor vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage has been issued by this or any other state, provided, if documentation of salvage certification has been received from another state, the requirements specified in ~~this~~ section ~~have been met~~ 49-524, Idaho Code, shall be applied to that vehicle.

(2) An initial vehicle identification number inspection and major component parts inspection shall be conducted by an authorized department employee and shall include examination of the vehicle and its parts to determine that the identification numbers of the vehicle or its parts have not been removed, falsified, altered, defaced or destroyed and that there are no indications that the vehicle or any of its parts are stolen. Such certification shall not attest to the roadworthiness or safety condition of the vehicle. The fee for initial inspection shall be twenty-five dollars ($25.00) and shall be deposited in the state highway account. The department may contract with private or public entities to conduct the inspections.

(a) If the inspector determines that one (1)~~, or no,~~ major component part has damage requiring repair or replacement, the vehicle statement of facts shall indicate that the vehicle ~~qualifies for an unbranded certificate of title~~ shall not be eligible for a certificate of title until it has been repaired and has been reinspected as a "repaired vehicle." The vehicle statement of facts shall indicate that the vehicle will require a "repaired vehicle" decal before issuance of a branded certificate of title. The owner may then submit an application with all required supporting documents to the department for issuance of a certificate of title.

(b) If the inspector determines that two (2) or more major component parts have damage requiring repair or replacement, or that the vehicle has sustained flood damage, the vehicle shall not be eligible for a certificate of title until it has been restored or reconstructed and has been reinspected as a reconstructed vehicle. The vehicle statement of facts shall indicate that the vehicle will require a "reconstructed vehicle" decal before issuance of a

branded certificate of title.

(3) Every owner of a salvage vehicle which has been restored or repaired in this state to its operating condition, in compliance with chapter 9, title 49, Idaho Code, shall present the vehicle to the department for inspection as a reconstructed vehicle or as a repaired vehicle.

(a) If the inspector determines that the receipts for major component parts are valid, including the vehicle identification numbers of the vehicles from which the major component parts were removed, a "reconstructed vehicle" decal or a "repaired vehicle" decal shall be affixed to the vehicle and the statement of facts shall indicate that the vehicle has been branded and that the certificate of title shall be branded accordingly.

(b) The fee for issuance of a "reconstructed vehicle" decal or a "repaired vehicle" decal shall be ten dollars ($10.00) and shall be deposited in the state highway account.

(c) The owner may then submit an application for branded certificate of title to the department which application shall be accompanied by the salvage bill of sale, salvage certificate or other documentation showing evidence that the vehicle has been declared salvage, vehicle statement of facts, indemnifying affidavit, bills of sale or invoices for major component parts and written affirmation which states:

1. That the owner personally rebuilt or repaired the vehicle or personally supervised its rebuilding or repairing and includes a description of work done to restore the vehicle to the operating condition that existed prior to the event which caused the salvage certificate to be issued;

2. That the identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced;

3. That the salvage certificate document or out-of-state title certificate attached to the application has not to the knowledge of the owner been forged, falsified or altered; and

4. That all information contained on the application and its attachments is true and correct.

(4) Upon presentation of the documents required by the department, the department shall issue a branded certificate of title which shall contain the word "reconstructed vehicle" or "repaired vehicle."

(5) If an otherwise correct application is made for a certificate of title on any salvage-certified vehicle which was not inspected as required by the provisions of subsection (2) of this section, the department shall brand the vehicle with ~~the~~ a "reconstructed vehicle" decal and shall issue a branded certificate of title.

(6) Each branded certificate of title received from another jurisdiction shall have its brand carried forward to all subsequent certificates of title issued in this state.

(7) The department may promulgate rules as necessary to implement the provisions of sections 49-524 and 49-525, Idaho Code.

Approved March 31, 1994.

CHAPTER 297
(H.B. No. 879)

AN ACT

RELATING TO MOTOR VEHICLE TITLES; AMENDING SECTION 49-511, IDAHO CODE, TO REQUIRE LIENHOLDERS TO NOTIFY THE TRANSPORTATION DEPARTMENT WHEN A LIEN OR ENCUMBRANCE ON A MOTOR VEHICLE IS CANCELLED OR DISCHARGED, AND TO REQUIRE THE LIENHOLDER TO DELIVER THE PAPER CERTIFICATE OF TITLE TO THE VEHICLE OWNER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-511, Idaho Code, be, and the same is hereby amended to read as follows:

49-511. CANCELLATION OR DISCHARGE OF LIEN OR ENCUMBRANCE. When a lien or encumbrance is cancelled or discharged, the ~~holder shall--note a~~ lienholder shall provide notice of such cancellation or discharge to the department. If the lienholder was holding the paper certificate of title, he shall note the cancellation or discharge on the certificate of title in the space provided, over his signature, or by some other legal document ~~or electronic record~~, discharging the encumbrance, and shall deliver ~~it to the department, together with a--fee--as--provided for in section 49-202(2)(b), Idaho Code, and have the department issue a--new--certificate of title with the lien discharged from the face of the certificate of title and upon the records of the--department,--and deliver the~~ the paper certificate of title to the owner.

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 31, 1994.

CHAPTER 298
(H.B. No. 881)

AN ACT

RELATING TO TERMINALLY ILL PERSONS; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 39-150 THROUGH 39-165, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE THAT THIS ACT DOES NOT CONDONE MERCY KILLING, ASSISTED SUICIDE OR EUTHANASIA, TO PROVIDE FOR A DNR ORDER, TO PROVIDE FOR REVOCATION OF THE ORDER, TO PROVIDE FOR CONFLICTING DNR ORDERS, TO PROVIDE FOR ADHERENCE TO DNR PROTOCOL, TO PROVIDE WHEN HEALTH CARE PROVIDERS MAY DISREGARD A DNR ORDER, TO PROVIDE THE EFFECT OF THE ABSENCE OF A DNR ORDER, TO PROVIDE IMMUNITY, TO PROVIDE PENALTIES, TO PROVIDE A DNR ORDER'S EFFECT ON LIFE INSURANCE, TO PROVIDE THE EFFECT ON EXISTING LAW, TO PROVIDE THE VALIDITY ON PRIOR AND OUT-

OF-STATE DNR ORDERS AND IDENTIFICATION, TO PROVIDE APPLICATION TO SITUATIONS INVOLVING MASS CASUALTIES, AND TO PROVIDE RULEMAKING AUTHORITY; AND DECLARING AN EMERGENCY.

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 NEW SECTIONS, to be known and designated as Sections 39-150, 39-151, 39-152, 39-153, 39-154, 39-155, 39-156, 39-157, 39-158, 39-159, 39-160, 39-161, 39-162, 39-163, 39-164 and 39-165, Idaho Code, and to read as follows:

39-150. LEGISLATIVE INTENT. It is the legislative intent to recognize the fundamental right of a person to control the decisions relative to the rendering or withholding of their medical care. This act, in keeping with sections 39-4501 through 39-4509, Idaho Code, applies to noninstitutional situations.

It is the purpose of this legislation to establish rules and procedures allowing the physician of a terminally ill person, with the authorization of the person or their legal representative, to be able to issue a directive, in advance, instructing emergency medical services personnel not to perform resuscitation if called to attend to those persons. A method of identification is defined and correct procedures outlined for emergency medical services personnel to properly respond to these situations.

39-151. DEFINITIONS. As used in this act:

(1) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient, including the physician responsible for monitoring and directing the activities of emergency medical services personnel.

(2) "Cardiopulmonary resuscitation" or "CPR" means measures to restore cardiac function or to support breathing in the event of cardiac or respiratory arrest or malfunction. "CPR" includes, but is not limited to, chest compression, delivering electric shock to the chest, or placing tubes in the airway to assist breathing.

(3) "Comfort care" means treatment given in an attempt to protect and enhance quality of life without artificially prolonging that life.

(4) "Decisional capacity" means the ability to provide informed consent to or refusal of medical treatment.

(5) "Department" means the department of health and welfare.

(6) "Do not resuscitate identification" or "DNR identification" means a standardized form of identification approved by the department, that signifies that the possessor has a DNR order that has not been revoked or that the possessor's attending physician has issued a DNR order for the possessor and has documented the order in the possessor's medical file.

(7) "Do not resuscitate order" or "DNR order" means a documented directive from a licensed physician that emergency life-sustaining procedures should not be administered to a particular person.

(8) "Do not resuscitate protocol" or "DNR protocol" means a standardized method of procedure, approved by the board of health and welfare and adopted in the rules of the department, for the withholding

of emergency life-sustaining procedures by physicians and emergency medical services personnel.

(9) "Emergency medical services personnel" means the personnel of a service engaged in providing initial emergency medical assistance including, but not limited to, first responders, emergency medical technicians, advanced emergency medical technicians, and paramedics.

(10) "Health care provider" or "provider" means any person licensed, certified, or otherwise authorized by law to administer health care in the ordinary course of business or practice of a profession, including emergency medical personnel.

(11) "Life-sustaining procedure" means cardiopulmonary resuscitation or a component of cardiopulmonary resuscitation.

(12) "Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short time.

39-152. EUTHANASIA, MERCY KILLING OR ASSISTED SUICIDE. This act does not make legal and in no way condones mercy killing, assisted suicide or euthanasia.

39-153. DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES. (1) A person in a terminal condition has a right to a DNR order governing the withholding of life-sustaining procedures.

(2) A DNR order has operative effect only when:

(a) The request for the DNR order is communicated to the attending physician by the patient or his legal representative; and

(b) The recipient is determined by the attending physician to be in a terminal condition.

39-154. REVOCATION. A person may, at any time, revoke his or her consent to an order not to resuscitate himself or herself by making either a written or an oral declaration to a health care provider or by any other act evidencing a specific intent to revoke such consent.

39-155. CONFLICTING DNR ORDERS. If there are conflicts among the provisions of valid DNR orders, the most recent DNR order is deemed to represent the wishes of the patient.

39-156. ADHERENCE TO DNR PROTOCOL. (1) Emergency medical services personnel shall comply with the DNR protocol when presented with either DNR identification, or, upon transfer, a written DNR order issued directly by the attending physician and shall provide comfort care to the person.

(2) An attending physician shall take all reasonable steps to comply with the intent of the DNR identification.

39-157. DISREGARDING OF DNR ORDER. Emergency medical services personnel may disregard the DNR order:

(1) If they believe in good faith that the order has been revoked; or

(2) To avoid verbal or physical confrontation; or

(3) If ordered to do so by the attending physician.

39-158. ABSENCE OF DNR ORDER. In the absence of DNR identification there is a presumption in favor of resuscitation.

39-159. IMMUNITY. (1) The following are not subject to civil or criminal liability and are not guilty of unprofessional conduct upon discovery of DNR identification upon a person and compliance with the DNR order:

(a) A physician who causes the withholding or withdrawal of life-sustaining procedures from that person;

(b) A person who participates in the withholding or withdrawal of life-sustaining procedures under the direction or with the authorization of a physician;

(c) Emergency medical services personnel who cause or participate in the withholding or withdrawal of life-sustaining procedures from that person; or

(d) Physicians, persons under the direction or authorization of a physician, or emergency medical services personnel that provide life-sustaining procedures pursuant to an oral or written revocation communicated to them by a person who possesses DNR identification.

(2) The provisions of subsections (1)(a) through (1)(d) of this section apply when a life-sustaining procedure is withheld or withdrawn in accordance with a DNR protocol.

(3) Emergency medical services personnel, coroners and deputy coroners who follow a DNR order from a licensed physician are not subject to civil or criminal liability and are not guilty of unprofessional conduct.

39-160. PENALTIES. (1) A physician who willfully or negligently disregards the intent of the DNR identification is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500) or imprisonment in the county jail for a term not to exceed six (6) months, or both.

(2) Except as provided in section 39-157, Idaho Code, a person who purposely disregards a DNR order or who conceals, cancels, defaces, or obliterates the DNR identification of another without the consent of the possessor or who falsifies or forges a revocation of the DNR identification of another is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500) or imprisonment in the county jail for a term not to exceed six (6) months, or both.

(3) A person who falsifies or forges the DNR identification of another or purposely conceals or withholds personal knowledge of a revocation of DNR identification with the intent to cause the use, withholding, or withdrawal of life-sustaining procedures is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500) or imprisonment in the county jail for a term not to exceed one (1) year, or both.

39-161. EFFECT ON INSURANCE -- PATIENT'S DECISION. (1) Death resulting from the withholding or withdrawal of emergency life-sustaining procedures pursuant to the DNR protocol and in accordance with this act is not, for any purpose, a suicide or homicide.

(2) The possession of DNR identification pursuant to this act does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor does it modify the terms of an existing policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any manner by the withholding or withdrawal of emergency life-sustaining procedures from an insured person possessing DNR identification, notwithstanding any term of the policy to the contrary.

(3) A physician, health care facility, or other health care provider and a health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan may not require a person to possess DNR identification as a condition for being insured for or receiving health care services.

(4) This act does not create a presumption concerning the intention of an individual who does not possess DNR identification with respect to the use, withholding, or withdrawal of emergency life-sustaining procedures.

(5) This act does not increase or decrease the right of a patient to make decisions regarding the use of emergency life-sustaining procedures if the patient is able to do so, nor does this act impair or supersede any right or responsibility that a person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect the provisions of this act are cumulative.

39-162. PRESERVATION OF EXISTING RIGHTS. The provisions of this act are cumulative to the existing law regarding an individual's right to consent, or refusal to consent, to medical treatment and do not impair any existing rights or responsibilities which a health care provider, a patient, including a minor, competent or incompetent person, or a patient's family may have in regard to the withholding or withdrawal of life-prolonging medical procedures or any other health care decision-making under the common law or statutes of this state.

39-163. PRIOR AND OUT-OF-STATE DNR ORDERS AND IDENTIFICATION -- VALIDITY. A DNR order or identification prepared before the effective date of this act, or prepared in another state, district, or territory of the United States, is valid in this state.

39-164. APPLICATION TO MASS CASUALTIES. This act does not apply to situations involving mass casualties.

39-165. RULEMAKING AUTHORITY. (1) The department shall adopt only those rules necessary to administer the provisions of this act, including appropriate protocols.

(2) Upon the adoption of a DNR protocol, the department shall adopt a standard form of DNR identification to be used statewide.

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 31, 1994.

CHAPTER 299
(H.B. No. 884)

AN ACT

RELATING TO THE SCHOOL PLANT FACILITIES RESERVE FUND LEVY; AMENDING SECTION 33-804, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY, TO CLARIFY CONDITIONS RELATING TO THE LEVY, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-804, Idaho Code, be, and the same is hereby amended to read as follows:

33-804. SCHOOL PLANT FACILITIES RESERVE FUND LEVY. In any school district in which a school plant facilities reserve fund has been created, either by resolution of the board of trustees or by apportionment to new districts according to the provisions of section 33-901, Idaho Code, to provide funds therefor the board of trustees shall submit to the qualified school electors of the district the question of a levy not to exceed four-tenths of one percent (.4%) of market value for assessment purposes in each year, as such valuation existed on December 31 of the previous year, for a period not to exceed ten (10) years.

The question of a levy to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is proposed to be made, the percentage of votes in favor of the proposal which are needed to approve the proposed dollar amount to be collected, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be conducted and the returns canvassed as provided in chapter 4, title 33, Idaho Code; and the dollar amount to be collected shall be approved only if:

1. Fifty-five percent (55%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of less than two-tenths of one percent (.2%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election;

2. Sixty percent (60%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of two-tenths of one percent (.2%) or more and less than three-tenths of one percent (.3%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election; or

3. Two-thirds (2/3) of the electors ~~of the electors~~ voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of three-tenths of one percent (.3%) or more of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election.

If the question be approved, the board of trustees may make a levy, not to exceed four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, in each year ~~according to the terms so~~ for which the collection was approved, sufficient to collect the dollar amount approved and may again submit the question at the expiration of the period of such levy, for the dollar amount to be collected during each year, and the number of years which the board may at that time determine. Or, during the period approved at any such election, if such period be less than ten (10) years or the levy be less than four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, the board of trustees may submit to the qualified school electors in the same manner as before, the question whether the number of years, or the levy, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

~~For school plant facilities reserve fund levies which were certified in 1980 or before, the maximum dollar amount that may be certified for collection in 1981 or thereafter shall not exceed the dollar amount certified in 1980~~ Any bonded indebtedness incurred in accordance with the provisions of section 33-1103, Idaho Code, subsequent to the approval of a plant facilities reserve fund levy shall not affect the terms of that levy for any time during which such levy is in effect.

Levies approved under the provisions of this section shall be exempt from the limitation imposed in section 63-923(1), Idaho Code, and from the requirements of sections 63-2224 through 63-2226, Idaho Code.

Approved March 31, 1994.

CHAPTER 300
(H.B. No. 888)

AN ACT

RELATING TO BOARD OF TRUSTEES OF SCHOOL DISTRICTS; AMENDING SECTION 33-507, IDAHO CODE, TO ALLOW THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT TO ACCEPT AND AWARD CONTRACTS INVOLVING THE SCHOOL DISTRICT TO BUSINESSES IN WHICH A TRUSTEE HAS A DIRECT OR INDIRECT INTEREST PROVIDED THAT CERTAIN PROCEDURES ARE FOLLOWED.

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

SECTION 1. That Section 33-507, Idaho Code, be, and the same is hereby amended to read as follows:

33-507. LIMITATION UPON AUTHORITY OF TRUSTEES. It shall be unlawful for any trustee to have pecuniary interest directly or indirectly

in any contract or other transaction pertaining to the maintenance or conduct of the school district, or to accept any reward or compensation for services rendered as a trustee except as may be otherwise provided in this section. The board of trustees of a school district may accept and award contracts involving the school district to businesses in which a trustee has a direct or indirect interest provided that the procedures set forth in section 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of a school district for deposit in any bank or trust company, or the lending of money by any bank or trust company to any school district, shall not be deemed to be a contract pertaining to the maintenance or conduct of a school district within the meaning of this section; nor shall the payment by any school district board of trustees of compensation to any bank or trust company for services rendered in the transaction of any banking business with such district board of trustees, be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

It shall be unlawful for the board of trustees of any class of school district to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract requires, or will require, the payment or delivery of any school district funds, money or property to such spouse.

When any relative of any trustee or relative of the spouse of a trustee related by affinity or consanguinity within the second degree is considered for employment in a school district, such trustee shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

Approved March 31, 1994.

CHAPTER 301
(H.B. No. 897)

AN ACT

RELATING TO INCOME TAXATION OF MULTISTATE CORPORATIONS; AMENDING SECTION 63-3027, IDAHO CODE, TO PROVIDE AN APPORTIONMENT FORMULA FOR MULTISTATE CORPORATIONS AND TO PROVIDE AN APPORTIONMENT FORMULA FOR MULTISTATE ELECTRICAL AND TELEPHONE CORPORATIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3027, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027. COMPUTING TAXABLE INCOME OF CORPORATIONS. The Idaho taxable income of any corporation with a business situs in this state shall be computed and taxed in accordance with the rules set forth in this section:

(a) As used in this section, unless the context otherwise requires:

(1) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from the acquisition, management, or disposition of tangible and intangible property when such acquisition, management, or disposition constitute integral or necessary parts of the taxpayer's trade or business operations. Gains or losses and dividend and interest income from stock and securities of any foreign or domestic corporation shall be presumed to be income from intangible property, the acquisition, management, or disposition of which constitute an integral part of the taxpayer's trade or business; such presumption may only be overcome by clear and convincing evidence to the contrary.

(2) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) "Nonbusiness income" means all income other than business income.

(5) "Sales" mean all gross receipts of the taxpayer not allocated under subsections (d) through (h) of this section.

(6) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion such net income as provided in this section.

(c) For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:

(1) In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or

(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(d) Rents and royalties from real or tangible personal property, capital gains interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (e) through (h) of this section.

(e) (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in this state, or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical

location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(f) (1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale, or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state, unless such gains and losses constitute business income as defined in this section.

(g) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state unless such interest or dividends constitute business income as defined in this section.

(h) (1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the payer in this state, or

(ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patent product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(i) (1) Notwithstanding the election allowed in Article III.1 of the multistate tax compact enacted as section 63-3701, Idaho Code, a~~A~~ll business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two (2) times the sales factor, and the denominator of which is ~~three (3)~~ four (4),

except as provided in paragraph (2) of this subsection.

(2) If a corporation, or a parent corporation of a combined group filing a combined report under sections 63-3027 and 63-3701, Idaho Code, is an electrical corporation as defined in section 61-119, Idaho Code, or is a telephone corporation as defined in section 62-603, Idaho Code, all business income of the corporation shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3).

(j) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(k) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(l) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the state tax commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(m) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(n) Compensation is paid in this state if:

(1) The individual's service is performed entirely within the state; or

(2) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(3) Some of the service is performed in the state and

(i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or

(ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(o) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(p) Sales of tangible personal property are in this state if:

(1) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale, or

(2) The property is shipped from an office, store, warehouse,

factory, or other place of storage in this state and

(i) the purchaser is the United States government or

(ii) the taxpayer is not taxable in the state of the purchaser.

(q) Sales, other than sales of tangible property, are in this state, if:

(1) The income-producing activity is performed in this state; or

(2) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(r) If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the state tax commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) Separate accounting, provided that only that portion of general expenses clearly identifiable with Idaho business operations shall be allowed as a deduction;

(2) The exclusion of any one (1) or more of the factors;

(3) The inclusion of one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(s) For purposes of this chapter two (2) or more corporations, wherever incorporated, the voting stock of which is more than fifty percent (50%) owned directly or indirectly by a common owner or owners may, when necessary to accurately reflect income, be considered a single corporation, in which event:

(1) The "taxable income" of any corporation subject to taxation in this state shall be determined by use of a combined report which includes the income, determined under subparagraph (2) of this subsection, of all corporations which are members of a unitary business, allocated and apportioned using apportionment factors for all corporations included in the combined report and methods set out in this section.

(2) The income of a corporation to be included in a combined report shall be determined as follows:

(i) for a corporation incorporated in the United States, the income to be included in the combined report shall be the taxable income for the corporation as defined in section 63-3022, Idaho Code;

(ii) for a corporation incorporated outside the United States, the income to be included in the combined report shall be the net income before income taxes of such corporation stated on the profit and loss statements of such corporation which are included within the consolidated profit and loss statement prepared for the group of related corporations of which the corporation is a member, which statement is prepared for filing with the United States securities and exchange commission. If the group of related companies is not required to file such profit and loss statement with the

United States securities and exchange commission, the profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor may be used to obtain net income before income taxes. In the alternative, and subject to reasonable substantiation and consistent application by the group of related companies, adjustments may be made to the profit and loss statements of the corporation incorporated outside the United States, if necessary, to conform such statements to tax accounting standards as required by the Internal Revenue Code as if such corporation were incorporated in the United States and required to file a federal income tax return, subject to appropriate adjustments under the provisions of section 63-3022, Idaho Code; and

(iii) if the income computation for a group under paragraphs (i) and (ii) of this subsection results in a loss, such loss shall be taken into account in other years, subject to the provisions of subsections (c) and (d) of section 63-3022, Idaho Code.

(t) If compensation is paid in the form of a reasonable cash fee for the performance of management services directly for the United States government at the Idaho national engineering laboratory, separate accounting for that part of the business activity without regard to other activity of the taxpayer in the state of Idaho or elsewhere shall be required; provided that only that portion of general expenses clearly identifiable with Idaho business operations of that activity shall be allowed as a deduction.

(u) In the case of a corporation subject to this section, including a group of corporations considered to be a single corporation under the provisions of subsection (s) of this section, taxable income or loss shall be determined as follows:

(1) From the amount of taxable income otherwise determined under this section for such corporation, subtract nonbusiness income, or add nonbusiness loss, whichever is applicable.

(2) Multiply the amounts determined under paragraph (1) of this subsection by the Idaho apportionment percentage defined in subsection (i) of this section, taking into account, where applicable, the property, payroll and sales of all corporations, wherever incorporated, which are included in a combined report. The resulting product shall be the apportioned business income or loss.

(3) To the amount determined as apportioned business income or loss under paragraph (2) of this subsection, add nonbusiness income allocable entirely to Idaho under the provisions of this section or subtract nonbusiness loss allocable entirely to Idaho under this section. The resulting figure is the taxable income or loss for a corporation subject to the provisions of this section.

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

Approved March 31, 1994.

CHAPTER 302
(H.B. No. 940)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 144, LAWS OF 1993; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 144, Laws of 1993, there is hereby appropriated from the General Fund to the Department of Administration for the Public Works Program, the amount of $11,200,000, or as much of that amount as may be necessary, to be expended for the purpose of paying off the Law Enforcement Complex lease-purchase contract with the State Insurance 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 31, 1994.

CHAPTER 303
(H.B. No. 948)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Department of Insurance the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Self-Governing Operating Fund	$1,125,700	$ 696,500	$20,000	$1,842,200
Federal Grant Fund	93,700	49,900		143,600
TOTAL	$1,219,400	$ 746,400	$20,000	$1,985,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
B. REGULATION:	$1,241,800	$ 661,800	$27,000	$1,930,600
FROM:				
Self-Governing Operating Fund				
C. ARSON, FIRE AND FRAUD PREVENTION:				
FROM:				
Self-Governing State Fire Marshal Fund	$ 407,500	$ 237,200	$12,500	$ 657,200
GRAND TOTAL	$2,868,700	$1,645,400	$59,500	$4,573,600

Approved March 31, 1994.

CHAPTER 304
(H.B. No. 949)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1995; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Administration not exceed the following amount for the period July 1, 1994, through June 30, 1995:

FOR:	
Personnel Costs	$ 6,449,500
Operating Expenditures	5,374,900
Capital Outlay	1,145,500
Trustee and Benefit Payments	7,252,800
TOTAL	$20,222,700
FROM:	
General Fund	$ 3,142,900
Administration and Accounting Services Fund	9,690,000
Employee Assistance Program Fund	41,800
Permanent Building Fund	6,139,600
Federal Surplus Property Revolving Fund	433,800
Employee Group Insurance Fund	340,300
Retained Risk Fund	434,300
TOTAL	$20,222,700

SECTION 2. There is hereby appropriated to the Department of Administration the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Fund	$ 128,500	$ 67,800			$ 196,300
Administration and Accounting Services Fund	342,700	108,000	5,000		455,700
Employee Assistance Program Fund	16,200	25,600			41,800
Employee Group Insurance Fund	212,700	122,600	5,000		340,300
Retained Risk Fund	283,600	145,700	5,000		434,300
TOTAL	$ 983,700	$ 469,700	$ 15,000		$ 1,468,400
II. INFORMATION TECHNOLOGY:					
FROM:					
General Fund	$ 463,100	$ 66,900	$ 20,000		$ 550,000
Administration and Accounting Services Fund	1,647,500	716,200	510,500		2,874,200
TOTAL	$2,110,600	$ 783,100	$ 530,500		$ 3,424,200
III. PUBLIC WORKS:					
FROM:					
General Fund		$ 2,100		$1,811,700	$ 1,813,800
Administration and Accounting Services Fund	$1,073,900	2,766,000	$ 20,000	785,000	4,644,900
Permanent Building Fund	1,034,100	376,400	73,000	4,656,100	6,139,600
TOTAL	$2,108,000	$3,144,500	$ 93,000	$7,252,800	$12,598,300
IV. PURCHASING:					
FROM:					
General Fund	$ 389,100	$ 144,200	$ 49,500		$ 582,800
Administration and Accounting Services Fund	578,500	684,200	452,500		1,715,200
Federal Surplus Property Revolving Fund	279,600	149,200	5,000		433,800
TOTAL	$1,247,200	$ 977,600	$ 507,000		$ 2,731,800
GRAND TOTAL	$6,449,500	$5,374,900	$1,145,500	$7,252,800	$20,222,700

SECTION 3. It is legislative intent that the employees in the Information Technology Program shall be subject to the provisions of Chapter 53, Title 67, Idaho Code.

Approved March 31, 1994.

CHAPTER 305
(H.B. No. 950)

AN ACT

APPROPRIATING MONEYS TO THE STATE AUDITOR FOR FISCAL YEAR 1995; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Auditor 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, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. STATEWIDE ACCOUNTING AND PAYROLL					
FROM:					
General Fund	$1,210,800	$ 573,500			$1,784,300
Professional Services Fund	821,800	1,858,700	$ 46,400		2,726,900
Miscellaneous Revenue Fund			4,000		4,000
TOTAL	$2,032,600	$2,432,200	$ 50,400		$4,515,200
B. COMPUTER CENTER					
FROM:					
Data Processing Services Fund	$2,226,200	$1,483,000	$830,000		$4,539,200
C. BOARD OF EXAMINERS					
FROM:					
General Fund				$7,700	$ 7,700
GRAND TOTAL	$4,258,800	$3,915,200	$880,400	$7,700	$9,062,100

SECTION 2. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 1, may be used at the

discretion of the State Auditor to assist in defraying expenses relating to or resulting from the discharge of the State Auditor's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. There is hereby reappropriated to the State Auditor, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the State Auditor for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 4. The reappropriation granted in Section 3 of this act, shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriation in Section 3 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 3 of this act shall be in the proportion that the reappropriation for the State Auditor bears to the total General Fund reappropriation authority granted in all state agencies.

Approved March 31, 1994.

CHAPTER 306
(H.B. No. 951)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1995.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Agriculture not exceed the following amounts for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$ 2,457,500	$ 625,900	$163,700	$247,000	$ 3,494,100
Dedicated Funds	11,732,000	2,632,900	340,500	453,400	15,158,800
Federal Funds	359,500	153,700			513,200
Other Funds	339,900	238,300			578,200
TOTAL	$14,888,900	$3,650,800	$504,200	$700,400	$19,744,300

SECTION 2. There is hereby appropriated to the Department of Agriculture the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Fund	$ 312,600	$ 169,800	$ 23,700		$ 506,100
Agriculture in the Classroom	20,000				20,000
Administration and Accounting Fund	296,100	24,300			320,400
Facilities Maintenance Fund	42,900	176,600			219,500
TOTAL	$ 671,600	$ 370,700	$ 23,700		$ 1,066,000
B. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 618,100	$ 24,300			$ 642,400
Agricultural Fees - Livestock Disease Control Fund	379,900	188,400	$ 42,700		611,000
Agricultural Fees - Dairy Inspection Fund	360,500	112,800	47,000		520,300
Agricultural Fees - Commercial Fisheries Fund	6,000	4,100			10,100
Seminars and Publications Fund		142,000			142,000
TOTAL	$ 1,364,500	$ 471,600	$ 89,700		$ 1,925,800
C. AGRICULTURAL TECHNOLOGY:					
FROM:					
General Fund	$ 37,300	$ 6,000	$ 19,300		$ 62,600
Water Pollution Control Fund	217,500	360,500	39,800		617,800
Agricultural Fees - Commercial Feed and Fertilizer Fund	145,300	45,500	12,100		202,900
Agricultural Fees - Pesticides Fund	775,800	356,000	66,500		1,198,300
Federal Grant Fund	359,500	153,700			513,200
TOTAL	$ 1,535,400	$ 921,700	$137,700		$ 2,594,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 314,200	$ 102,000	$ 23,200	$144,000	$ 583,400
Agricultural Inspection Fund	835,000	163,400	22,900		1,021,300
Agricultural Fees - Commercial Feed and Fertilizer Fund	163,800	46,100	11,100		221,000
Agricultural Fees - Honey Advertising Fund	300	5,800			6,100
TOTAL	$ 1,313,300	$ 317,300	$ 57,200	$144,000	$ 1,831,800
E. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 775,200	$ 194,700	$ 97,500		$ 1,067,400
Agricultural Inspection Fund	169,100	52,700		$ 3,600	225,400
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	8,254,000	843,300	98,400	294,700	9,490,400
Agricultural Fees - Egg Inspection Fund	111,200	23,700			134,900
Agricultural Fees - Organic Food Products Fund	51,100	9,600			60,700
TOTAL	$ 9,360,600	$1,124,000	$195,900	$298,300	$10,978,800
F. AGRICULTURAL MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 229,100	$ 114,000			$ 343,100
Agricultural Inspection Fund	29,500				29,500
Agricultural Loans Fund	13,600	14,900		$ 5,100	33,600
Seminars and Publications Fund	41,700	63,000			104,700
Professional Services Fund	2,100	9,000			11,100
TOTAL	$ 316,000	$ 200,900		$ 5,100	$ 522,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
G. ANIMAL DAMAGE:					
FROM:					
General Fund				$103,000	$ 103,000
Animal Damage Control Fund				50,000	50,000
Agricultural Fees - Sheep Industry Regulation Fund				100,000	100,000
TOTAL				$253,000	$ 253,000
H. SHEEP COMMISSION:					
FROM:					
General Fund	$ 30,300	$ 5,800			$ 36,100
Agricultural Fees - Sheep Industry Regulation Fund	52,100	20,000			72,100
TOTAL	$ 82,400	$ 25,800			$ 108,200
I. QUALITY ASSURANCE LABORATORY:					
FROM:					
General Fund	$ 140,700	$ 9,300			$ 150,000
Laboratory Services Fund	104,400	209,500			313,900
TOTAL	$ 245,100	$ 218,800			$ 463,900
GRAND TOTAL	$14,888,900	$3,650,800	$504,200	$700,400	$19,744,300

Approved March 31, 1994.

CHAPTER 307
(H.B. No. 952)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF REVENUE AND TAXATION FOR FISCAL YEAR 1995.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Revenue and Taxation not exceed the following amounts for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$13,254,300	$3,680,000	$333,300	$17,267,600
Dedicated Funds	1,763,400	800,100	27,700	2,591,200
Federal Funds	55,400	90,000	6,400	151,800
Other Funds		144,700		144,700
TOTAL	$15,073,100	$4,714,800	$367,400	$20,155,300

SECTION 2. There is hereby appropriated to 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, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. MANAGEMENT SERVICES:				
FROM:				
General Fund	$ 2,519,400	$1,190,300	$ 12,800	$ 3,722,500
Seminars and Publications Fund		55,700		55,700
Administration and Accounting Fund		35,800		35,800
Administration and Accounting - Services to Transportation Fund	276,700	77,700	2,200	356,600
TOTAL	$ 2,796,100	$1,359,500	$ 15,000	$ 4,170,600
B. AUDIT AND COLLECTIONS:				
FROM:				
General Fund	$ 6,740,900	$1,040,700	$223,400	$ 8,005,000
Multi-State Tax Compact Fund		163,100		163,100
Federal Grant Fund	55,400	90,000	6,400	151,800
Seminars and Publications Fund		4,100		4,100
Administration and Accounting Fund	148,600	122,800	3,900	275,300
Administration and Accounting - Services to Transportation Fund	819,800	154,700	14,300	988,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Abandoned Property Trust - Unclaimed Property Fund	280,600	65,000	4,400	350,000
TOTAL	$ 8,045,300	$1,640,400	$252,400	$ 9,938,100
C. REVENUE OPERATIONS:				
FROM:				
General Fund	$ 2,138,700	$1,022,400	$ 61,900	$ 3,223,000
Seminars and Publications Fund		17,500		17,500
Administration and Accounting Fund		25,800		25,800
Administration and Accounting - Services to Transportation Fund	237,700	155,200	2,900	395,800
TOTAL	$ 2,376,400	$1,220,900	$ 64,800	$ 3,662,100
D. COUNTY SUPPORT:				
FROM:				
General Fund	$ 1,783,600	$ 410,900	$ 35,200	$ 2,229,700
Seminars and Publications Fund		67,400		67,400
TOTAL	$ 1,783,600	$ 478,300	$ 35,200	$ 2,297,100
E. BOARD OF TAX APPEALS:				
FROM:				
General Fund	$ 71,700	$ 15,700		$ 87,400
GRAND TOTAL	$15,073,100	$4,714,800	$367,400	$20,155,300

Approved March 31, 1994.

CHAPTER 308
(H.B. No. 468, As Amended)

AN ACT

RELATING TO THE WITHHOLDING OF INCOME FOR PAYMENT OF CHILD SUPPORT; AMENDING SECTION 7-1202, IDAHO CODE, AS AMENDED BY SECTION 6, CHAPTER 335, LAWS OF 1993, TO INCLUDE MEDICAL CARE WITHIN THE DEFINITION OF CHILD SUPPORT; AMENDING SECTION 7-1204, IDAHO CODE, AS AMENDED BY SECTION 7, CHAPTER 335, LAWS OF 1993, TO CLARIFY THAT THE ORDER REFERRED TO IS A WITHHOLDING ORDER; AMENDING CHAPTER 12, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1206, IDAHO CODE, TO AUTHORIZE ADOPTION OF RULES; AMENDING SECTION 32-1202, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 335, LAWS OF 1993, TO FURTHER DEFINE A DUTY OF SUPPORT TO INCLUDE HEALTH INSURANCE PREMIUMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION

32-1208, IDAHO CODE, TO CLARIFY THE REQUIREMENT FOR THE EMPLOYER TO APPORTION THE OBLIGOR'S INCOME BETWEEN OBLIGEES WHEN THERE IS MORE THAN ONE OBLIGEE; AMENDING SECTION 32-1209, IDAHO CODE, AS AMENDED BY SECTION 5, CHAPTER 335, LAWS OF 1993, TO CORRECT REFERENCES AND TO CLARIFY APPLICATION WHEN TWO OR MORE WITHHOLDING ORDERS ARE APPLICABLE; AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1217, IDAHO CODE, TO AUTHORIZE ADOPTION OF RULES; AMENDING SECTION 56-203D, IDAHO CODE, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL WITHHOLD THE STATE INCOME TAX REFUND OF AN OBLIGOR TO COLLECT ANY PAYMENT FOR COSTS OF HEALTH SERVICES UNDER CONDITIONS SPECIFIED; REPEALING SECTIONS 32-1202, IDAHO CODE, AS ENACTED BY SECTION 8, CHAPTER 335, LAWS OF 1993, 32-1205, IDAHO CODE, AS ENACTED BY SECTION 9, CHAPTER 335, LAWS OF 1993, 32-1206, IDAHO CODE, AS ENACTED BY SECTION 10, CHAPTER 335, LAWS OF 1993, 32-1207, IDAHO CODE, AS ENACTED BY SECTION 11, CHAPTER 335, LAWS OF 1993, 32-1209, IDAHO CODE, AS ENACTED BY SECTION 12, CHAPTER 335, LAWS OF 1993, 7-1202, IDAHO CODE, AS ENACTED BY SECTION 13, CHAPTER 335, LAWS OF 1993, AND 7-1204, IDAHO CODE, AS ENACTED BY SECTION 14, CHAPTER 335, LAWS OF 1993; AMENDING SECTION 15, CHAPTER 335, LAWS OF 1993, BY STRIKING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 7-1202, Idaho Code, as amended by Section 6, Chapter 335, Laws of 1993, be, and the same is hereby amended to read as follows:

7-1202. DEFINITIONS. As used in this chapter:

(1) "Bureau" means the bureau of child support enforcement, department of health and welfare of the state of Idaho.

(2) "Child support" means a legally enforceable obligation assessed against an individual for the support of a child which shall include medical care, including health insurance premiums for the child, and any amount owing under an order for support during a period in which public assistance was expended.

(3) "Current support" means the present month's required support pursuant to an order that is to be paid in increments, excluding amounts ordered to satisfy a delinquency.

(4) "Delinquency" means unpaid support for a minor child or spouse which has accrued under an order.

(5) "Obligee" means any person, state agency or bureau entitled by order to receive child support payments or child and spousal support payments.

(6) "Obligor" means any person obligated by order to pay child or spousal support.

(7) "Order" means a judgment, decree, order, or administrative ruling directing a person or persons to pay money for support of a minor child or a spouse.

(8) "Income" means any form of payment to an individual, regardless of source, including, but not limited to, wages, salary, commission, compensation as an independent contractor, workers' compensation, disability, veteran's annuity and retirement benefits, and any

other payments made by any person, private entity, federal or state government, any unit of local government, school district or any entity created by a public act.

(9) "Withholding order" means any order issued by the bureau ordering an employer to retain an amount of the obligor's income for child support or spousal support.

(10) "Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.

(11) "Employer" means any person, private entity, federal or state government, unit of local government, school district, or any entity created by a public act who pays income to an individual.

SECTION 2. That Section 7-1204, Idaho Code, as amended by Section 7, Chapter 335, Laws of 1993, be, and the same is hereby amended to read as follows:

7-1204. WITHHOLDING OF INCOME -- APPLICATION, NOTICE AND HEARING. (1) Any obligee may apply to the bureau to seek withholding of the obligor's income by the obligor's employer for payment of the delinquency, current support, and costs and/or fees pursuant to an order, as defined herein. Additionally, any obligor who is required by order to pay child or spousal support may request that the bureau obtain withholding of the obligor's income by the obligor's employer for payment of current support and delinquency, if any.

(2) (a) If the order or decree under which the obligor is required to pay child or spousal support does not contain a notice of automatic and immediate income withholding pursuant to section 32-1205, Idaho Code, and if an obligor is employed in the state of Idaho, the bureau shall give notice to the obligor by certified mail that an application has been made to withhold from the obligor's income any delinquency and/or current support due and owing to the obligee. Such notice shall inform the obligor that if the notice contains a mistake of fact, which for purposes of this chapter means an error in the amount of current or overdue support or the identity of the alleged absent parent, he/she has fourteen (14) days from the day the notice was mailed to make a written request for a hearing before the department of health and welfare to resolve that mistake of fact. No issues at that hearing may be considered that have been litigated previously. Such notice shall also inform the absent parent:

(i) Of the amount of overdue support that is owed, if any, and the amount of wages that will be withheld;

(ii) That the provision for withholding applies to any current or subsequent employer or period of employment;

(iii) Of the procedures available for contesting the withholding and that the only basis for contesting the withholding is a mistake of fact;

(iv) Of the period within which the absent parent must contact the state in order to contest the withholding and that failure to contact the state within the specified time limit will result in the state notifying the employer to begin

withholding; and

(v) Of the actions the state will take if the individual contests the withholding.

(b) If the obligor requests a hearing, in writing, postmarked or received by the department of health and welfare within fourteen (14) days after such notice has been mailed (not to include Saturday, Sunday or holidays as the 14th day) to protest the withholding of income for the benefit of the obligee, and the basis for contesting the withholding is a mistake of fact as defined above, the department of health and welfare shall hold a hearing within thirty-five (35) days after the initial notice to the obligor. Additionally, the department of health and welfare shall immediately notify the obligee of the date, time and place of hearing and of the obligee's right to attend the hearing. The issues to be considered at the hearing shall be limited to mistakes of fact. The department of health and welfare shall issue its decision within forty-five (45) days of the initial notice. The decision may confirm, modify or deny the amount of any delinquency to be withheld.

(c) If the obligor files no timely protest, or after a hearing is held and decision is entered, the obligor is found to be delinquent in child or spousal support payments, the bureau shall send an order by certified mail to the employer of the obligor. The employer shall immediately begin withholding the sum specified in the withholding order from the obligor's income and shall remit the amount withheld to the entity designated on the notice at the same time the obligor is paid. The employer shall continue to withhold the sum specified in the order until the order is either released or modified by written order of the bureau.

(3) If the order or decree under which the obligor is required to pay child or spousal support contains a notice of automatic and immediate income withholding pursuant to section 32-1205, Idaho Code, the bureau shall send an order by certified mail to the employer of the obligor. The employer shall immediately begin withholding the sum specified in the withholding order from the obligor's income and shall remit the amount withheld to the person or entity designated in the order at the same time the obligor is paid. The employer shall continue to withhold the sum specified in the order until the order is either released or modified by written order of the bureau.

(4) If the obligor is employed in any other state, the bureau shall forward to the state agency which has the responsibility for the administration of income withholding in the state in which the obligor is employed, all information required by that state agency to enable withholding of the obligor's income.

(5) The employer may combine all amounts withheld for a particular entity in a pay period into a single payment for that pay period, as long as the portion thereof which is attributable to each individual employee is separately designated. The employer may deduct a fee, not to exceed five dollars ($5.00), to cover costs of each withholding. Such fee is to be withheld from the obligor's income in addition to the amount to be withheld to satisfy the withholding order.

(6) Income withholding for child support shall have priority over any other attachment against the same income.

(7) In no event shall the amount to be withheld from the income of the obligor exceed the amount specified in section 11-207, Idaho Code.

SECTION 3. That Chapter 12, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1206, Idaho Code, and to read as follows:

7-1206. AUTHORIZATION TO ADOPT RULES. The department of health and welfare is authorized to adopt reasonable rules to implement the provisions of this chapter pursuant to chapter 52, title 67, Idaho Code.

SECTION 4. That Section 32-1202, Idaho Code, as amended by Section 1, Chapter 335, Laws of 1993, be, and the same is hereby amended to read as follows:

32-1202. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Current support" means the present month's required support pursuant to an order that is to be paid in increments, excluding amounts ordered to satisfy a delinquency.

(2) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(3) "Disposable earnings" mean that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.

(4) "Duty of support" means the duty to provide for the needs of a dependent child, which may include the costs of necessary food, clothing, shelter, education, and health care including health insurance premiums for the child. The duty includes any obligation to make monetary payment, to pay expenses or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(5) "Earnings" mean any form of payment to an individual, regardless of source, including, but not limited to, wages, salary, bonus, commission, compensation for services rendered or goods sold, compensation as an independent contractor; and ~~not--withstanding~~ notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension and annuity or retirement programs, or disability or insurance policies of any type, with the following exceptions:

(a) Payments made under chapter 13, title 72, Idaho Code, shall be exempt from the provisions of this chapter, and shall only be withheld pursuant to the provisions of section 72-1365, Idaho Code, and chapter 12, title 7, Idaho Code;

(b) Payments made under chapter 8, title 72, Idaho Code, shall be exempt from the provisions of this chapter, and shall only be withheld pursuant to the provisions of section 72-802, Idaho Code, and chapter 12, title 7, Idaho Code;

(c) Payments made under title 56, Idaho Code, shall be exempt from the provisions of this chapter.

(6) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes income to the obligor.

(7) "Income" means any form of periodic payment to an individual, regardless of source, including, but not limited to, wages, salary, bonus, commission, compensation for services rendered or goods sold, compensation as an independent contractor; and ~~not—withstanding~~ not-withstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension and annuity or retirement programs, or disability or insurance policies of any type, with the following exceptions:

(a) Payments made under chapter 13, title 72, Idaho Code, shall be exempt from the provisions of this chapter, and shall only be withheld pursuant to the provisions of section 72-1365, Idaho Code, and chapter 12, title 7, Idaho Code;

(b) Payments made under chapter 8, title 72, Idaho Code, shall be exempt from the provisions of this chapter, and shall only be withheld pursuant to the provisions of section 72-802, Idaho Code, and chapter 12, title 7, Idaho Code;

(c) Payments made under title 56, Idaho Code, shall be exempt from the provisions of this chapter.

(8) "Obligee" means any person, state agency or bureau entitled by order to receive child support payments or child and spousal support payments, or the person or agency to whom the right to receive or collect support has been assigned.

(9) "Obligor" means any person obligated by order to pay child or spousal support.

(10) "Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.

(11) "Support order" means a judgment, decree, or order issued by a magistrate or district court of the state of Idaho creating a duty of support for a minor child, spouse or former spouse, as herein defined; or a judgment, decree, order or administrative ruling issued by a court or agency of competent jurisdiction in another state or country, creating a duty of support for a minor child, spouse or former spouse, as herein defined, which has been registered or otherwise made enforceable in this state.

SECTION 5. That Section 32-1208, Idaho Code, be, and the same is hereby amended to read as follows:

32-1208. INFORMATION TO BE INCLUDED IN ORDER -- LIMITATIONS ON AMOUNT WITHHELD. (1) The income withholding order issued pursuant to this chapter shall include:

(a) The maximum amount of current support, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment

previously entered by the court, if any, together with interest, if any;

(c) The amount of arrearage payments specified in the support order, if any.

(2) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent (50%) of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support order, then the maximum amount to be withheld is the sum of the current support ordered and the amount ordered to be paid toward the arrearage, or fifty percent (50%) of the disposable earnings of the obligor, whichever is less.

~~(3)--If--an--obligor--is--subject--to--two-(2)-or-more-withholding orders-for--child--support--on--account--of--different--obligees,--the employer--shall,-if-the-nonexempt-portion-of-the-obligor's-earnings-is not-sufficient-to-respond-fully-to-all-the-withholding-orders,--apportion--to--the-obligor's-nonexempt-disposable-earnings-between-or-among the-various-obligees-to-pay-current-support-for-each-obligee,-and-then apply-any-remaining-nonexempt-disposable-earnings-equally--between--or among--the--various--obligees-for-arrears.-An-obligee-may-seek-a-court order-reapportioning-the-obligor's-nonexempt-disposable-earnings--upon notice--to--all--interested-obligees.-Notice-shall-be-by-personal-service,-or-in-the-manner-provided-by-the-Idaho-rules-of-civil--procedure or-applicable-statute.~~

(3) If the above-named obligor is subject to two (2) or more withholding orders for child support on behalf of more than one (1) obligee the employer may send the entire amount withheld from that obligor to the clerk of the court or, if the department of health and welfare is providing support enforcement services on behalf of either obligee, to the department of health and welfare, bureau of child support services. If the department of health and welfare is providing support enforcement services, the employer shall send the department a copy of each support order under which the obligor owes a support obligation. The clerk of the court or the department of health and welfare, as appropriate, shall apportion the amount of income withheld between all obligees of the obligor as follows: the support obligation for the current month shall be paid first. If the amount of nonexempt disposable earnings withheld is not sufficient to pay the total support obligation for the current month for each obligee for whom there is a withholding order, the amount withheld shall be divided between each obligee for whom there is a withholding order on a pro rata basis. If the amount of the nonexempt disposable earnings withheld is in excess of the total support obligation for the current month for each obligee for whom there is a withholding order, the excess shall be divided between each obligee for whom there is a withholding order which includes withholding for pay due support on a pro rata basis.

SECTION 6. That Section 32-1209, Idaho Code, as amended by Section 5, Chapter 335, Laws of 1993, be, and the same is hereby amended to read as follows:

32-1209. FORM OF WITHHOLDING ORDER. The income withholding order issued pursuant to this chapter shall be in substantially the follow-

ing form:

When withholding income based upon accrual of arrearages at least equal to one (1) month's support obligation -

IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF

,	Case No.
Obligee,	
vs.	INCOME WITHHOLDING ORDER FOR CHILD SUPPORT PURSUANT TO CHAPTER 12, TITLE 32, IDAHO CODE
,	
SS# ,	
Obligor,	
,	
Employer.	

THE STATE OF IDAHO TO: Employer

AND TO: Employee:

The above-named obligee claims that the above-named obligor is delinquent in support payments in an amount equal to or greater than the support payable for one (1) month. The amount of the accrued support debt as of this date is dollars, the amount of arrearage payments specified in the support order (if applicable) is dollars per , and the amount of the current and continuing support obligation under the support order is dollars per .

YOU ARE HEREBY COMMANDED to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one (1) copy to the obligee or obligee's attorney, and one (1) copy to the obligor within ten (10) days after service of this income withholding order on you. The fourth copy of the answer may be retained by you for your records.

If you possess any earnings (income) due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the current support obligation and the accrued support debt;

(b) The sum of the current support obligation and the specified arrearage payment amount; or

(c) Fifty percent (50%) of the disposable earnings of the obligor.

(2) In addition to the amount specified above, you may collect and retain up to five dollars ($5.00) per collection from the obligor's income to reimburse you for your costs. The amount actually withheld for support and other purposes, including your fee, may not be in excess of fifty percent (50%) of the obligor's disposable earnings.

(3) The total amount withheld above is subject to the income withholding order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by the court that the income withholding order has been modified or terminated. You shall promptly notify the court if and when the employee is no longer employed by or entitled to receive income from you, and of his last known address and the name and address of his new employer, if known.

You shall deliver the withheld earnings to the clerk of the court that issued this order at each regular pay interval, or, if the ~~Bureau of--Child-Support-Enforcement~~ Department of Health and Welfare is providing support enforcement services:

The State of Idaho
Department of Health and Welfare
Bureau of Child Support ~~Enforcement~~ Services
450 W. State, 5th Floor
Boise, Idaho 83720-5005

but the first delivery shall occur within ten (10) working days of the date the obligor is paid. You shall notify the ~~Bureau-of--Child--Support--Enforcement~~ Department of Health and Welfare of the date the amount was withheld from the obligor. You may combine amounts withheld from various employees for a particular entity in a pay period into a single payment for that pay period, as long as the portion thereof which is attributable to each individual employee is separately designated.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This order has priority over any other withholding or garnishment, except for another withholding order or garnishment for child support.

If the above-named obligor is subject to two (2) or more withholding orders for child support on behalf of more than one (1) obligee you may send the entire amount withheld from that obligor to the clerk of the court or, if the department of health and welfare is providing support enforcement services on behalf of either obligee, to the department of health and welfare, bureau of child support services. If the department of health and welfare is providing support enforcement services, you shall send the department a copy of each support order under which the obligor owes a support obligation. The clerk of the court or the department of health and welfare, as appropriate, shall apportion the amount of income withheld between all obligees of the obligor as follows: the support obligation for the current month shall be paid first. If the amount of nonexempt disposable earnings withheld is not sufficient to pay the total support obligation for the current month for each obligee for whom there is a withholding order, the amount withheld shall be divided between each obligee for whom there is a withholding order on a pro rata basis. If the amount of the nonexempt disposable earnings withheld is in excess of the total support obligation for the current month for each obligee for whom there is a withholding order, the excess shall be divided between each obligee for whom there is a withholding order which includes withholding for pay due support on a pro rata basis.

If you fail to comply with this order, you will be liable for the accumulated amount you should have withheld from the obligor's income. You are further notified that if you refuse to employ or if you take disciplinary action against the obligor named above, because of this

income withholding order, you will be subject to a fine of up to three hundred dollars ($300).

You are required to notify the ~~Bureau of Child Support Enforcement~~ Department of Health and Welfare promptly if the obligor named above leaves your employment, of his/her last known address and the name and address of his/her employer, if known.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT UNDER SECTION 32-1214, IDAHO CODE, TO REQUEST A HEARING BEFORE THE COURT THAT ISSUED THIS WITHHOLDING ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE INCOME WITHHOLDING ORDER.

DATED this day of , 19 . Magistrate

When withholding based upon an order for automatic and immediate income ~~with-holding~~ withholding -

IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF

,	)	
	)	
	)	Case No.
Obligee,	)	
	)	
vs.	)	IMMEDIATE INCOME
	)	WITHHOLDING ORDER
,	)	FOR CHILD SUPPORT
SS# ,	)	
	)	
Obligor,	)	
,	)	
,	)	
Employer.	)	
	)	

YOU ARE HEREBY NOTIFIED that you must immediately begin withholding the lesser of per month (current support plus arrears) or fifty percent (50%) of the nonexempt income of the obligor whose name and Social Security number is listed above from the date his/her income, pursuant to section 7-1204, Idaho Code. The amount of the accrued support debt as of this date is dollars. The amount of arrearage payments specified in the support order (if applicable) is dollars per , and the amount of the current and continuing support obligation under the support order is dollars per . Within ten (10) working days from the date the obligor is paid, you must remit the amount withheld to the clerk of the court of the county where the order was entered. If the ~~Bureau of Child Support Enforcement~~ Department of Health and Welfare is providing support enforcement services you must within ten (10) working days from the date the obligor is paid, remit the amount withheld to:

The State of Idaho
Department of Health and Welfare
Bureau of Child Support ~~Enforcement~~ Services
450 W. State, 5th Floor
Boise, Idaho 83720-5005

If the ~~Bureau--of-Child-Support-Enforcement~~ Department of Health and Welfare is providing support enforcement services for the obligor or obligee, you must report to the ~~Bureau-of-Child-Support-Enforcement~~ Department of Health and Welfare the date on which the amount was withheld from the obligor's wages.

Income withholding for child support shall have priority over any other attachment of the same income. You must continue to withhold and remit the sum specified until you receive further order from the ~~Bureau-of-Child-Support-Enforcement~~ Department of Health and Welfare or order of the court.

If the obligor is paid more than once per month, the support obligation stated above must be satisfied from the earliest available income each month. In addition to the amount specified above, you may collect and retain up to five dollars ($5.00) per collection from the obligor's income to reimburse you and your costs. The amount actually withheld for support and other purposes, including your fees, may not be in excess of the maximum amounts permitted under Section 303(B) of the Consumer Credit Protection Act (15 USC 1673(B)).

You may combine withheld amounts from absent parent's wages in a single payment to each appropriate agency requesting withholding as long as you separately identify the portion of the single payment which is attributable to each individual parent.

If the above-named obligor is subject to two (2) or more withholding orders for child support on behalf of more than one (1) obligee you may send the entire amount withheld from that obligor to the clerk of the court or, if the department of health and welfare is providing support enforcement services on behalf of either obligee, to the department of health and welfare, bureau of child support services. If the department of health and welfare is providing support enforcement services, you shall send the department a copy of each support order under which the obligor owes a support obligation. The clerk of the court or the department of health and welfare, as appropriate, shall apportion the amount of income withheld between all obligees of the obligor as follows: the support obligation for the current month shall be paid first. If the amount of nonexempt disposable earnings withheld is not sufficient to pay the total support obligation for the current month for each obligee for whom there is a withholding order, the amount withheld shall be divided between each obligee for whom there is a withholding order on a pro rata basis. If the amount of the nonexempt disposable earnings withheld is in excess of the total support obligation for the current month for each obligee for whom there is a withholding order, the excess shall be divided between each obligee for whom there is a withholding order which includes withholding for pay due support on a pro rata basis.

If you fail to comply with this order, you will be liable for the accumulated amount you should have withheld from the obligor's income. You are further notified that if you refuse to employ or if you take disciplinary action against the obligor named above, because of this income withholding order, you will be subject to a fine of up to three hundred dollars ($300).

You are required to notify the ~~Bureau-of-Child-Support-Enforcement~~ Department of Health and Welfare promptly if the obligor named above leaves your employment, of his/her last known address and the name and

address of his/her new employer, if known.
By: Date:

SECTION 7. That Chapter 12, 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 32-1217, Idaho Code, and to read as follows:

32-1217. AUTHORIZATION TO ADOPT RULES. The department of health and welfare is authorized to adopt reasonable rules to implement the provisions of this chapter pursuant to chapter 52, title 67, Idaho Code.

SECTION 8. That Section 56-203D, Idaho Code, be, and the same is hereby amended to read as follows:

56-203D. SET-OFF PROCEDURE FOR CHILD SUPPORT DEBT. (1) The state tax commission shall withhold and set-off any income tax or tax credit refund of any taxpayer upon notification from the department of health and welfare to collect any unpaid child support, including a judgment for reimbursement of public assistance, or unpaid spousal support. The state tax commission shall also withhold and set-off any income tax or tax credit refund of any taxpayer upon notification from the department of health and welfare to collect any payment received from a third party for the costs of health services to a child by a person who is required by court or administrative order to provide the costs of health services to a child and such payment has not been used to reimburse either the other parent or guardian of such child, the provider of such services, or the state agency, to the extent necessary to reimburse the other parent, guardian, provider or state agency for such costs. Any claims for current or past-due child support shall take priority over any such claims for the costs of such health services. The set-off or withholding of a refund due a taxpayer shall be completed only after the following conditions have been met:

(a) A delinquency exists, which shall be defined as any unpaid child or spousal support including public assistance, pursuant to a court order from this state or a court or administrative order of another state.

(b) All outstanding tax liabilities collectible by the state tax commission are satisfied.

(c) The department of health and welfare, bureau of child support enforcement, shall forward to the state tax commission the full name and social security number of the taxpayer. The tax commission shall notify the department of health and welfare of the amount of refund due the taxpayer and the taxpayer's address on the income tax return.

(d) Notice of the proposed set-off shall be sent by registered or certified mail to the taxpayer at the address listed on the income tax return. Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday or state holidays as the 14th day) the taxpayer may file a protest in writing requesting a hearing before the department of health and welfare. The hearing shall be held within thirty-five (35) days from the date of the

mailing of the original notice. No issues at that hearing may be considered that have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or by mail to the taxpayer within ten (10) days of the hearing.

(e) When set-off is attempted on a joint return under the provisions of this section the taxpayer not specified to be the obligor in the claim may protest under the provisions of subsection (1)(d) of this section, and the set-off will be limited to one-half (1/2) of the joint refund.

(f) After the decision of the department of health and welfare is issued, or if the taxpayer has failed to file a timely protest of the claim, the set-off procedure shall become final.

(2) The proceeds from the set-off shall be credited to an account designated by the department of health and welfare, and notice shall be given to the appropriate clerk of the district court.

(3) This procedure for set-off shall not be subject to section 67-1021, Idaho Code.

(4) Any information furnished by the state tax commission, its employees or agents, under this section shall not be subject to the restrictions and penalties enumerated in section 63-3076, Idaho Code.

(5) Upon request, the department of health and welfare, bureau of child support enforcement, shall make the procedures established in this section for collecting child support arrears available to county prosecuting attorneys. The provisions of this subsection apply only if appropriate arrangements have been made for reimbursement by the requesting prosecuting attorney for the administrative costs incurred by the bureau which are attributable to the request.

SECTION 9. That Section 32-1202, Idaho Code, as enacted by Section 8, Chapter 335, Laws of 1993, Section 32-1205, Idaho Code, as enacted by Section 9, Chapter 335, Laws of 1993, Section 32-1206, Idaho Code, as enacted by Section 10, Chapter 335, Laws of 1993, Section 32-1207, Idaho Code, as enacted by Section 11, Chapter 335, Laws of 1993, Section 32-1209, Idaho Code, as enacted by Section 12, Chapter 335, Laws of 1993, Section 7-1202, Idaho Code, as enacted by Section 13, Chapter 335, Laws of 1993, and Section 7-1204, Idaho Code, as enacted by Section 14, Chapter 335, Laws of 1993, be, and the same are hereby repealed.

SECTION 10. That Section 15, Chapter 335, Laws of 1993, be, and the same is hereby amended to read as follows:

SECTION 15. The provisions of Sections 1 through 7 of this act shall be in full force and effect on and after July 1, 1993. ~~The provisions of Sections 8 through 14 of this act shall be in full force and effect on and after April 1, 1994.~~

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

Approved March 31, 1994.

CHAPTER 309
(H.B. No. 504, As Amended)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-249, IDAHO CODE, TO PROVIDE THAT ANY DOCUMENT, REPORT, OR OTHER RECORDED INFORMATION PROVIDED TO THE DIRECTOR BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC) WHICH IS MARKED "CONFIDENTIAL" OR "FOR REGULATOR USE ONLY" OR BY SIMILAR TERMS OR CONCERNING WHICH THE NAIC REQUIRES WRITTEN ASSURANCE THAT A STATE MAINTAIN SUCH INFORMATION IN CONFIDENCE BEFORE THE NAIC WILL RELEASE THE INFORMATION MAY BE MAINTAINED BY THE DIRECTOR ON A CONFIDENTIAL BASIS AND IS NOT REQUIRED TO BE DISCLOSED TO THE PUBLIC AND TO PROVIDE THAT THE SECTION SHALL NOT APPLY TO PREVENT AN INSURANCE COMPANY FROM OBTAINING INFORMATION USED BY THE DEPARTMENT IN MAKING REGULATORY DECISIONS OR TAKING REGULATORY ACTION AFFECTING THE COMPANY.

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

SECTION 1. That Chapter 2, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-249, Idaho Code, and to read as follows:

41-249. INFORMATION PROVIDED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. Any document, report, or other recorded information provided to the director by the national association of insurance commissioners (NAIC) which is marked "confidential" or "for regulator use only" or by similar terms or concerning which the NAIC requires written assurance that a state maintain such information in confidence before the NAIC will release the information may be maintained by the director on a confidential basis and is not required to be disclosed to the public; provided that the application of this section shall not prevent an insurance company from obtaining information used by the department of insurance in making regulatory decisions or taking regulatory action affecting the company.

Approved March 31, 1994.

CHAPTER 310
(H.B. No. 543)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-211, IDAHO CODE, TO PROVIDE THAT MAKING OR AMENDING RULES MUST CONFORM WITH THE PROCEDURES CONTAINED IN THE IDAHO ADMINISTRATIVE PROCEDURE ACT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 41-211, Idaho Code, be, and the same is hereby amended to read as follows:

41-211. RULES ~~AND-REGULATIONS~~. (1) The director may make reasonable rules ~~and-regulations~~ necessary for or as an aid to the effectuation of any provision of this code. No such rule ~~or-regulation~~ shall extend, modify, or conflict with any law of this state or the reasonable implications thereof.

(2) Any such rule ~~or--regulation~~ affecting persons or matters other than the personnel or the internal affairs of the department shall be made or amended ~~only-after-a-hearing-thereon-of-which-notice was-given-as-required-by-section-41-235.-If--reasonably--possible--the director--shall-set-forth-the-proposed-rule-or-regulation-or-amendment in-or-with-the-notice-of-hearing.~~

~~(3)--No-such-rule-or-regulation-as-to-which-a-hearing-is--required under--subsection-(2)-above-shall-be-effective-until-after-it-has-been on-file-as-a-public-record-in-the-director's-office-for-at--least--ten (10)-days.~~

~~(4)--Upon--request--and--payment-of-the-reasonable-cost-thereof-if required-and-fixed-by-the-director,-the-director-shall-furnish-a--copy of--any--such-rule-or-regulation-to-any-person-so-requesting~~ in accordance with the provisions of chapter 52, title 67, Idaho Code.

(~~5~~3) In addition to any other penalty provided, wilful violation of any such rule ~~or-regulation~~ shall subject the violator to such suspension or revocation of certificate of authority or license as may be applicable under this code as for violation of the provision as to which such rule ~~or-regulation~~ relates.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to July 1, 1993.

Approved March 31, 1994.

CHAPTER 311
(H.B. No. 555)

AN ACT

RELATING TO THE MOTOR VEHICLE CODE; AMENDING CHAPTER 2, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-201A, IDAHO CODE, TO AUTHORIZE THE TRANSPORTATION BOARD TO ENTER INTO A MULTIJURISDICTIONAL AGREEMENT FOR COLLECTION OF HIGHWAY USE FEES AND TO PROMULGATE RULES TO ADMINISTER THE PROVISIONS OF THE AGREEMENT; AMENDING SECTION 49-434, IDAHO CODE, TO PROVIDE FOR DISPOSITION OF THE ADMINISTRATIVE FEE; AMENDING SECTION 49-435, IDAHO CODE, TO PROVIDE FOR DISPOSITION OF THE ADDITIONAL FEE FOR VEHICLE IDENTIFICATION; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-435A, IDAHO CODE, TO PROVIDE THAT OWNERS WHO ARE SUBJECT TO REPORTING AND PAYMENT OF HIGHWAY USE FEES MAY ENTER INTO AN AGREEMENT WITH THE DEPARTMENT FOR THE REPORTING AND PAYMENT OF HIGHWAY USE FEES IN ACCORDANCE WITH THE MULTIJURISDICTIONAL AGREEMENT, AND TO PROVIDE THAT OWNERS WHO HAVE

DECLARED A BASE STATE IN A JURISDICTION OTHER THAN IDAHO THAT IS A MEMBER OF THE MULTIJURISDICTIONAL AGREEMENT MAY ENTER INTO AN AGREEMENT WITH THE BASE STATE JURISDICTION AND PAY IDAHO USE FEES TO THAT BASE STATE; AND AMENDING SECTION 49-436, IDAHO CODE, TO PROVIDE FOR DISPOSITION OF THE REINSTATEMENT FEE AND TO REMOVE THE LIMIT PLACED ON THE DEPARTMENT FOR REMITTANCE OF PENALTIES PAID BY AN OWNER.

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

SECTION 1. That Chapter 2, 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 49-201A, Idaho Code, and to read as follows:

49-201A. MULTIJURISDICTIONAL AGREEMENT FOR COLLECTION OF USE FEE -- RULES. (1) The board may enter into an agreement with the authorized representatives of any jurisdiction that imposes highway use fees, in order to form a multijurisdictional agreement for the singular collection of the total highway use fees claimed due by any of the jurisdictions that are party to the agreement. An agreement established under authority granted by this section:

(a) May allow owners to pay the total highway use fees that are claimed due to any jurisdiction that is party to the agreement;

(b) May provide for collection of all claimed highway use fees due by any party to the agreement on vehicles that are engaged in interjurisdictional commerce or combined interjurisdictional and intrajurisdictional commerce;

(c) May include provisions necessary to facilitate the determination and distribution of highway use fee moneys among the various jurisdictions;

(d) May provide that the board may deny any person further benefits under the agreement until all taxes have been paid, if the board determines that the person should have paid additional taxes;

(e) May provide for arrangements with agencies of this state and other jurisdictions for joint audits of owners of vehicles availing themselves of this agreement and for the exchange of audit information on those owners; and

(f) May authorize the board to suspend or cancel any benefits under the agreement if the owner violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.

(2) The board may adopt any rules the board deems necessary to effectuate and administer the provisions of an agreement entered into under this section. Nothing in an agreement shall affect the right of the board to adopt rules as described in this section.

(3) An agreement shall be in writing and shall be filed with the board within ten (10) days after execution or the effective date of the agreement, whichever is later.

(4) Nothing in an agreement shall affect the right of the board to act under the provisions of this section.

(5) An agreement shall not provide for any benefit, exemption or

privilege with respect to any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except highway use fees and requirements.

SECTION 2. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. OPERATING FEES. (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule.

Maximum Gross Weight (Pounds)	Annual Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles
8,001-16,000 inc.	$ 31.08	$ 30.60
16,001-26,000 inc.	61.08	143.40
26,001-30,000 inc.	91.68	223.80
30,001-40,000 inc.	130.08	291.60
40,001-50,000 inc.	188.28	360.00
50,001-60,000 inc.	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount of one hundred twenty dollars ($120).

In addition, an annual registration fee shall be required for each trailer or semitrailer in a combination of vehicles in the amount of fifteen dollars ($15.00). An annual registration fee of eight dollars ($8.00) shall be required for each rental utility trailer having a maximum laden or gross weight of up to two thousand (2,000) pounds, or fifteen dollars ($15.00) for each rental utility trailer having a maximum laden or gross weight in excess of two thousand (2,000) pounds. For a fee of fifteen dollars ($15.00) per year for each trailer or semitrailer, or a fee of eight dollars ($8.00) or fifteen dollars ($15.00) per year, as applicable, for each rental utility trailer, the department may issue a trailer, rental utility trailer or semitrailer license plate that shall remain valid for a period of five (5) years. The license plate shall become void if the owner's interest in the trailer, rental utility trailer or semitrailer changes during the five (5) year period. If the owner fails to enter the licensed trailer, rental utility trailer or semitrailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed, unexpired plate shall be returned to the department if it is not entered on the renewal application.

(3) An administrative fee of four dollars ($4.00) shall be paid <u>and deposited to the state highway account</u> on all registrations completed by the department under this section.

(4) In addition to the registration and license fees provided by subsections (1) and (2) of this section, there shall be paid on all commercial vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee based upon the registered maximum gross weight in accordance with the following schedule. The use fees shall be calculated by multiplying the mills per mile, determined from the mills per mile schedule table, times the reported mileage for the

vehicle, subject to the provisions of this section.

Maximum Gross Weight of Vehicle (Pounds)	Mills per Mile
60,001-62,000	30.05
62,001-64,000	31.35
64,001-66,000	32.60
66,001-68,000	33.90
68,001-70,000	35.15
70,001-72,000	36.40
72,001-74,000	38.55
74,001-76,000	40.65
76,001-78,000	42.75
78,001-80,000	44.90
80,001-82,000	47.00
82,001-84,000	49.10
84,001-86,000	51.20
86,001-88,000	53.30
88,001-90,000	55.40
90,001-92,000	57.50
92,001-94,000	59.60
94,001-96,000	61.70
96,001-98,000	63.80
98,001-100,000	65.90
100,001-102,000	68.00
102,001-104,000	70.10
104,001-106,000	72.20

For each additional two thousand (2,000) pounds or fraction thereof in excess of one hundred six thousand (106,000) pounds add 2.1 mills per mile.

(5) In addition to the registration and license fees of this section, there shall be paid on all farm vehicles, and any commercial vehicle exclusively engaged in the transportation of logs, pulp wood, stull, poles, piling, rough lumber, ores, ore concentrates, sand and gravel aggregates in bulk, livestock and vehicles used for the sole purpose of transporting milk from the farm to processing plant, having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee in accordance with the following schedule. The use fees shall be calculated by multiplying the mills per mile, determined from the mills per mile schedule table, times the reported mileage for the vehicle, subject to the provisions of this section.

Maximum Gross Weight of Vehicle (Pounds)	Mills per Mile
60,001-62,000	22.45
62,001-64,000	22.45
64,001-66,000	22.45
66,001-68,000	22.45
68,001-70,000	22.45
70,001-72,000	22.45
72,001-74,000	22.45
74,001-76,000	22.45
76,001-78,000	22.45

78,001-80,000	22.45
80,001-82,000	24.55
82,001-84,000	26.65
84,001-86,000	28.75
86,001-88,000	30.85
88,001-90,000	32.95
90,001-92,000	35.05
92,001-94,000	37.15
94,001-96,000	39.25
96,001-98,000	41.35
98,001-100,000	43.45
100,001-102,000	45.55
102,001-104,000	47.65
104,001-106,000	49.75

For each additional two thousand (2,000) pounds or fraction thereof in excess of one hundred six thousand (106,000) pounds add 2.1 mills per mile.

(6) If any vehicle, or combinations of vehicles move on the highways of the state, and the vehicle or combination exceeds its registered maximum gross weight there shall be paid for that vehicle, the fees provided for in either subsection (4) or (5) of this section, as applicable, for the actual gross weight of the vehicle or combination of vehicles for the miles traveled at the heavier weight.

(7) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code.

(8) Any owner operating vehicle combinations may apply to the department for authority to report multiple weights and pay use fees based upon the maximum gross weight of each configuration in the combination being operated. The owner shall declare a maximum gross weight for each configuration being operated but not more than three (3) maximum gross weights for a vehicle combination may be declared. Any owner who receives authority to report and pay use fees at multiple maximum gross weights shall register the motor vehicle in a combination at the highest maximum gross weight of the vehicle. Any owner who reports vehicle combinations at multiple weights and fails to maintain records and furnish said records to the department upon request which show the configuration of the combination of vehicles and the trailer and unit number for all miles and trip segments traveled shall have all miles assessed at the highest maximum gross weight of the combination of vehicles.

(9) An applicant for registration of a commercial vehicle, a noncommercial vehicle or a farm vehicle shall set forth the maximum gross weight of the vehicle or combination of vehicles and the applicant shall pay any annual registration fees and any annual license fees on trailers and semitrailers required at the time he makes application for registration subject to the provisions of subsections (1) and (2) of this section. No part of the registration or license fees shall be subject to refund. The use fee payment required shall be computed

according to the schedule in either subsection (4) or (5) of this section on the mileage operated over the highways of the state of Idaho and the owner of any vehicle against which a use fee is assessed, shall at the time of making his next quarterly report pay the use fee, if any, for the three (3) calendar months immediately prior. In determining the mileage subject to the use fee, there shall be deducted the miles traveled on roadways maintained with private funds by agreement with the public agency or agencies having jurisdiction over them. In no event shall the total money credited to the owner for the mileage exceed the actual cost of maintenance expended by him.

(10) Any owner who operates or intends to operate non-Idaho based vehicles in Idaho that are subject to the use fee required under the provisions of this section shall apply for a use fee account before operating the vehicles in Idaho. In lieu of establishing a use fee account the owner may purchase a trip permit under the provisions of section 49-432 or 49-433, Idaho Code, as applicable. The department shall develop rules to administer the use fee account. Any owner who has not established a use fee account or has not purchased a trip permit prior to operating in Idaho shall have committed an infraction.

SECTION 3. That Section 49-435, Idaho Code, be, and the same is hereby amended to read as follows:

49-435. PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES. (1) Any owner engaged in operating one or more fleets may, in lieu of the registration fees imposed by section 49-434, Idaho Code, register each fleet for operation in this state by filing an application with the department which shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the motor vehicles in a fleet during the year.

(b) In-state miles. This shall be the total number of miles operated in this state during the preceding year by motor vehicles in the fleets during the year.

(c) A description and identification of each vehicle of the fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested, and, as determined by the department, the vehicle unit number of each fleet vehicle as assigned by the owner.

(2) The application for each fleet shall, at the time and in the manner required by the department, be supported by a fee payment computed as follows:

(a) Divide in-state miles by total fleet miles.

(b) Determine the total amount necessary to register each and every vehicle in the fleet for which registration is required based on the regular annual fees prescribed by section 49-434, Idaho Code.

(c) Multiply the sum obtained under subsection (2)(b) of this section, by the quotient obtained under subsection (2)(a) of this section.

(3) The applicant for proportional registration of any fleet, the

motor vehicles of which are operated by him in jurisdictions in addition to those in which the applicant's fleet motor vehicles are operated, may state those motor vehicles separately in his application and compute and pay the fees in accordance with the separate statement, as to which "total miles" shall be the total miles of highway operation determined from miles of power units, whether prorated or not, operated in combination with prorated trailers in all jurisdictions during the preceding year.

(4) The department shall register the vehicle so described and identified and may issue license plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsection (2) and an additional identification charge of eight dollars ($8.00) per vehicle. The fees collected for the additional identification shall be deposited to the state highway account. A registration card shall be issued for each proportionally registered vehicle appropriately identifying it which shall be carried in or upon the vehicle identified at all times.

(5) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, no vehicle shall be operated in intrastate commerce in this state unless the owner has been granted intrastate authority or rights by the public utilities commission and unless the vehicle is being operated in conformity with such authority or rights.

(6) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this section, or by any contract, agreement, arrangement or declaration made under the authority provided in section 49-201, Idaho Code, shall be subject to the condition that each fleet vehicle proportionally registered shall also be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which it is proportionally registered in this state.

(7) Vehicles acquired by the owner after the commencement of the registration year and subsequently added to a proportionally registered fleet shall be proportionally registered by applying the mileage percentage used in the original application for the fleet for that registration period to the annual registration fees due with respect to those vehicles for the remainder of the registration year.

(8) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered, the owner of the fleet shall so notify the department on appropriate forms to be prescribed by the department. The department may require the owner to surrender proportional registration cards and other identification devices which have been issued with respect to the vehicle as the department may deem advisable.

(9) The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If no operations were conducted with the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in this state and other jurisdictions. The

department shall determine the in-state and total fleet miles to be used in computing the fee payment for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to the correctness submitted.

(10) The department may refuse to accept proportional registration applications for the registration of vehicles based in another jurisdiction if it shall find that the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state.

(11) Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four (4) years following the year of application. The owner shall agree to make his records accessible to the department for audit as to accuracy of computations, payments and assessments of deficiencies or allowances for credit. The department shall make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any owner or exchange of audit information. No assessment for deficiency or claim for credit may be made for any period for which records are no longer required. Any sums found to be due and owing upon audit shall bear interest of six per cent (6%) from the date when they should have been paid until the date of actual payment. If the audit discloses a deliberate and willful intent to evade the requirements of appropriate payment under subsection (2)(b) of this section, an additional penalty of ten per cent (10%) shall also be assessed.

(12) No provision of this section relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including regular registration or temporary trip permit.

(13) Proportionally registered vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds shall pay a use fee in accordance with section 49-434(4), (5), (6) and (7), Idaho Code, as applicable.

SECTION 4. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-435A, Idaho Code, and to read as follows:

49-435A. MULTIJURISDICTIONAL USE FEE AGREEMENTS. (1) Any owner engaged in operating a fleet of commercial or farm vehicles having a maximum gross weight in excess of twenty-six thousand (26,000) pounds that has registered and declared Idaho to be its base state may enter into an agreement with the department for the reporting and payment of highway use fees in accordance with the multijurisdictional agreement as provided in section 49-201A, Idaho Code.

(2) Any owner engaged in operating a fleet of commercial or farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds that has registered and declared a base state, in a jurisdiction other than Idaho, that is a member of the multijurisdictional agreement for the collection of highway use fees as provided in section 49-201A, Idaho Code, may enter into an agree-

ment with the base state jurisdiction to pay its Idaho highway use fees to the base state.

SECTION 5. That Section 49-436, Idaho Code, be, and the same is hereby amended to read as follows:

49-436. QUARTERLY REPORTS -- MAINTAINING RECORDS -- PENALTIES -- DEPOSIT OR BOND TO SECURE PAYMENT OF FEES -- APPEAL. (1) Not later than the last day of April, and on the last day of each third calendar month thereafter, each owner of a commercial or farm vehicle having a maximum combined gross weight in excess of sixty thousand (60,000) pounds, shall file with the department a statement of the gross miles each vehicle has traveled over the highways of the state of Idaho for the preceding calendar months of the year for which that report is made. Each report shall be cumulative of all miles traveled during all calendar months in that year for which the report is made.

(2) Every owner whose fees are computed as specified in section 49-434, Idaho Code, shall maintain records and permit the department to inspect the records upon request to substantiate the following:

(a) The actual miles traveled over Idaho highways.

(b) Identification of the commodities hauled if using the schedule in section 49-434(5), Idaho Code.

(c) Reporting at multiple weights pursuant to section 49-434, Idaho Code.

(d) If an owner registers a vehicle or combination of vehicles at a weight in excess of sixty thousand (60,000) pounds and the registered maximum gross weight is less than the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles, then the owner must maintain and provide to the department on demand records of the vehicle or combination of vehicles actual gross weight and the configuration of the combination of vehicles for all miles traveled. If the owner fails to maintain and produce such records then all miles for the vehicle or combination of vehicles will be assessed at the highest weight the vehicle or combination of vehicles could legally operate pursuant to section 49-1001, Idaho Code. If an owner registers a vehicle or combination of vehicles at a weight in excess of sixty thousand (60,000) pounds and the registered maximum gross weight is equal to or exceeds the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles then the owner is not required to maintain actual gross weight records of the vehicle or combination of vehicles. Owners may voluntarily report quarterly the weight hauled in excess of registered maximum gross weight and may pay use fees for such voluntarily reported weight without penalty.

(e) Overweight travel authorization fees as set forth in section 49-1001, Idaho Code, and use fees accrued through overweight citations as provided in this section shall be remitted quarterly.

(3) When the records are maintained outside this state by owners engaged in transportation in this state, the owner shall reimburse the department for reasonable expenses incurred by the department in making audits of those records and accounts at the out-of-state location. The owner or the department may request that the records be presented

at a place within the state designated by the department. The records must be presented by a representative of the owner familiar with the records and who is responsible for the safekeeping of the records. Every owner is required to maintain records for four (4) years from the due date of the quarterly report unless the department and the owner agree in writing to shorten or lengthen the time period. The amount of fees imposed in this chapter shall be assessed within four (4) years after the due date of the quarterly report unless the department and owner agree in writing to lengthen the time period. If an assessment has been made, such fees may be collected by a proceeding in court within a period of three (3) years after the assessment or a final order entered pursuant to subsection (10) of this section.

(4) Owners of commercial and farm vehicles using the registration fee schedules in section 49-434(1), Idaho Code, are subject to audit to determine if the proper schedule is being used. If the weight classification being used is found to be understated, the difference between the registration fees paid and the registration fees due will become due and payable. If the vehicles are found to be operating in excess of sixty thousand (60,000) pounds gross weight, the difference between the registration fees paid under section 49-434(1), Idaho Code, and the amount that would have been due under the use fee schedule in section 49-434(4) or (5), Idaho Code, will be determined and the balance due, if any, will be collected. If an owner registers a vehicle or combination of vehicles at a weight less than the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles then the owner must maintain vehicle gross weight records in addition to the mileage records and allow the department to inspect the vehicle gross weight and mileage records.

(5) Owners using the use fee schedules in section 49-434(4) and (5), Idaho Code, are subject to audit to determine if the proper use fee schedule and weight classification is being used and if all miles traveled on Idaho highways have been reported. If the operating weight, as determined from citations issued for exceeding weight limitations specified in title 49, Idaho Code, exceeds the registered maximum gross weight, the additional use fees for the miles traveled at the heavier weight, if not already paid, shall become due and payable.

(6) An owner who fails to maintain records as required by the provisions of this section may have the registration of all vehicles registered under sections 49-434 and 49-435, Idaho Code, suspended until such time as adequate records as required by the provisions of this section are provided. In the event that the owner does not produce records, the department may make an assessment of fees due based on an estimate of the operation. The department shall promulgate rules specifying the methodology used to determine an assessment based on an estimate of the operation. There shall be added to every such estimated assessment a penalty of two percent (2%) per month or fraction thereof after the report was required to be filed or the fee became due up to a maximum penalty of thirty-six percent (36%) of the fee due. Upon payment of the estimated assessment and all other fees due and owing including the reinstatement fee the owner's registration shall be reinstated.

(7) An owner who fails to file any reports or pay any fees or

penalties due is subject to suspension of their vehicle registrations. An order suspending the vehicle registrations shall be mailed to the owner upon discovery of the deficiency by the department. The suspension shall be lifted if the reports are filed and the payments due are made, along with a reinstatement fee of forty dollars ($40.00) per carrier within fifteen (15) days after receipt of the suspension order. The reinstatement fees shall be deposited to the state highway account. The owner shall have the right to appeal the suspension by petitioning the department for a hearing within ten (10) days after receipt of the suspension order. If the suspension is set aside the reinstatement fee shall not be due.

(8) An owner failing to file a mileage report or pay any fee due within the time required as specified in this section, shall in addition to the amount of the fee pay a penalty of ten percent (10%) of the amount of fee determined to be due, plus the interest of one percent (1%) of the amount of the use fees due for each month or fraction thereof after the report was required to be filed or the fee became due, but the department may remit all or any part of the penalty if satisfied that the delay was excusable ~~up to a maximum of twenty-four percent (24%)~~. The department shall promulgate rules specifying when the penalty may be held in abeyance or forgiven.

(9) (a) If the department finds it necessary in order to ensure the collection of any fees or penalties imposed upon an owner, it may at the time and as a condition of granting a registration or to reinstate a registration require an owner to deposit and keep on deposit with the department a sum equal to the estimated fees computed under the schedule in section 49-434, Idaho Code, for a period of not to exceed three (3) months. In determining the necessity for an applicant or owner to maintain a deposit the department shall consider the applicant or owner's financial capability and responsibility and prior experience, if any, in collecting fees or penalties from the applicant, owner or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the registration.

(b) The department may accept in lieu of a deposit a bond to secure payment of sums payable by the owner. The total amount of the deposit or bond shall be determined by the department in a manner as it shall deem proper, taking into account the nature and scope of the owner's operations. The amount may be increased or reduced at any time.

(c) If an owner ceases to be registered under the provisions of this chapter, the department, upon receipt of all payments due, shall refund to the owner all deposits remaining to the owner's credit and shall release the surety on any bond given under this section.

(d) Any applicant or owner required to make a deposit to secure the payment of fees or penalties may by proper petition demand a hearing on the necessity of the deposit or the reasonableness of the amount required. A hearing shall be granted and held within ten (10) days after the demand. The decision of the director shall become final ten (10) days after service of the order upon the applicant or owner concerned. Notice shall be served personally or

by certified mail addressed to the applicant or owner at his address as it appears in the records of the department. An appeal may be taken from any decision of the department as from the decision of the magistrate's division to the district court.

(10) An owner wishing to contest an assessment made by the department may within thirty (30) days from receipt of the assessment file an appeal with the department. Upon receipt of an appeal the director or his authorized representative shall schedule an informal conference between the owner and a representative of the department. The informal conference must be conducted within twenty (20) days from the date of receipt of notice of intent to appeal from the owner. The owner and the representative of the department shall reduce all conclusions, agreements and decisions to writing, if an informal conference is held, but attendance at and participation in the informal conference is at the option of the owner. If an informal conference is held, the written report of the results of that conference shall be provided to the director within ten (10) days. If the results of the informal conference are not satisfactory to the owner, he may continue with the appeal by informing the director in writing, and the director or his authorized representative shall appoint a hearing officer to conduct a contested case hearing in accordance with chapter 52, title 67, Idaho Code. The hearing officer may subpoena witnesses and evidence and administer oaths. The hearing officer shall prepare written findings of fact and conclusions of law for the director or his authorized representative. Upon receipt of findings of fact and conclusions of law the director or his authorized representative shall issue a final order affirming, modifying or reversing the original assessment. All final orders rendered by the director or his authorized representative shall be appealable in accordance with chapter 52, title 67, Idaho Code.

Approved March 31, 1994.

CHAPTER 312
(H.B. No. 667)

AN ACT

RELATING TO COSMETOLOGY; AMENDING SECTION 54-802, IDAHO CODE, TO DEFINE "ELECTROLOGIST/ESTHETICIAN INSTRUCTOR," "STUDENT ELECTROLOGIST/ESTHETICIAN INSTRUCTOR" AND "MAKEOVER OR GLAMOUR PHOTOGRAPHY BUSINESS"; AMENDING SECTION 54-805, IDAHO CODE, TO ESTABLISH LICENSURE REQUIREMENTS FOR AN ELECTROLOGIST/ESTHETICIAN INSTRUCTOR AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 8, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-805B, IDAHO CODE, TO CREATE LICENSE REQUIREMENTS FOR A MAKEOVER OR GLAMOUR PHOTOGRAPHY BUSINESS; AMENDING SECTION 54-806, IDAHO CODE, TO ELIMINATE THE SUPERVISION REQUIREMENT IN LICENSED COSMETOLOGY ESTABLISHMENTS; AMENDING SECTION 54-808, IDAHO CODE, TO DELETE MINIMUM AND MAXIMUM HOURS OF CLASS ATTENDANCE REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-812, IDAHO CODE, TO ALLOW PREVIOUSLY LICENSED IDAHO INDIVIDUALS TO QUALIFY FOR ENDORSEMENT CERTIFICATION; AND AMENDING SECTION 54-818, IDAHO CODE, TO ESTABLISH ORIGINAL REGISTRATION AND ANNUAL RENEWAL FEES

FOR A MAKEOVER OR GLAMOUR PHOTOGRAPHY BUSINESS.

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

SECTION 1. That Section 54-802, Idaho Code, be, and the same is hereby amended to read as follows:

54-802. DEFINITIONS. For the purpose of this chapter, the following definitions shall apply:

(a) "Cosmetology" shall constitute any one (1) or combination of the following practices when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

1. Cutting, trimming, arranging, dressing, curling, waving by any method, cleansing, singeing, bleaching, coloring, or similar work upon the hair.
2. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, exercising, beautifying, or similar applications or work upon the scalp, face, neck, arms, hands, busts, or other parts of the body.
3. Manicuring, pedicuring the nails, and the application of artificial nails.

(b) "Registered cosmetologist" shall mean any person licensed to practice cosmetology.

(c) "Nail technology" shall constitute any one (1) or more of the following practices when done upon the human body:

1. Manicuring, pedicuring the nails, and the application of all forms of artificial nails.
2. Massage of the hands and feet.

(d) "Nail technician" shall mean any person whose practice of cosmetology is limited to nail technology.

(e) "Apprentice" shall mean any person who is engaged in learning or acquiring of any or all of the practices of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(f) "Student" shall mean any person who is engaged in the learning or acquiring of any or all of the practices of cosmetology in a registered school of cosmetology, and while so learning performs or assists in any of the practices of cosmetology.

(g) "Instructor" shall mean a cosmetologist who teaches cosmetology or any practices thereof in a school of cosmetology or school or college of barbering.

(h) "Student instructor" shall mean a cosmetologist who is receiving training to teach cosmetology.

(i) "Cosmetological establishment" shall mean any place or part thereof other than a school of cosmetology wherein cosmetology is practiced.

(j) "School of cosmetology" shall mean any place or part thereof wherein cosmetology is taught to students.

(k) "Board" means the Idaho board of cosmetology.

(l) "Department" means the Idaho department of self-governing agencies.

(m) "Chapter" as used in this act refers to title 54, chapter 8,

Idaho Code.

(n) "Electrology/esthetics" shall constitute any one (1) or combination of the following practices, when done upon the human body:

1. The permanent removal of hair by any method except the use of X-rays, radium, radon, radioactive isotopes or any other radiation capable of producing ionization in human tissue.

2. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, stimulating, manipulating, exercising, beautifying, or similar applications or work upon the human body.

(o) "Electrologist/esthetician" means any person licensed to practice electrology/esthetics and who is skilled in the permanent removal of unwanted hair and in the practice of skin care.

(p) "Esthetics" shall constitute any one (1) or combination of the following practices when done on the human body:

1. Applying cosmetic preparations, antiseptics, tonics, lotions or creams, or massaging, cleansing, exercising, beautifying or similar applications of work to the human body.

2. Nonpermanent hair removal by tweezing or waxing.

(q) "Esthetician" means any person licensed to practice esthetics.

(r) "Electrologist/esthetician instructor" means an electrologist/ esthetician who teaches electrology/esthetics or any practices thereof in a school of cosmetology approved to teach electrology/esthetics.

(s) "Student electrologist/esthetician instructor" shall mean an electrologist/esthetician who is receiving training to teach electrology/esthetics.

(t) "Makeover or glamour photography business" means any business engaged in the offering of photographic services to the general public and whose employees engage in the facial application of cosmetic products or the arranging of the hair of customers in connection with the sale, or attempted sale, of photographic services.

(u) "Retail cosmetics dealer" means a fixed retail business which offers cosmetic products for sale at retail to members of the general public and whose employees engage in the facial application of cosmetic products to customers in connection with the sale, or attempted sale, of the products without compensation from the customer other than the regular price of the merchandise.

SECTION 2. That Section 54-805, Idaho Code, be, and the same is hereby amended to read as follows:

54-805. REQUIREMENTS FOR LICENSE. Except as herein otherwise provided, the following shall be considered minimum requirements for license in the respective categories, and all applicants shall be of good moral character and temperate habits:

1. As a registered cosmetologist:

(a) Completion of two (2) years' high school education or its equivalent.

(b) Graduation from and completion of two thousand (2000) hours' training in a school of cosmetology, or four thousand (4000) hours' training as an apprentice covering all phases of the prac-

tice of cosmetology.

(c) Successful passage of the examination for cosmetologist given under the direction of the board.

2. As an instructor: twelve (12) semester college credit hours or equivalent as approved by the board or successful completion of the examination required by board rules ~~and regulations~~, and

(a) One (1) year's experience as a licensed cosmetologist in a registered cosmetological establishment or school and six (6) months of teacher's training in a school of cosmetology, or

(b) Two (2) years' experience as a licensed cosmetologist in a registered cosmetological establishment and three (3) months of teacher's training in a school of cosmetology, or

(c) Five (5) years' experience as a licensed cosmetologist, immediately preceding the application for license, and

3. As a student:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

4. As an apprentice:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

5. As a nail technician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least three hundred (300) hours of training and graduated from such training in a board approved school.

(d) Successful passage of the examination for nail technician given under the direction of the board.

6. As an electrologist/esthetician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least eight hundred (800) hours of training for such in a school approved by the board to teach electrology/esthetics or sixteen hundred (1600) hours as an apprentice under the direct personal supervision of a licensed electrologist/esthetician ~~qualified to teach electrology and esthetics~~ instructor as established by board regulations.

(d) Successfully passed the examination for electrologist and esthetician given under the direction of the board.

7. As an esthetician:

(a) Be sixteen and one-half (16 1/2) years of age.

(b) Have completed at least two (2) years of high school education or its equivalent.

(c) Have completed and graduated from at least five hundred (500) hours of training for such in a school approved by the board to teach esthetics.

(d) Successfully passed the examination for esthetician given under the direction of the board.

8. As an electrologist/esthetician instructor: twelve (12) semes-

ter college credit hours or equivalent, as approved by the board, or successful completion of an examination required by board rules, and:

(a) Five (5) years' experience as a licensed electrologist/esthetician; or

(b) Fewer than five (5) years' experience as a licensed electrologist/esthetician and completion of an adequate training program to be established by board rule.

SECTION 3. That Chapter 8, 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 54-805B, Idaho Code, and to read as follows:

54-805B. REQUIREMENTS FOR LICENSE -- LIMITATIONS OF LICENSE -- MAKEOVER OR GLAMOUR PHOTOGRAPHY BUSINESS. (1) The board shall issue a license to a makeover or glamour photography business which meets the following conditions:

(a) Completes the application forms for licensure as required by the board;

(b) Pays the appropriate license fees as required in section 54-818, Idaho Code;

(c) Specifies a location within the photography business as the area where the cosmetological practices will take place; and

(d) Provides facilities and equipment in the defined area within the business premises to properly sanitize and store equipment and supplies necessary to perform any cosmetic application services provided, including the arranging of hair by use of thermal styling equipment:

(i) Hot and cold running water;

(ii) Chlorine water and alcohol, or any other acceptable method of sanitation between customer application services;

(iii) Single use applicators, wipes, spatulas, or other dispensing techniques designed to prevent contamination of the cosmetic product(s);

(iv) An adequate first aid kit; and

(v) Adequate restroom facilities.

(2) Upon approval of an application for license as set forth in subsection (1) of this section, the board may issue a limited license for the practice of cosmetology, which license will limit the business to the application of facial cosmetics incidental to the photographic service offered and which will include the ability for the photographer or employee to arrange hair utilizing combs, brushes, picks and thermal curling devices such as curling irons, crimpers or heated rollers.

(3) This limited license will not entitle the photography business or any employee of such a business to furnish any cosmetological services unless incidental to the providing of photographic services and will not entitle such an individual or business to furnish any cosmetological services not specifically set forth in subsection (2) of this section.

SECTION 4. That Section 54-806, Idaho Code, be, and the same is hereby amended to read as follows:

54-806. SCHOOLS AND ESTABLISHMENTS -- WHO MAY OPERATE -- REGISTRATION -- MANAGEMENT. (1) Any person, firm, association or corporation may own and operate a cosmetological establishment, provided that such establishment has been duly registered with the board and each establishment maintains ~~at--least--one-(1)-registered-cosmetologist,-nail--technician,--esthetician,--or--electrologist/esthetician---under licensure--in-the-establishment-when-open-for-business~~ compliance with the requirements of section 54-803, Idaho Code.

(2) Any person, firm, association or corporation may own and operate a school of cosmetology, provided that such school has been duly registered with the board, and the school maintains the requirements specified in section 54-808, Idaho Code.

SECTION 5. That Section 54-808, Idaho Code, be, and the same is hereby amended to read as follows:

54-808. REGULATIONS FOR SCHOOLS. Every domestic school of cosmetology must be registered under the provisions of this chapter and shall meet the following standards and provisions:

1. Employ and maintain at least one (1) licensed instructor for every fifteen (15) students or fraction thereof;

2. Possess sufficient apparatus and equipment for the proper and full teaching of all subjects of its curriculum;

3. Keep a daily attendance record for each student;

4. Maintain regular class and instruction hours, establish grades, and hold monthly examinations;

5. Prescribe a school term for training in all phases of the practice of cosmetology;

6. ~~Enforce-minimum-and-maximum-hour-requirements;~~

~~7.~~ Provide a curriculum embracing subjects covering the scientific fundamentals for cosmetology, hygiene, bacteriology, histology of the hair, skin, muscles, nails and nerves, structure of the head, face and neck, elementary chemistry relating to sterilization and antiseptics, diseases of the skin, hair, glands and nails, massaging and manipulating the muscles of the body, permanent waving, haircutting and arranging, dressing, coloring, bleaching and tinting of the hair, removal of unwanted hair when approved by the board to teach electrology, and a study of electricity as applied to cosmetology, in addition to teaching the acts prescribed in section 54-802, Idaho Code;

~~8~~7. Denote with clarity that the establishment is a school and that work is done by students. Such fact shall be made clear to the patron by signs conspicuously posted in the school and the adjoining shop, if any;

~~9~~8. All instructors must be licensed instructors in this state;

~~10~~9. Such school shall not permit any student or apprentice to receive instruction unless licensed under the provisions of this chapter;

~~11~~0. Every instructor shall devote his entire time during school or class hours to that of instructing the students and shall not apply his time to that of private or public practice;

~~12~~1. School hours for the purpose of instruction shall be offered on not less than a five (5) day week;

~~13.--Each--student--shall-be-required-to-receive-at-least-six-(6),-and-not-more-than-eight-(8),-hours-of-instruction-each-day;~~

1~~4~~2. Training received in an establishment not meeting the requirements for schools as herein set forth shall receive credit for said training as an apprentice rather than as a student, provided said training meets the requirements for apprentice training;

1~~5~~3. All students, including those enrolled for instructor's training, shall be registered by the school with the board, listing the name, age, and qualifications of the student required for such training. Forms for such enrollment may be provided by the board and a register of such enrollments shall be maintained by the board. Hours of instruction shall be registered with the board as established by board regulations, and a student may be permitted to transfer the credits earned at one (1) school to another school with permission of the board;

1~~6~~4. Training received in electrology in a school shall not be recognized unless the school has been approved for such training by the board and the school meets and maintains the requirements to train electrologists as established by board regulations;

1~~7~~5. Training received in esthetics shall not be recognized unless the school has been approved for such training by the board, and the school meets and maintains the requirements to train estheticians as established by board rules~~.~~;

1~~8~~6. Training received in nail technology shall not be recognized unless the school has been approved for such training by the board, and the school meets and maintains the requirements to train nail technicians as established by board rules~~.~~;

1~~9~~7. Every school approved by the board shall deliver to the board, a bond to the state of Idaho in a form approved by the board, and renew the same annually, in the sum of five thousand dollars ($5,000) executed by a corporate surety company duly authorized to do business in this state, conditioned that such school shall continue to give its courses of instruction, in accordance with the provisions of this chapter, until it has completed all such courses for which students have enrolled, and conditioned that such school shall fully comply with all promises or representations made to enrolled students as an inducement to such students to enroll. Any student so enrolled who may be damaged by reason of the failure of such school to comply with such conditions, shall have a right of action in his or her own name, on such bonds, for such damage.

SECTION 6. That Section 54-812, Idaho Code, be, and the same is hereby amended to read as follows:

54-812. ENDORSEMENT CERTIFICATION. The board, upon application and the payment of the fee required therefor, may issue a license without examination to any person who is at least eighteen (18) years of age and of good moral character and temperate habits and who has completed two (2) years of high school or its equivalent and who either:

1. Holds a certificate of qualification or license issued to him by the proper authority of any state, territory, or possession of the United States, or of a foreign country, provided that the requirements

for license under which the certificate was issued are of a standard not lower than those specified in this chapter, or

2. Holds a certificate of qualification or license issued to him by the proper authority of any state, territory or possession of the United States, or of a foreign country and upon proof that said person has practiced the pursuit for which license is requested for at least three (3) years immediately prior to such application. The board shall evaluate the applications for license by reciprocity. No reciprocal license shall be issued except by the board. ~~This section shall not apply to any individual who is or has been licensed in the state of Idaho.~~

SECTION 7. That Section 54-818, Idaho Code, be, and the same is hereby amended to read as follows:

54-818. FEES. The various fees to be paid by applicants for original registrations, original licenses, annual renewals, certificates issued upon reciprocity, and examinations as required under this chapter shall be fixed by administrative rules of the board in amounts not to exceed the following:

(a) Original registrations, licenses, and annual renewals thereof:

cosmetological establishment, original registration	$ 50.00
cosmetological establishment, annual renewals	30.00
retail cosmetics dealer, original registration	50.00
retail cosmetics dealer, annual renewals	30.00
makeover or glamour photography business, original registration	50.00
makeover or glamour photography business, annual renewals	30.00
domestic school of cosmetology, original registration	500.00
domestic school of cosmetology, annual renewals	150.00
registered cosmetologist, original license/annual renewals	20.00
nail technician, original license/annual renewals	20.00
apprentice, original license (no renewal fees required)	20.00
student certificate (no renewal fees required)	20.00
instructor, original license/annual renewals	25.00
student instructor certificate	25.00
electrologist/esthetician, original license/annual renewals	22.00
esthetician, original license/annual renewals	22.00
endorsement	100.00
interim certificate when endorsement denied, also constitutes examination	35.00
temporary license to practice, demonstrate and teach	10.00

(b) Examination:

as a registered cosmetologist	$35.00
as a nail technician	35.00
as an instructor when required by board regulation	35.00
as an electrologist/esthetician	35.00
as an esthetician	35.00

Fees shall not be prorated or returnable.

All certificates expire December 31.

Approved March 31, 1994.

CHAPTER 313
(H.B. No. 676, As Amended)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTIONS 49-406 AND 49-406A, IDAHO CODE, TO DELETE THE REQUIREMENT FOR A CERTIFICATE OF INSPECTION AND TO PROVIDE THAT OWNERS TO WHOM "IDAHO OLD TIMER" OR "IDAHO CLASSIC" VEHICLE LICENSE PLATES HAVE BEEN ISSUED SHALL NOT BE REQUIRED TO PAY ANY ANNUAL OR RENEWAL FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-406, Idaho Code, be, and the same is hereby amended to read as follows:

49-406. IDAHO OLD TIMER -- SPECIAL LICENSE PLATE PROGRAM -- REGISTRATION AND STANDARD LICENSE PLATES. (1) Any motor vehicle manufactured prior to January 1, 1943, that is restored and maintained to its original likeness using original-type parts and materials, without major modifications and which is a collector's item shall be known as an "Idaho Old Timer." Any motor vehicle which is altered from the original design as a street rod, hot rod or customized show car, is not an "Idaho Old Timer" as herein defined.

(2) Any motor vehicle which qualifies as an "Idaho Old Timer" shall be used for exhibits, parades, tours, club activities and such occasional use as is necessary for operation and maintenance of the vehicle, and shall not be used for business or commercial purposes, racing or rallies, or for regular personal transportation as driving to and from school or work.

(3) The "Idaho Old Timer" special license plate shall be of a color and design acceptable to representatives of the "Idaho Old Timer" interest group and approved by the department, utilizing a numbering system as determined by the department.

(4) Applicants for special "Idaho Old Timer" license plates shall pay an initial program fee of twenty-five dollars ($25.00) and a license plate manufacturing fee of ten dollars ($10.00) for each set of "Idaho Old Timer" plates. "Idaho Old Timer" plates shall be renewed as provided in subsection (2) of section 49-443, Idaho Code. At the time of renewal, there shall be a ~~renewal fee of fifteen dollars ($15.00) in addition to the~~ plate manufacturing fee of ten dollars ($10.00). The initial program fee ~~and the renewal fee~~ shall be deposited in the state highway account, and the plate manufacturing fee shall be deposited in the plate manufacturing account.

(5) An applicant for the special "Idaho Old Timer" plates shall execute an affidavit on a form provided by the department that the vehicle qualifies as an old timer and shall only be used for the purposes allowed. ~~The applicant shall also provide a certificate of inspection from an antique car club in the state of Idaho verifying the authenticity of the restoration. This inspection shall be verified on an official form of the car club, as approved by the department, and shall contain the signature of an authorized inspector. The cost~~

~~of the inspection shall be the responsibility of the owner. The department shall not inspect such vehicles nor render an opinion with regard to the authenticity of the restoration.~~

The department shall have the authority to refuse to issue special plates and may demand the return of such plates if the applicant has failed to comply with the provisions of this section.

(6) If an "Idaho Old Timer" is to be used for personal transportation, business or commercial purposes, the owner shall register the vehicle under the provisions of section 49-402, or section 49-434, Idaho Code, as applicable, and shall obtain and display the standard issue of license plates. It shall be permissible to display both the standard issue of plates and the special "Idaho Old Timer" plates.

(7) Whenever title or interest in an Old Timer vehicle is transferred or assigned, the transferor may retain the special plates for use on another vehicle which qualifies by providing the information required in subsection (5) of this section and by paying the required transfer fee. If the vehicle is also registered under the provisions of section 49-402 or section 49-434, Idaho Code, the provisions of section 49-431, Idaho Code, relating to the procedure for assignment and transfer of interest, shall apply.

SECTION 2. That Section 49-406A, Idaho Code, be, and the same is hereby amended to read as follows:

49-406A. IDAHO VINTAGE -- SPECIAL LICENSE PLATE PROGRAM -- REGISTRATION AND STANDARD LICENSE PLATES. (1) Any motor vehicle or motorcycle which is at least thirty (30) years old that does not qualify as an "Idaho Old Timer" and that is restored and maintained to its original likeness using original-type parts and materials, without major modifications and which is a collector's item shall be known as an "Idaho Vintage." Any motor vehicle which is altered from the original design as a street rod, hot rod or customized show car, or a modified motorcycle or a customized show motorcycle, is not an "Idaho Vintage" as herein defined.

(2) Any motor vehicle or motorcycle which qualifies as an "Idaho Vintage" shall be used for exhibits, parades, tours, club activities and such occasional use as is necessary for operation and maintenance of the vehicle, and shall not be used for business or commercial purposes, racing or rallies, or for regular personal transportation as driving to and from school or work.

(3) The Idaho Vintage special license plate shall be of a color and design acceptable to representatives of the "Idaho Vintage" interest group and approved by the department, utilizing a numbering system as determined by the department.

(4) Applicants for special "Idaho Vintage" license plates shall pay an initial program fee of twenty-five dollars ($25.00) and a license plate manufacturing fee of ten dollars ($10.00) for each set of Idaho vintage plates. Idaho vintage plates shall be renewed as provided in subsection (2) of section 49-443, Idaho Code. At the time of renewal, there shall be a ~~renewal fee of fifteen dollars ($15.00) in addition to the~~ plate manufacturing fee of ten dollars ($10.00). The initial program fee ~~and the renewal fee~~ shall be deposited in the state highway account, and the plate manufacturing fee shall be depos-

ited in the plate manufacturing account.

(5) An applicant for the special "Idaho Vintage" plates shall execute an affidavit on a form provided by the department that the vehicle or motorcycle qualifies as an Idaho vintage and shall only be used for the purposes allowed. ~~The applicant shall also provide a certificate of inspection from a vintage car club in the state of Idaho verifying the authenticity of the restoration. This inspection shall be verified on an official form of the car club, as approved by the department, and shall contain the signature of an authorized inspector. The cost of the inspection shall be the responsibility of the owner. The department shall not inspect such vehicles nor render an opinion with regard to the authenticity of the restoration.~~

The department shall have the authority to refuse to issue special plates and may demand the return of such plates if the applicant has failed to comply with the provisions of this section.

(6) If an "Idaho Vintage" is to be used for personal transportation, business or commercial purposes, the owner shall register the vehicle under the provisions of section 49-402, or section 49-434, Idaho Code, as applicable, and shall obtain and display the standard issue of license plates. It shall be permissible to display both the standard issue of plates and the special "Idaho Vintage" plates.

(7) Whenever title or interest in an Idaho vintage motor vehicle or motorcycle is transferred or assigned, the transferor may retain the special plates for use on another vehicle which qualifies by providing the information required in subsection (5) of this section and by paying the required transfer fee. If the vehicle is also registered under the provisions of section 49-402 or section 49-434, Idaho Code, the provisions of section 49-431, Idaho Code, relating to the procedure for assignment and transfer of interest, shall apply.

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 31, 1994.

CHAPTER 314
(H.B. No. 696, As Amended in the Senate)

AN ACT

RELATING TO THE IDAHO PUBLIC LIVESTOCK MARKET DEVELOPMENT ACT; AMENDING SECTION 25-1721, IDAHO CODE, TO REDEFINE LIVESTOCK BY DELETING SHEEP AND GOATS AND TO REDEFINE PUBLIC LIVESTOCK MARKET; AMENDING SECTION 25-1724, IDAHO CODE, TO REVISE CONTENTS OF AN APPLICATION FOR A MARKET CHARTER; AMENDING SECTION 25-1725, IDAHO CODE, TO DELETE REFERENCE TO CERTAIN PUBLIC LIVESTOCK MARKETS; AND REPEALING SECTION 25-1727, IDAHO CODE.

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

SECTION 1. That Section 25-1721, Idaho Code, be, and the same is

hereby amended to read as follows:

25-1721. DEFINITIONS OF TERMS. The following words and phrases as used in this act, unless the context otherwise requires, shall have the meanings respectively ascribed to them in this section.

(a) "Persons" shall include any individual, firm, association, partnership or corporation.

(b) "Department" means the department of agriculture.

(c) "Director" means the director of the department of agriculture.

(d) "Livestock" means and includes cattle, calves, horses, mules, and swine~~, sheep, and goats~~.

(e) "Public livestock market" means:

~~(1)~~ Any place, establishment or facility commonly known as a "livestock market," "livestock auction market," "sales ring," "stockyard," or the like, ~~conducted or operated for compensation or profit as a public market for livestock,~~ consisting of pens, or other inclosures, and their appurtenances, in which livestock ~~are~~ is received, held, sold or kept for sale or shipment~~; or~~, which is conducted or operated for compensation or profit as a public market for livestock.

~~(2) Any marketing system or operation conducted for compensation or profit in which public livestock m~~Marketing or trading, including the transmission of market information, ~~and/or~~ bids, ~~or~~ and offers, ~~is~~ may be facilitated by ~~electronic devices such as~~ computer, ~~systems, or by~~ video, ~~equipment~~ or any other electronic device.

(f) "Market charter" means the charter for public livestock market operation authorized to be issued under the provisions of this act.

(g) "Livestock market operator" means any person engaged in the business of conducting or operating a public livestock market, whether personally or through agents or employees.

SECTION 2. That Section 25-1724, Idaho Code, be, and the same is hereby amended to read as follows:

25-1724. MARKET CHARTER AND APPLICATION -- FEES, CHARTER AND HEARING. No person shall conduct or operate a public livestock market unless and until he has a market charter therefor, upon which the current annual market charter fee has been paid. Any person making application for such market charter shall do so to the director in writing, verified by the applicant, in the form as prescribed by the director, showing the following:

(a) The name and address of the applicant, with a statement of the names and addresses of all persons having any financial interest in the applicant and the amount of such interest. This statement shall include the legal names of all members of a partnership; the officers and members of the governing board of an association; and five (5) principal stockholders of a corporation. If, during the period of a market charter issued hereunder, any change shall take place in the personnel identified herein, the holder of the market charter shall forthwith make a verified report of any such change to the director.

(b) Financial responsibility of the applicant in the form of a statement of all assets and liabilities.

(c) A legal description of the property and its exact location with a complete description of the facilities proposed to be used in connection with such public livestock market~~, or in the case of a public livestock market defined in section 27-1721(e)(2), Idaho Code, a description of the primary locations proposed for such marketing operation~~.

(d) The schedule of charges applicant proposes to charge for all services proposed to be rendered.

(e) A detailed statement of the facts upon which the applicant relies showing the general confines of the trade area proposed to be served by such public livestock market, the benefits to be derived by the livestock industry and the services proposed to be rendered.

Such application shall be accompanied by the annual charter fee as prescribed in section 25-1728, Idaho Code. In addition, the application shall be accompanied by a hearing fee of five hundred dollars ($500) which shall not be returnable to the applicant. Said annual charter fee and hearing fee shall be remitted separately. The director shall remit said hearing fee to the state treasurer of the state of Idaho to be credited to the "Public Livestock Market Fund."

SECTION 3. That Section 25-1725, Idaho Code, be, and the same is hereby amended to read as follows:

25-1725. NOTICE OF HEARING ON APPLICATION. Upon the filing of such application, the director shall fix a reasonable time for the hearing thereon in the city itself, or the nearest city, where the public livestock market is proposed to be located~~, or in the case of a public livestock market defined in section 25-1721(e)(2), Idaho Code, a city proposed as a primary location for such marketing operation~~. The director forthwith shall cause notice of the time and place of hearing, to be served by mail not less than fifteen (15) days prior to such hearing upon the following:

(a) All duly organized statewide livestock associations in the state who have filed written notice with the director of a request to receive notice of such hearings and such other livestock associations as in the opinion of the director would be interested in such application.

(b) The operators of all public livestock markets in the state.

The director shall give further notice of such hearing by publication of the notice thereof once in a daily or weekly newspaper circulated in the city or town where such hearing is to be held, as in the opinion of the director will give public notice of such time and place of hearing to persons interested therein.

SECTION 4. That Section 25-1727, Idaho Code, be, and the same is hereby repealed.

Approved March 31, 1994.

CHAPTER 315
(H.B. No. 707)

AN ACT

RELATING TO RAILROAD CROSSINGS; AMENDING SECTION 49-402, IDAHO CODE, TO REQUIRE AN ENGINEERING STUDY WHEN A PUBLIC HIGHWAY AGENCY DOES NOT PLACE A STOP SIGN AT A RAILROAD CROSSING; AMENDING SECTION 62-304C, IDAHO CODE, TO PROVIDE FOR THE APPORTIONMENT OF ENGINEERING COSTS; AND AMENDING SECTION 63-2412, IDAHO CODE, TO INCREASE THE AMOUNT OF MONEY DISTRIBUTED INTO THE RAILROAD GRADE CROSSING PROTECTION ACCOUNT.

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

SECTION 1. That Section 49-202, Idaho Code, be, and the same is hereby amended to read as follows:

49-202. DUTIES OF DEPARTMENT. (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

(a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license $8.00

(b) For issuing every Idaho certificate of title $8.00

(c) For furnishing a duplicate copy of any Idaho certificate of title $8.00

(d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section $15.00

(e) For furnishing a replacement of any receipt of registration $3.00

(f) For answering inquiries as to registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record $4.00

Additional contractor fee, not to exceed $4.00

(g) For services in furnishing copies of files of vehicle or other registrations, vehicle titles, or driver's licenses per hour $10.00

(h) Placing "stop" cards in vehicle registration or title files, each $12.00

(i) For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

(j) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace

officer or designated agent of the state of Idaho, per inspection $3.00

(k) For all replacement registration stickers, each $1.00

(l) For issuing letters of temporary vehicle clearance to Idaho based motor carriers $10.00

(m) For all sample license plates, each $12.00

(3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(f) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5) The department shall pay three dollars ($3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, to the county assessor of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway account. The fee collected under subsection (2)(j) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the department of law enforcement if conducted by the Idaho state police or in the state highway account if conducted by the department.

(6) The department as often as practicable may provide to law enforcement agencies the record of stolen and recovered motor vehicles and suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Boise, Idaho, all instruments required in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner, and the department shall maintain two (2) separate files on each vehicle, one, a motor or identification number file, the other a file by the name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof, alphabetically under the name of the owner, and numerically and alphabetically under the name of the vehicle.

(9) The department shall not renew a driver's license when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including nonsufficient fund checks.

(10) The department shall not grant the registration of a vehicle

when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department, or has failed to comply with the provisions of section 49-436, Idaho Code, in past registration periods; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including nonsufficient fund checks.

(11) The department has the authority to request any person, based upon evidence, to submit to medical, highway, or written examinations, to protect the safety of the public upon the highways.

(12) The department shall revoke the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier as defined in section 61-801, Idaho Code, has his permit revoked for any cause except at the request of the permit holder, as provided in section 61-808, Idaho Code, or whenever an interstate carrier has his registration revoked by reason of a revocation of his interstate commerce commission operating authority;

(e) For nonpayment by the owner or operator of the vehicle of use fees computed under sections 49-434 and 49-435, Idaho Code;

(f) For failure of the owner or operator to file the reports required or nonpayment of fees assessed against the owner by the department pursuant to audit under the provisions of section 49-436, Idaho Code;

(g) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 USC section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (g) unless (i) the city or county certifies to the department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning compliance with the ordinance and has exhausted all remedies and appeals from any determination made at such hearing; and (ii) the city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and interest have been paid.

(14) The department shall institute educational programs, demon-

strations, exhibits and displays;

(15) The department shall cancel a driver's license when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including nonsufficient fund checks;

(16) The department shall examine persons and vehicles by written, oral and physical tests without compulsion except as provided by law;

(17) The department shall employ expert and special help as needed in the department;

(18) The department shall compile accident statistics and disseminate information relating to those statistics;

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(24) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(25) Wherever a highway crosses one or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of ~~the department or local authorities~~ public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

(28) The department and local highway authorities within their respective jurisdictions may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles unduly interferes with the free movement of traffic thereon.

SECTION 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 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 <u>engineering,</u> 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 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 (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.

SECTION 3. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-2405, Idaho Code, 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 ~~one~~ two hundred fifty thousand dollars ($~~1~~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 fifty thousand dollars ($50,000) 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) As soon as possible after the beginning of the fiscal year 1987, the sum of fifty thousand dollars ($50,000) shall be distributed to the local highway needs assessment account in the dedicated fund to pay amounts from the account pursuant to the provisions of section 40-716, Idaho Code. As soon as possible after the beginning of each subsequent fiscal year, only the sum necessary to bring the balance of the local highway needs assessment account to fifty thousand dollars ($50,000) shall be distributed to that account.

(f) From the balance remaining with the commission after distributing the amounts in paragraphs (a) through (e) of subsection (1) of this section:

1. One and twenty-eight hundredths per cent (1.28%) shall be

distributed as follows: sixty-six per cent (66%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code. Up to twenty per cent (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 per cent (33%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One per cent (1%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code;

2. One and twenty-eight hundredths per cent (1.28%) shall be distributed as follows: sixty-six per cent (66%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed to the off-road motor vehicle account, as created in section 57-1901, Idaho Code. Up to twenty per cent (20%) of the moneys distributed to the off-road motor vehicle account by this subpart 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 per cent (33%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code. One per cent (1%) of the one and twenty-eight hundredths per cent (1.28%) shall be distributed to the search and rescue account created in section 67-2903, Idaho Code; and

3. Forty-four hundredths per cent (.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 improve roads and bridges 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.

Approved March 31, 1994.

CHAPTER 316
(H.B. No. 715)

AN ACT

RELATING TO THE EDUCATIONAL SUPPORT PROGRAM AND TO DETERMINATION OF ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES OF SCHOOL DISTRICTS; AMENDING SECTION 33-1002, IDAHO CODE, TO CLARIFY AND UPDATE PROVISIONS OF THE EDUCATIONAL SUPPORT PROGRAM; REPEALING SECTION 33-1014, IDAHO CODE; AMENDING CHAPTER 2, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-222, IDAHO CODE, TO PROVIDE ASSESSMENT RATIOS AND TO PROVIDE FOR DETERMINATION OF ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES FOR SCHOOL DISTRICTS; AND AMENDING SECTION 63-3503, IDAHO CODE, TO PROVIDE NOTIFICATION TO THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION BY THE STATE TAX COMMISSION OF ALLOTMENT, APPORTIONMENT AND AMOUNTS PAID BY COOPERATIVE ELECTRICAL ASSOCIATIONS.

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

SECTION 1. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State ~~and--County~~ Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues ~~and any balance or deficit in the county school fund~~ to determine the total state ~~and county~~ funds. From the total state ~~and county~~ funds subtract the following amounts needed for the state's share of:

a. Court-ordered pupil tuition-equivalency allowance as provided in subsection 7. of this section;

b. Exceptional child tuition-equivalency allowance as provided in subsection 7. of this section;

c. ~~T~~transportation support program as provided in section 33-1006, Idaho Code~~, and the amount needed for the state's share of the~~;

d. ~~E~~exceptional education support program as provided in section 33-1007, Idaho Code~~,~~;

e. Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

f. Border district allowance as provided in subsection 7.b.(6) of this section;

g. Exceptional child approved contract allowance as provided in subsection 2. of section 33-2004, Idaho Code;

h. Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

i. The minimum amount per unit allowance as provided in subsection 2.b. of this section; and

j. Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the state ~~and county~~ educational support funds.

2. Local Districts' Contribution Calculation.

a. Without including any allowance as a credit for prepaid taxes, as provided by section 63-1607, Idaho Code, the local districts' contribution shall be~~:~~

~~(1)--Thirty--hundredths--percent--(.30%)--during-fiscal-year, 1987-1988;~~

~~(2)--Thirty-one-and-one-half-hundredths-percent-(.315%)--during-fiscal-year,-1988-1989;~~

~~(3)--Thirty-three--and--one-tenth--hundredths-percent-(.331%) during-fiscal-year,-1989-1990;~~

~~(4)--Thirty-four-and-seven-tenths-hundredths-percent--(.347%) during-fiscal-year,-1990-1991;~~

~~(5)--T~~thirty-six hundredths percent (.36%) during fiscal year, 1991-1992 and each year thereafter,

of the total state adjusted market value for assessment purposes for the previous year as determined in section 63-222, Idaho Code, and~~:~~

~~(1)--Thirty-hundredths-percent--(.30%)--during--fiscal--year, 1987-1988;~~

~~(2)--Thirty-one--and-one-half-hundredths-percent-(.315%)-during-fiscal-year,-1988-1989;~~

~~(3)--Thirty-three-and-one-tenth--hundredths--percent--(.331%) during-fiscal-year,-1989-1990;~~

~~(4)--Thirty-four--and-seven-tenths-hundredths-percent-(.347%) during-fiscal-year,-1990-1991;~~

~~(5)--T~~thirty-six hundredths percent (.36%) during fiscal year, 1991-1992 and each year thereafter,

of the ~~equivalent-valuation-for-the-previous-year--as--defined--in section--33-1014,--Idaho-Code~~ cooperative electrical associations' property values that have been derived from the taxes paid in lieu of ad valorem taxes, as provided for in section 63-3502, Idaho Code.

b. The educational support program shall provide from state sources to each school district on a support unit basis, an amount that is equal to, or greater than, the amount of the state's share which was provided during the preceding fiscal year.

3. Educational Support Program Distribution Funds. Add the local districts' contribution and the state ~~and county~~ educational support program funds together to secure the total educational support program distribution funds.

4. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules and regulations setting forth the procedure to determine average daily attendance and the time for, and method of, submis-

sion of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. In computing the average daily attendance the entire school year shall be used except that the twenty-eight (28) weeks having the best average daily attendance, not necessarily consecutive, may be used. When a school is closed because of storm, flood, failure of the heating plant, loss or damage to the school building, quarantine or order of any city, county or state health agency, or for reason believed by the board of trustees to be in the best interests of the health, safety or welfare of the pupils, the board of trustees having certified to the state department of education the cause and duration of such closure, the average daily attendance for such day or days of closure shall be considered as being the same as for the days when the school actually was in session. For illness or accident that necessitates an absence from school for more than ten (10) consecutive school days, the school district may include homebound students in its total attendance, provided that academic instruction has been given by appropriate certified professional staff employed by the district.

5. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of elementary support units, computation of secondary support units, computation of kindergarten support units, and computation of exceptional education support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Minimum Units Allowed
300 or more ADA	..23.....	15
160 to 299.99 ADA	..20.....	8.4
110 to 159.99 ADA	..19.....	6.8
71.1 to 109.99 ADA	..16.....	4.7
51.7 to 71.0 ADA	..15.....	4.0
33.6 to 51.6 ADA	..13.....	2.8
16.6 to 33.5 ADA	..12.....	1.4
1.0 to 16.5 ADA	..n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Minimum Units Allowed
750 or more	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8

Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education support units shall be applicable only for programs approved by the state department of education following the rules and regulations established by the state board of education.

6. State Distribution Factor per Support Unit. Divide educational support program distribution funds, ~~after subtracting the amounts necessary to pay the obligations for border district approved contracts as provided in section 33-1403, Idaho Code, and exceptional child approved contracts as provided in section 33-2004(2), Idaho Code,~~ subsection 3. of this section, by the total state support units to secure the state distribution factor per support unit.

7. District Share of State ~~and County~~ Funds for Educational Support Program. Ascertain a district's share of state ~~and county~~ funds for the educational support program as follows:

a. ~~District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be the rate determined under subsection 2. of this section.~~

~~b.~~ District Support Units. The number of support units for each school district in the state shall be determined as follows:

(1) Divide the ~~actual~~ average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12, including alternative high school secondary students calculated from the provisions of sections 33-1002C and 33-1002E, Idaho Code. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the ~~actual~~ average daily attendance of all preschool handicapped, kindergarten, elementary, ~~and~~ secondary, and juvenile detention center students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain

the number of support units allowed for the district's approved exceptional child program. Calculations for the subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(3) The total number of support units of the district shall be the sum of the total support units for regular students, subsection 7~~b~~a.(1) of this section, and the support units allowance for the approved exceptional child program, subsection 7~~b~~a.(2) of this section.

~~f~~b. Unadjusted Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit, subsection 6. of this section, and to this product add the approved amounts ~~of border district--contracts--and--the--approved amount for the exceptional child contracts~~ of any of the following allowances to which a district is entitled to secure the district's total unadjusted allowance for the educational support program:

~~e.~~(1) Court-ordered Pupil Tuition-Equivalency Allowance. Districts which educate pupils placed by Idaho court order in licensed group homes, agencies, institutions or juvenile detention facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

~~h.~~(2) Exceptional Child Tuition-Equivalency Allowance. Districts which educate school age exceptional children residing in state institutions, licensed and certified intermediate care facilities, or licensed private nonprofit residential facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per child. This district allowance shall be in addition to ~~exceptional child~~ support unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

(3) Transportation support program as provided in section 33-1006, Idaho Code.

(4) Exceptional education support program as provided in section 33-1007, Idaho Code.

(5) Feasibility studies allowance as provided in section 33-1007A, Idaho Code.

~~c.~~(6) Border District Allowance. In any school district which abuts upon the border of another state, and the resident pupils of the district attend school in the other state as provided in section 33-1403, Idaho Code, the state superintendent of public instruction shall determine the approved costs necessary to meet the educational needs of the students. The approved costs shall be allowed as a part of the district's total educational support program.

~~d.~~(7) Exceptional Child Approved Contract Allowance. In any district where resident exceptional children are educated by

contract as provided in subsection 2. of section 33-2004~~(2)~~, Idaho Code, the state superintendent of public instruction shall determine the approved costs. The approved costs shall be allowed as a part of the district's total educational support program.

(8) Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code.

c. Adjustment of District's Share. The contract salary of every noncertificated teacher shall be subtracted from the district's unadjusted total allowance as calculated from the provisions of subsection 7b. of this section, to secure the district's total allowance.

~~g~~d. District Share. To secure the district's share of state ~~and county~~ apportionment, subtract the amount of the local district contribution calculation, subsection ~~7a~~2. of this section, from the amount of the total district allowance, subsection 7~~e~~c. of this section. ~~The contract salary of every noncertificated teacher shall be subtracted from the district's share.~~

SECTION 2. That Section 33-1014, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 2, 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 63-222, Idaho Code, and to read as follows:

63-222. ASSESSMENT RATIOS AND THE DETERMINATION OF ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES FOR SCHOOL DISTRICTS. For the purpose of this section, adjusted market value shall be the adjusted market value of all property assessed for property tax purposes for the year referred to in sections 33-802 and 33-1002, Idaho Code.

Beginning with the 1993 assessment year, the state tax commission shall conduct a ratio study to annually ascertain the ratio between the assessed value and the market value for assessment purposes of all property assessed for property tax purposes. Said ratio study shall be conducted in accordance with nationally accepted procedures. From the ratio so ascertained the state tax commission shall compute the adjusted market value of all property assessed for property tax purposes.

For the 1993 assessment year, this ratio shall be computed in each county and applied to the market value for assessment purposes within each school district in each county. Beginning with the 1994 assessment year, the ratio shall be computed in each school district and applied to the market value for assessment purposes within each school district.

For the 1993 assessment year, the ratio will be determined using arm's length property sales occurring between October 1, 1992 and September 30, 1993, in comparison to 1993 assessments. For each succeeding year, the sales period will begin October 1 of the year preceding the year for which the adjusted market value is to be determined. The state tax commission may, at its discretion, modify the sales period when doing so produces provably better representativeness of the

actual ratio in any county or school district. The state tax commission may also add independently conducted appraisals when the state tax commission believes that this procedure will improve the representativeness and reliability of the ratio.

Whenever the state tax commission is unable to determine with reasonable statistical certainty that the assessed value within any county or school district differs from the market value for assessment purposes, the state tax commission may certify the assessed value to be the adjusted market value of any county or school district.

The state tax commission shall certify the adjusted market value of each school district to the state department of education and each county auditor no later than the first Monday in April each year. The state tax commission shall prepare a report indicating procedures used in computing the adjusted market value and showing statistical measures computed in the ratio study. This report shall be submitted to the state department of education at the same time as the certification of adjusted market value. The report of the state tax commission shall also be made available for public inspection in the office of the county auditor.

The state tax commission shall promulgate rules to implement the ratio study described in this section.

SECTION 4. That Section 63-3503, Idaho Code, be, and the same is hereby amended to read as follows:

63-3503. FILING OPERATORS' STATEMENT -- ALLOTMENT AND APPORTIONMENT OF TAX BY STATE TAX COMMISSION. Every cooperative electrical association in this state shall file with the state tax commission of the state of Idaho the operators' statement provided for in section 63-704, Idaho Code, and shall include thereon a statement of the amount of its gross earnings for the calendar year next preceding. Upon examining and verifying said statement the state tax commission shall compute the amount of the tax measured by the gross earnings and shall allot to each county in which the operating property of such association is situate that proportion of the total tax of such association shown to be due as the number of wire miles of transmission and distribution lines of such association situate in such county bears to the total wire miles of transmission and distribution lines of such association. The state tax commission shall then, for each county, apportion the tax so allotted to the county among the several taxing units thereof within which any operating property of such association is situate, by apportioning to each such taxing unit that proportion of the tax so allotted to the county as the weighted wire mileage factor for each such taxing unit bears to the total of the weighted wire mileage factors of all such taxing units in the county, and shall immediately notify the state superintendent of public instruction and the county treasurer of such allotment and apportionment and the amounts thereof.

Approved March 31, 1994.

CHAPTER 317
(H.B. No. 723)

AN ACT

RELATING TO MOTOR VEHICLE MANUFACTURERS; AMENDING SECTION 49-1613, IDAHO CODE, TO PROVIDE ADDITIONAL UNLAWFUL ACTS BY MOTOR VEHICLE MANUFACTURERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-1613, Idaho Code, be, and the same is hereby amended to read as follows:

49-1613. UNLAWFUL ACTS BY LICENSEE. (1) It shall be unlawful for the holder of any license issued under the provisions of this chapter to:

(a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold or furnished by a licensed dealer;

(b) Violate any of the provisions of this chapter or any of the applicable rules ~~and regulations~~;

(c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen vehicle;

(d) Violate any law respecting commerce in vehicles or any lawful rule ~~or regulation~~ respecting commerce in vehicles promulgated by any licensing or regulating authority now existing or hereafter created by the laws of the state;

(e) Engage in the business for which the dealer is licensed without at all times maintaining a principal place of business;

(f) Engage in a type of business respecting the selling or exchanging of vehicles for which he is not licensed;

(g) Knowingly purchase a vehicle which has an altered or removed vehicle identification number plate or alter or remove a vehicle identification number plate;

(h) Violate any provision of this title or any rules ~~and regulations~~ promulgated;

(i) Violate any provision of the federal motor vehicle safety standards, federal odometer laws or regulations; or

(j) Display for sale, exchange, or sell any vehicle for which the vehicle dealer does not hold title or consignment agreement.

(2) It shall be unlawful for any manufacturer licensed under this chapter to require, attempt to require, coerce, or attempt to coerce, any new vehicle dealer in this state to:

(a) Order or accept delivery of any new vehicle, part or accessory, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the new vehicle dealer. This paragraph is not intended to modify or supersede any terms or provisions of a franchise requiring dealers to market a representative line of vehicles which the manufacturer or distributor is publicly advertising.

(b) Order or accept delivery of any new vehicle with special fea-

tures, accessories or equipment not included in the list price of such vehicles as publicly advertised by the manufacturer or distributor.

(c) Participate monetarily in an advertising campaign or contest, or to purchase any promotional materials, training materials, showroom or other display decorations or materials at the expense of the dealer.

(d) Enter into any agreement with the manufacturer or to do any other act prejudicial to the dealer by threatening to terminate or cancel a franchise or any contractual agreement existing between the dealer and the manufacturer. This paragraph is not intended to preclude the manufacturer or distributor from insisting on compliance with reasonable terms or provisions of the franchise or other contractual agreement, and notice in good faith to any dealer of the dealer's violation of those terms or provisions shall not constitute a violation of the provisions of this chapter.

(e) Change the capital structure of the dealer or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria. No change in the capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor. Consent shall not be unreasonably withheld.

(f) Refrain from participation in the management of, investment in, or the acquisition of any other line of new vehicle or related products. This paragraph does not apply unless the dealer maintains a reasonable line of credit for each make or line of new vehicle, and the dealer remains in compliance with any reasonable facilities requirements of the manufacturer, and no change is made in the principal management of the dealership.

(g) Prospectively assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability to be imposed by this chapter or to require any controversy between a dealer and a manufacturer, distributor, or representatives, to be referred to any person other than the duly constituted courts of the state or the United States, or to the director, if that referral would be binding upon the dealer.

(h) Either establish or maintain exclusive facilities, personnel, or display space.

(i) Expand facilities without a written guarantee of a sufficient supply of new vehicles so as to justify an expansion, in light of the market and economic conditions.

(j) Make significant modifications to an existing dealership or to construct a new vehicle dealership facility without providing a written guarantee of a sufficient supply of new vehicles so as to justify modification or construction, in light of the market and economic conditions.

(3) It shall be unlawful for any manufacturer licensed under this chapter to:

(a) Delay, refuse, or fail to deliver new vehicles or new vehicle parts or accessories in a reasonable time, and in reasonable quantity relative to the dealer's facilities and sales potential in

the dealer's relevant market area, after acceptance of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer, any new vehicle, parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. These provisions are not violated, however, if failure is caused by acts or causes beyond the control of the manufacturer.

(b) Refuse to disclose to any dealer handling the same line, the manner and mode of distribution of that line within the relevant market area.

(c) Obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to the dealer.

(d) Increase prices of new vehicles which the dealer had ordered for consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a consumer shall constitute evidence of each such order, provided that the vehicle is in fact delivered to that customer. In the event of manufacturer price reductions or cash rebates paid to the dealer, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series shall not be considered a price increase or price decrease. Price changes caused by the addition to a vehicle of required or optional equipment, or revaluation of the United States dollar, in the case of foreign-make vehicles or components, or an increase in transportation charges due to increased rates imposed by a carrier, shall not be subject to the provisions of this subsection.

(e) Release to any outside party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or dealer, any business, financial, or personal information which may be provided from time to time by the dealer to the manufacturer without the express written consent of the dealer.

(f) Deny any dealer the right of free association with any other dealer for any lawful purpose.

(g) Unfairly compete with a dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, in the relevant market area. A manufacturer shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of that dealership on reasonable terms and conditions.

(h) Unfairly discriminate among its dealers with respect to warranty reimbursement.

(i) Unreasonably withhold consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a dealer in this state.

(j) Fail to respond in writing to a request for consent as specified in subsection (i) of this section within sixty (60) days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for those purposes and containing the required information. Failure to respond shall be deemed to be consent to the request.

(k) Prevent or attempt to prevent, by contract or otherwise, any dealer from changing the executive management control of the dealership unless the manufacturer, having the burden of proof, can show that the change of executive management will result in executive management or control by a person or persons who are not of good moral character or who do not meet reasonable, preexisting and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards. Where the manufacturer rejects a proposed change in executive management control, the manufacturer shall give written notice of his reasons to the dealer within sixty (60) days of notice to the manufacturer by the dealer of the proposed change; otherwise, the change in the executive management of the dealership shall be presumptively considered approved.

(l) Terminate, cancel or fail to renew any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer relied in the granting of the franchise.

(m) Prevent or attempt to prevent the dealer, by written instrument or otherwise, from either receiving the fair market value of the dealership in a sale transaction, or from transferring the dealership to a spouse or legal heir, as specified in this chapter.

(n) Engage in any predatory practice or discrimination against any dealer.

(o) Resort to or to use any false or misleading advertisement in the conducting of his business as a manufacturer or distributor in this state.

(p) Make any false or misleading statement, either directly or through any agent or employee, in order to induce any dealer to enter into any agreement or franchise, or to take any action which is prejudicial to that dealer or his business.

(q) Require or coerce dealers to participate in local or national advertising campaigns or contests or to require or coerce dealers to purchase promotional or display materials.

(4) It is unlawful for any manufacturer or any officer, agent or representative to coerce, or attempt to coerce, any dealer in this state to sell, assign or transfer any retail installment sales contract, obtained by the dealer in connection with the sale by him in this state of new vehicles, manufactured or sold by the manufacturer, to a specified finance company or class of such companies, or to any other specified person, by any of the acts or means set forth, namely by:

(a) Any statement, suggestion, promise or threat that the manu-

facturer will, in any manner, benefit or injure the dealer, whether the statement, suggestion, threat or promise is express or implied or made directly or indirectly;

(b) Any act that will benefit or injure the dealer;

(c) Any contract, or any express or implied offer of contract, made directly or indirectly to a dealer for handling new vehicles, on the condition that the dealer sell, assign or transfer his retail installment sales contract in this state to a specified finance company or class of such companies, or to any other specified person; or

(d) Any express or implied statement or representation made directly or indirectly that the dealer is under any obligation whatsoever to sell, assign or transfer any of his retail sales contracts, in this state, on new vehicles manufactured or sold by that manufacturer to a finance company or class of companies, or other specified person, because of any relationship or affiliation between the manufacturer and a finance company or companies, or a specified person or persons.

Any statement, threats, promises, acts, contracts or offers of contracts, when the effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition, against the policy of this state, and are unlawful.

(5) It is unlawful for any manufacturer or agent or employee of a manufacturer to use a written instrument, agreement, or waiver to attempt to nullify any of the provisions of this section, and such agreement, written instrument or waiver shall be null and void.

(6) It shall be unlawful, directly or indirectly, to impose unreasonable restrictions on the dealer relative to the sale, transfer, right to renew, termination discipline, noncompetition covenants, site control (whether by sublease, collateral pledge of lease, or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights.

(7) The provisions of this chapter shall apply to all written franchise agreements between a manufacturer and a dealer, including the franchise offering, the franchise agreement, sales of goods, services or advertising, leases or mortgages of real or personal property, promises to pay, security interests, pledges, insurance contract, advertising contract, construction or installation contract, servicing contracts and all other agreements where the manufacturer has any direct or indirect interest.

Approved March 31, 1994.

CHAPTER 318
(H.B. No. 737)

AN ACT

RELATING TO WHEN A PEACE OFFICER MAY ARREST; AMENDING SECTION 19-603,

IDAHO CODE, TO DEFINE THOSE PARTIES SUBJECT TO ARREST AT A DOMESTIC DISTURBANCE.

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

SECTION 1. That Section 19-603, Idaho Code, be, and the same is hereby amended to read as follows:

19-603. WHEN PEACE OFFICER MAY ARREST. A peace officer may make an arrest in obedience to a warrant delivered to him, or may, without a warrant, arrest a person:

1. For a public offense committed or attempted in his presence.
2. When a person arrested has committed a felony, although not in his presence.
3. When a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it.
4. On a charge made, upon a reasonable cause, of the commission of a felony by the party arrested.
5. At night, when there is reasonable cause to believe that he has committed a felony.
6. When at the scene of a domestic disturbance there is reasonable cause to believe, based upon physical evidence observed by the officer or statements made in the presence of the officer upon immediate response to a report of a commission of such a crime, that the person arrested has committed ~~an assault or battery~~ a violation of section 18-902 (assault), 18-903 (battery), 18-918 (domestic assault or battery), 18-7905 (stalking), or 39-6312 (violation of a protection order).
7. When there is reasonable cause to believe, based upon physical evidence observed by the officer or statements made in the presence of the officer upon immediate response to a report of a commission of a crime aboard an aircraft, that the person arrested has committed such a crime.

Approved March 31, 1994.

CHAPTER 319
(H.B. No. 767, As Amended)

AN ACT

RELATING TO MAINTENANCE OF PUBLIC HIGHWAYS; AMENDING CHAPTER 23, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-2324, IDAHO CODE, TO PROVIDE FOR AUTHORIZATION AND COMPENSATION FOR MAINTENANCE OF PUBLIC HIGHWAYS BY NONGOVERNMENTAL ENTITIES.

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

SECTION 1. That Chapter 23, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-2324, Idaho Code, and to read as follows:

40-2324. AUTHORIZATION AND COMPENSATION FOR MAINTENANCE OF PUBLIC HIGHWAYS. Whenever any nongovernmental entity desires to maintain all or part of a public highway or public right-of-way and desires to receive compensation for such maintenance may petition the appropriate public highway agency for approval. The highway agency shall consider said petition and after reviewing the pertinent facts regarding the request, may approve or disapprove the request. If the highway agency approves the request of the nongovernmental entity, the highway agency shall pass a resolution which should outline the details and conditions for said authorization. Provided however, the granting of the compensation to that nongovernmental entity shall not exceed the dollar amount of the highway and bridge ad valorem tax levy that was assessed against the property of that nongovernmental entity under the provisions of section 40-801, Idaho Code, for the previous fiscal year. Authorization and compensation granted under this section shall not accumulate from year to year, but must be applied for each calendar year.

Approved March 31, 1994.

CHAPTER 320
(H.B. No. 768)

AN ACT

RELATING TO MOTOR VEHICLE OPERATING AND USE FEES; AMENDING SECTION 49-436, IDAHO CODE, TO DELETE THE REQUIREMENT THAT USE FEES ACCRUED THROUGH OVERWEIGHT CITATIONS BE REMITTED WITH THE QUARTERLY REPORT AND TO PROVIDE THAT THE DEPARTMENT MAY REMIT ALL OR ANY PART OF CERTAIN PENALTIES AND INTEREST; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 49-436, Idaho Code, be, and the same is hereby amended to read as follows:

49-436. QUARTERLY REPORTS -- MAINTAINING RECORDS -- PENALTIES -- DEPOSIT OR BOND TO SECURE PAYMENT OF FEES -- APPEAL. (1) Not later than the last day of April, and on the last day of each third calendar month thereafter, each owner of a commercial or farm vehicle having a maximum combined gross weight in excess of sixty thousand (60,000) pounds, shall file with the department a statement of the gross miles each vehicle has traveled over the highways of the state of Idaho for the preceding calendar months of the year for which that report is made. Each report shall be cumulative of all miles traveled during all calendar months in that year for which the report is made.

(2) Every owner whose fees are computed as specified in section 49-434, Idaho Code, shall maintain records and permit the department to inspect the records upon request to substantiate the following:

(a) The actual miles traveled over Idaho highways.

(b) Identification of the commodities hauled if using the sched-

ule in section 49-434(5), Idaho Code.

(c) Reporting at multiple weights pursuant to section 49-434, Idaho Code.

(d) If an owner registers a vehicle or combination of vehicles at a weight in excess of sixty thousand (60,000) pounds and the registered maximum gross weight is less than the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles, then the owner must maintain and provide to the department on demand records of the vehicle or combination of vehicles actual gross weight and the configuration of the combination of vehicles for all miles traveled. If the owner fails to maintain and produce such records then all miles for the vehicle or combination of vehicles will be assessed at the highest weight the vehicle or combination of vehicles could legally operate pursuant to section 49-1001, Idaho Code. If an owner registers a vehicle or combination of vehicles at a weight in excess of sixty thousand (60,000) pounds and the registered maximum gross weight is equal to or exceeds the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles then the owner is not required to maintain actual gross weight records of the vehicle or combination of vehicles. Owners may voluntarily report quarterly the weight hauled in excess of registered maximum gross weight and may pay use fees for such voluntarily reported weight without penalty.

(e) Overweight travel authorization fees as set forth in section 49-1001, Idaho Code, ~~and use fees accrued through overweight citations as provided in this section~~ shall be remitted quarterly.

(3) When the records are maintained outside this state by owners engaged in transportation in this state, the owner shall reimburse the department for reasonable expenses incurred by the department in making audits of those records and accounts at the out-of-state location. The owner or the department may request that the records be presented at a place within the state designated by the department. The records must be presented by a representative of the owner familiar with the records and who is responsible for the safekeeping of the records. Every owner is required to maintain records for four (4) years from the due date of the quarterly report unless the department and the owner agree in writing to shorten or lengthen the time period. The amount of fees imposed in this chapter shall be assessed within four (4) years after the due date of the quarterly report unless the department and owner agree in writing to lengthen the time period. If an assessment has been made, such fees may be collected by a proceeding in court within a period of three (3) years after the assessment or a final order entered pursuant to subsection (10) of this section.

(4) Owners of commercial and farm vehicles using the registration fee schedules in section 49-434(1), Idaho Code, are subject to audit to determine if the proper schedule is being used. If the weight classification being used is found to be understated, the difference between the registration fees paid and the registration fees due will become due and payable. If the vehicles are found to be operating in excess of sixty thousand (60,000) pounds gross weight, the difference between the registration fees paid under section 49-434(1), Idaho Code, and the amount that would have been due under the use fee sched-

ule in section 49-434(4) or (5), Idaho Code, will be determined and the balance due, if any, will be collected. If an owner registers a vehicle or combination of vehicles at a weight less than the weight allowable under the provisions of section 49-1001, Idaho Code, for that vehicle or combination of vehicles then the owner must maintain vehicle gross weight records in addition to the mileage records and allow the department to inspect the vehicle gross weight and mileage records.

(5) Owners using the use fee schedules in section 49-434(4) and (5), Idaho Code, are subject to audit to determine if the proper use fee schedule and weight classification is being used and if all miles traveled on Idaho highways have been reported. If the operating weight, as determined from citations issued for exceeding weight limitations specified in title 49, Idaho Code, exceeds the registered maximum gross weight, the additional use fees for the miles traveled at the heavier weight, if not already paid, shall become due and payable.

(6) An owner who fails to maintain records as required by the provisions of this section may have the registration of all vehicles registered under sections 49-434 and 49-435, Idaho Code, suspended until such time as adequate records as required by the provisions of this section are provided. In the event that the owner does not produce records, the department may make an assessment of fees due based on an estimate of the operation. The department shall promulgate rules specifying the methodology used to determine an assessment based on an estimate of the operation. There shall be added to every such estimated assessment a penalty of two percent (2%) per month or fraction thereof after the report was required to be filed or the fee became due up to a maximum penalty of thirty-six percent (36%) of the fee due. Upon payment of the estimated assessment and all other fees due and owing including the reinstatement fee the owner's registration shall be reinstated.

(7) An owner who fails to file any reports or pay any fees or penalties due is subject to suspension of their vehicle registrations. An order suspending the vehicle registrations shall be mailed to the owner upon discovery of the deficiency by the department. The suspension shall be lifted if the reports are filed and the payments due are made, along with a reinstatement fee of forty dollars ($40.00) per carrier within fifteen (15) days after receipt of the suspension order. The owner shall have the right to appeal the suspension by petitioning the department for a hearing within ten (10) days after receipt of the suspension order. If the suspension is set aside the reinstatement fee shall not be due.

(8) An owner failing to file a mileage report or pay any fee due within the time required as specified in this section, shall in addition to the amount of the fee pay a penalty of ten percent (10%) of the amount of fee determined to be due, plus the interest of one percent (1%) of the amount of the use fees due for each month or fraction thereof after the report was required to be filed or the fee became due, but the department may remit all or any part of the penalty <u>and interest</u> if satisfied that the delay was excusable up to a maximum of twenty-four percent (24%). The department shall promulgate rules specifying when the penalty may be held in abeyance or forgiven.

(9) (a) If the department finds it necessary in order to ensure

the collection of any fees or penalties imposed upon an owner, it may at the time and as a condition of granting a registration or to reinstate a registration require an owner to deposit and keep on deposit with the department a sum equal to the estimated fees computed under the schedule in section 49-434, Idaho Code, for a period of not to exceed three (3) months. In determining the necessity for an applicant or owner to maintain a deposit the department shall consider the applicant or owner's financial capability and responsibility and prior experience, if any, in collecting fees or penalties from the applicant, owner or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the registration.

(b) The department may accept in lieu of a deposit a bond to secure payment of sums payable by the owner. The total amount of the deposit or bond shall be determined by the department in a manner as it shall deem proper, taking into account the nature and scope of the owner's operations. The amount may be increased or reduced at any time.

(c) If an owner ceases to be registered under the provisions of this chapter, the department, upon receipt of all payments due, shall refund to the owner all deposits remaining to the owner's credit and shall release the surety on any bond given under this section.

(d) Any applicant or owner required to make a deposit to secure the payment of fees or penalties may by proper petition demand a hearing on the necessity of the deposit or the reasonableness of the amount required. A hearing shall be granted and held within ten (10) days after the demand. The decision of the director shall become final ten (10) days after service of the order upon the applicant or owner concerned. Notice shall be served personally or by certified mail addressed to the applicant or owner at his address as it appears in the records of the department. An appeal may be taken from any decision of the department as from the decision of the magistrate's division to the district court.

(10) An owner wishing to contest an assessment made by the department may within thirty (30) days from receipt of the assessment file an appeal with the department. Upon receipt of an appeal the director or his authorized representative shall schedule an informal conference between the owner and a representative of the department. The informal conference must be conducted within twenty (20) days from the date of receipt of notice of intent to appeal from the owner. The owner and the representative of the department shall reduce all conclusions, agreements and decisions to writing, if an informal conference is held, but attendance at and participation in the informal conference is at the option of the owner. If an informal conference is held, the written report of the results of that conference shall be provided to the director within ten (10) days. If the results of the informal conference are not satisfactory to the owner, he may continue with the appeal by informing the director in writing, and the director or his authorized representative shall appoint a hearing officer to conduct a contested case hearing in accordance with chapter 52, title 67, Idaho Code. The hearing officer may subpoena witnesses and evi-

dence and administer oaths. The hearing officer shall prepare written findings of fact and conclusions of law for the director or his authorized representative. Upon receipt of findings of fact and conclusions of law the director or his authorized representative shall issue a final order affirming, modifying or reversing the original assessment. All final orders rendered by the director or his authorized representative shall be appealable in accordance with chapter 52, title 67, Idaho Code.

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

Approved March 31, 1994.

CHAPTER 321
(H.B. No. 773, As Amended)

AN ACT

RELATING TO HIGHWAYS; AMENDING SECTION 49-113, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-117, IDAHO CODE, TO DEFINE ADDITIONAL TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-121, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AND AMENDING SECTION 49-1001, IDAHO CODE, TO CLARIFY AUTHORITY OF A PUBLIC HIGHWAY AGENCY, TO PROVIDE APPLICATION TO REFUSE/SANITATION TRUCKS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-113, Idaho Code, be, and the same is hereby amended to read as follows:

49-113. DEFINITIONS -- L.

(1) "Laned highway" means a highway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(2) "Lane of travel." (See "Traffic lane", section 49-121, Idaho Code)

(3) "Legal owner" means any person notated as "~~lien-holder~~ lien-holder" of a vehicle, the notation appearing on the title records of the department and on the respective certificate of title.

(4) "License" or "license to operate a motor vehicle" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

(a) Any temporary license or instruction permit;

(b) Any nonresident's operating privilege;

(c) Any special permit issued by the department.

(5) "Licensing authority" as used in chapter 20 of this title with reference to Idaho, means the department.

(6) "Lien" or "encumbrance" means every security interest in any vehicle other than security interests in vehicles held in inventory for sale.

(7) "~~Lien--holder~~ Lienholder" means a person holding a security interest in a vehicle.

(8) "Light weight" or "unladen weight" means the scale weight of a vehicle equipped for operation, but without any cargo on it.

(9) "Local authorities" mean every county, highway district, municipal and other local board or body having authority to enact regulations, resolution and/or ordinances relating to traffic on the highways, public rights-of-way and streets under their jurisdiction under the constitution and laws of this state.

SECTION 2. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-117. DEFINITIONS -- P.

(1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park trailer." (See "Trailer", section 49-121, Idaho Code)

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair.

(6) "Pedestrian path" means any path, sidewalk or way set-aside and used exclusively by pedestrians.

(7) "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.

(8) "Pneumatic tire." (See "Tires", section 49-121, Idaho Code)

(9) "Pole trailer." (See "Trailer", section 49-121, Idaho Code)

(10) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(11) "Possessory ~~lien-holder~~ lienholder" means any person claiming a lien, that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(12) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(13) "Principal place of business" means an enclosed commercial

structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor. In no event shall premises devoted principally to the business of a gasoline service station be considered a "principal place of business" within the terms and provisions of this title.

(14) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(15) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(16) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars ($25,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to the limit for one (1) person, in the amount of fifty thousand dollars ($50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars ($15,000) because of injury to or destruction of property of others in any one (1) accident.

(17) "Proper authority" means a public highway agency.

(18) "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.

(19) "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.

(20) "Public road jurisdiction" means a public highway agency.

(21) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code)

SECTION 3. That Section 49-121, Idaho Code, be, and the same is hereby amended to read as follows:

49-121. DEFINITIONS -- T.

(1) "Temporary supplemental lot" means a location other than the principal place of business, or supplemental lot within the same or adjacent county as the principal place of business, or where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations.

(2) "Tires" mean:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

(3) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(4) "Traffic lane" or "lane of travel" means that portion of the roadway for movement of a single line of vehicles.

(5) "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(6) "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted

on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility Trailer", section 49-122, Idaho Code)

(7) "Transportation", for the purposes of chapter 22 of this title, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

(8) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, except in chapter 22, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

(9) "Truck" means:

(a) Refuse/sanitation. Any vehicle designed and used solely for the purpose of transporting refuse.

(b) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.

(~~b~~c) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.

(~~c~~d) Truck camper. A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

(~~d~~e) Truck tractor. Every motor vehicle designed and used pri-

marily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(10) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SECTION 4. That Section 49-1001, Idaho Code, be, and the same is hereby amended to read as follows:

49-1001. ALLOWABLE GROSS LOADS. The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-1004, Idaho Code.

(1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000			WHEN NO ALLOWABLE WEIGHT IS				
6	34,000			LISTED FOR ANY AXLE SPACING,				
7	34,000			APPLY THE ALLOWABLE WEIGHT AS				
8	34,000			LISTED IN THE FIRST COLUMN TO				
8+	34,000	42,000		THE LEFT				
9	39,000	42,500						
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					
15		47,000	52,000					
16		48,000	52,500	58,000				
17		48,500	53,500	58,500				
18		49,500	54,000	59,000				
19		50,000	54,500	60,000				
20		51,000	55,500	60,500	66,000			
21		51,500	56,000	61,000	66,500			
22		52,500	56,500	61,500	67,000			

23	53,000	57,500	62,500	68,000			
24	54,000	58,000	63,000	68,500	74,000		
25	54,500	58,500	63,500	69,000	74,500		
26	55,500	59,500	64,000	69,500	75,000		
27	56,000	60,000	65,000	70,000	75,500		
28	57,000	60,500	65,500	71,000	76,500	82,000	
29	57,500	61,500	66,000	71,500	77,000	82,500	
30	58,500	62,000	66,500	72,000	77,500	83,000	
31	59,000	62,500	67,500	72,500	78,000	83,500	
32	60,000	63,500	68,000	73,000	78,500	84,500	90,000
33		64,000	68,500	74,000	79,000	85,000	90,500
34		64,500	69,000	74,500	80,000	85,500	91,000
35		65,500	70,000	75,000	80,500	86,000	91,500
36		66,000	70,500	75,500	81,000	86,500	92,000
37		66,500	71,000	76,000	81,500	87,000	93,000
38		67,500	71,500	77,000	82,000	87,500	93,500
39		68,000	72,500	77,500	82,500	88,500	94,000
40		68,500	73,000	78,000	83,500	89,000	94,500
41		69,500	73,500	78,500	84,000	89,500	95,000
42		70,000	74,000	79,000	84,500	90,000	95,500
43		70,500	75,000	80,000	85,000	90,500	96,000
44		71,500	75,500	80,500	85,500	91,000	96,500
45		72,000	76,000	81,000	86,000	91,500	97,500
46		72,500	76,500	81,500	87,000	92,500	98,000
47		73,500	77,500	82,000	87,500	93,000	98,500
48		74,000	78,000	83,000	88,000	93,500	99,000
49		74,500	78,500	83,500	88,500	94,000	99,500
50		75,500	79,000	84,000	89,000	94,500	100,000
51		76,000	80,000	84,500	89,500	95,000	100,500
52		76,500	80,500	85,000	90,500	95,500	101,000
53		77,500	81,000	86,000	91,000	96,500	102,000
54		78,000	81,500	86,500	91,500	97,000	102,500
55		78,500	82,500	87,000	92,000	97,500	103,000
56		79,500	83,000	87,500	92,500	98,000	103,500
57		80,000	83,500	88,000	93,000	98,500	104,000
58			84,000	89,000	94,000	99,000	104,500
59			85,000	89,500	94,500	99,500	105,000
60			85,500	90,000	95,000	100,500	105,500
61			86,000	90,500	95,500	101,000	
62			87,000	91,000	96,000	101,500	
63			87,500	92,000	96,500	102,000	
64			88,000	92,500	97,500	102,500	
65			88,500	93,000	98,000	103,000	
66			89,500	93,500	98,500	103,500	
67			90,000	94,000	99,000	104,500	
68			90,500	95,000	99,500	105,000	
69			91,000	95,500	100,000	105,500	
70			92,000	96,000	101,000		
71			92,500	96,500	101,500		
72			93,000	97,000	102,000		
73			93,500	98,000	102,500		
74			94,500	98,500	103,000		
75			95,000	99,000	103,500		
76			95,500	99,500	104,500		
77			96,000	100,000	105,000		
78			97,000	101,000	105,500		

79	97,500	101,500
80	98,000	102,000
81	98,500	102,500
82	99,000	103,000
83	100,000	104,000
84		104,500
85		105,000
86 or more		105,500

(a) ~~The board~~ A public highway agency may limit the application of the weights authorized in this section as to certain highways within its jurisdiction which it determines have limited structural capacity of pavements, bridges, or other appurtenances. In designating such highways, it may specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions on which operation of a combination of vehicles with seven (7), eight (8) or nine (9) axle vehicles will be subject to specified lesser allowable gross weights.

(b) Notwithstanding the figures shown in the table in this subsection (1), two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more.

(2) The weight limitations set forth in the table in subsection (1) of this section shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including livestock:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770

27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		79,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles exceeds seventy-nine thousand (79,000) pounds. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(3) In determining the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles under subsection (1) or (2) or (9) of this section, the total gross weight of the vehicle or combination of vehicles or the gross weight of any two (2) or more consecutive axles shall be the sum of the axle weights.

For the purposes of this chapter the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles may be determined by accumulatively adding the separate weights of individual axles and tandem axles or groups of axles to determine gross weight. The results of any weighing at a temporary or permanent port of entry and the records relating to the calibration and accuracy of any scale at a temporary or permanent port of entry shall be admissible in any proceeding in this state. In order to prove a violation of the provisions of this section the state must show that:

(a) The sum of the axle weights exceeds what is allowable under the provisions of subsection (1) or (2) or (9) of this section;

(b) The scale involved in the weighing was at the time of weighing calibrated in conformity with and met the accuracy requirements of the standards for the enforcement of traffic and highway laws as set forth in the latest edition of handbook 44 of the national institute of standards and technology;

(c) Weights of individual axles or axles within a commonly suspended group of axles supported by a mechanical system designed to distribute equal wheel loads to individual axles in the group were utilized only to determine gross weights of that group of axles, and that any further evaluation of gross weights of combinations of axles considered only the accumulated gross weight of each such commonly suspended group of axles.

(4) In applying the weight limitations imposed in this section, a

vehicle or combination of vehicles must comply exclusively with the weight limitations in either subsection (1) or (2) or (9) of this section.

(5) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half (1/2) foot the next larger whole number shall be used.

(6) The limitations imposed in this section are in addition and supplemental to all other laws imposing limitations upon the size and weight of vehicles. Further, single axles within groups of axles are subject to the provisions and limitations of this chapter. Single axles within groups of axles may be weighed and evaluated separately, or single axles may be prequalified in accordance with rules or ordinances established by the board or other public road jurisdiction, if any of the following conditions exist regarding the single axle within a group of axles:

(a) A suspension system common to all axles in the group of axles does not exist.

(b) One (1) or more axles in the group of axles is equipped with separate variable load suspension controls to regulate the weight carried by individual axles.

(c) One (1) or more axles in a group of axles is equipped with more or fewer tires than other axles in the group of axles.

(d) All tires in the group of axles are not the same size as determined by the manufacturer's sidewall rating.

(7) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

(8) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when: the weight of a single axle exceeds the maximum limitations set forth herein by two thousand (2,000) pounds or more; the weight of a combination of axles, or gross vehicle weight exceeds the maximum allowable weight as set forth herein by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with applicable weight limitations contained within this subsection at the place of weighing prior to continuing, except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing, and except those vehicles which do not exceed fifteen percent (15%) over maximum axle and axle group weights set forth in this section. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a

highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars ($50.00) and shall be on a form prescribed by the board or other proper authorities, and shall not be construed as contributing to a reduction in the penalties prescribed in section 49-1013, Idaho Code.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules ~~and regulations~~ as may be necessary to carry out the provisions of this section.

(9) For vehicles on all highways except the United States federal interstate and defense highways of this state, the following table shall apply:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four axles	Vehicles with Five or more axles
3 through 12	37,800	37,800
13	56,470	56,470
14	57,940	57,940
15	59,400	59,400
16	60,610	60,610
17	61,820	61,820
18	63,140	63,140
19	64,350	64,350
20	65,450	65,450
21	66,000	66,330
22	66,000	67,250
23	66,000	67,880
24	66,000	68,510
25	66,000	69,150
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		80,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles exceeds

eighty thousand (80,000) pounds. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(10) When owned by or under contract to or under authority of a city, county, or state agency, refuse/sanitation trucks transporting refuse may be operated on public highways in accordance with the weights allowed in subsection (9) of this section, except that such trucks equipped with single rear axles are allowed twenty-four thousand (24,000) pounds on that single rear axle when specifically authorized by the public highway agency governing the highways over which the refuse/sanitation truck is operating and provided the following conditions are met:

(a) The weight allowances provided for in this subsection shall not apply to the United States federal interstate and defense highways of the state; and

(b) The owner or operator has paid an annual operating fee for a permit, not to exceed fifty dollars ($50.00) per refuse/sanitation truck to each public agency governing the public highways over which the refuse/sanitation truck operates. The permit shall be carried in the refuse/sanitation truck. The permit fee may be waived by a public agency for refuse/sanitation trucks operated over public highways under that agency's jurisdiction.

(9~~1~~11) Variable load suspension axles shall meet the following criteria in order to be included in the computation of gross vehicle or axle weight limits for vehicles under the provisions of this section:

(a) The deployment control switch for such axles may be located inside of the driver's compartment but the pressure regulator for the operation of pressure on the pavement shall be located outside of and inaccessible to the driver's compartment.

(b) The gross axle weight rating of each such axle must not be less than the actual loading of the axle and shall not be less than nine thousand (9,000) pounds.

(c) All variable load suspension axles mounted on a vehicle after January 1, 1990, shall be designed to be self-steering in a manner that will guide or direct the variable load suspension mounted wheels through a turning movement without undue tire scrubbing or pavement scuffing.

(d) Variable load suspension axles must be fully deployed or fully raised. The pressure regulator which governs the load distribution to the variable load suspension axle(s) shall be set and sealed by the owner of the vehicle(s).

(1~~0~~2) Any person who operates a motor vehicle with a variable suspension axle ~~that is not fully deployed and the vehicle is hauling a load shall be guilty of a misdemeanor. The penalty for violating the provisions of this subsection shall be a fine of eight hundred dollars ($800). All moneys collected as a result of the penalties prescribed in this subsection shall be deposited in the highway distribution account.~~ in violation of the provisions of this section shall be subject to the penalties provided in section 49-1013, Idaho Code.

Approved March 31, 1994.

CHAPTER 322
(H.B. No. 783)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 2, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-286, IDAHO CODE, TO PROVIDE CONDITIONS PRIOR TO REQUIRED COMPLIANCE WITH ACTIONS OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

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

SECTION 1. That Chapter 2, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-286, Idaho Code, and to read as follows:

41-286. APPLICATION OF PROVISIONS ADOPTED BY NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. The department may not require an insurer to comply with any rule, regulation, directive or standard adopted by the national association of insurance commissioners unless application of the rule, regulation, directive or standard, including policy reserves, is authorized by statute and implemented by the director pursuant to chapter 52, title 67, Idaho Code. This section shall not expand or restrict the general powers and authority of the director as set forth in section 41-210, Idaho Code.

Approved March 31, 1994.

CHAPTER 323
(H.B. No. 794)

AN ACT

RELATING TO VITAL STATISTICS; AMENDING SECTION 39-273, IDAHO CODE, TO IMPOSE AN ADMINISTRATIVE PENALTY FOR FAILURE TO SIGN BIRTH, OR DEATH OR STILLBIRTH CERTIFICATES.

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

SECTION 1. That Section 39-273, Idaho Code, be, and the same is hereby amended to read as follows:

39-273. PENALTIES. (a) The following acts, if committed unlawfully, purposely and with the intent to deceive, shall be felonies punishable by a fine of not more than five thousand dollars ($5,000) or imprisonment of not more than five (5) years, or both:

(1) furnishing false or fraudulent information affecting any certificate, record or report required by this chapter; or

(2) making, counterfeiting, altering, amending or mutilating of

any certificate, record or report, or any certified copy of a certificate, record, or report authorized by this chapter; or

(3) obtaining, possessing, using, selling, or furnishing, or attempting to obtain, possess, use, sell, or furnish, any certificate, record, or report, or certified copy of a certificate, record, or report, which has been unlawfully made, counterfeited, altered, amended, or mutilated; or

(4) furnishing, selling or using any certificate, record or report, or any certified copy of a certificate, record or report, authorized by this chapter for the purpose of misrepresenting the age or identity of a person or misrepresenting the facts relating to a birth, death or adoption.

(b) The following acts, if committed with knowledge, recklessness or with criminal negligence, shall be misdemeanors punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment of not more than one (1) year, or both:

(1) except where a different penalty is provided by this section, violating any of the provisions of this chapter or the regulations promulgated pursuant to this chapter by the board; or

(2) neglecting or refusing to perform any of the duties imposed pursuant to this chapter; or

(3) transporting, accepting for transport, interring, or otherwise disposing of a dead body or stillborn fetus without a permit or other authorization issued in accordance with the provisions of this chapter.

(c) In addition to the other penalties herein prescribed, any employee or officer of the department who knowingly, recklessly or negligently discloses any information in violation of section 39-270, Idaho Code, shall be subject to immediate dismissal from employment.

(d) In addition to any other sanction or penalty authorized by law, the registrar may hereby impose a fine which may not exceed two hundred fifty dollars ($250) for each violation wherein a physician, hospital administrator or his designee, or other birth attendants, or coroner/deputy, or funeral director/mortician fails to sign a birth, or death or stillbirth certificate within fifteen (15) days of the death or within fifteen (15) days of the birth. Notice of intent to impose such fine must be given by the registrar to the alleged violator. Each day that a violation continues following the giving of the notice of intent may constitute a violation and the registrar may impose a fine which may not exceed fifty dollars ($50.00) per day. In determining the amount of any fine to be imposed for a violation, the registrar shall consider the following factors:

(1) the gravity of the violation or extent to which the provisions of the applicable statute or rule were violated;

(2) any action taken by the alleged violator to correct the violation or assure that the violation will not reoccur;

(3) any previous violation.

Approved March 31, 1994.

CHAPTER 324
(H.B. No. 809, As Amended)

AN ACT

RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 40-104, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 40-109, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 40-1309, IDAHO CODE, TO AUTHORIZE A HIGHWAY DISTRICT TO SELL AND EXCHANGE PERSONAL PROPERTY; AMENDING SECTION 40-1310, IDAHO CODE, TO FURTHER DEFINE POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 13, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1336, IDAHO CODE, TO DESCRIBE BOOKS WHICH MUST BE KEPT; AND AMENDING CHAPTER 13, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-1337, IDAHO CODE, TO PROVIDE THE CLASSIFICATION AND RETENTION OF RECORDS.

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

SECTION 1. That Section 40-104, Idaho Code, be, and the same is hereby amended to read as follows:

40-104. DEFINITIONS -- C.

(1) "City system" means all public highways within the corporate limits of a city, with a functioning street department, except those highways which are under federal control, a part of the state highway system, or part of a ~~single-county-wide~~ highway district ~~under the provisions of chapter 14, title 40, Idaho Code,~~ system or ~~a--part~~ an extension of ~~the federal-aid secondary~~ a rural major collector route ~~system~~ as specified in section 40-607, Idaho Code.

(2) "Commercial activities." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(3) "Commercial areas, unzoned." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(4) "Commissioners" means the board of county commissioners of a county of this state.

(5) "Controlled-access facility" means a highway especially designed for through traffic to which owners or occupants of abutting land have no right or easement or only a controlled right or easement of access by reason of the fact that their property abuts upon the controlled-access facility. These highways may be freeways open to use by all customary forms of highway traffic, or they may be parkways from which trucks, buses and other commercial vehicles shall be excluded.

(6) "County highway system" or "county secondary highways" mean all public highways in a county except those included within the state highway system, those under another state agency, those included within city highway systems of incorporated cities, those included within a highway district highway system, and those under federal control.

SECTION 2. That Section 40-109, Idaho Code, be, and the same is hereby amended to read as follows:

40-109. DEFINITIONS -- H.

(1) "Highway district system" means all public highways within each highway district, except those included within the state highway system, those under another state agency, those included within city highway systems of incorporated cities with a functioning street department, and those under federal control.

(2) "Highway system, county." (See "County highway system," section 40-104, Idaho Code)

(3) "Highway system, state." (See "State highway system," section 40-120, Idaho Code)

(4) "Highway users' fund bonds" mean those bonds issued for and on behalf of dissolved city highway systems or highway districts, and the funds out of which those bonds are repayable shall be the moneys received or provided by section 40-707, Idaho Code.

(5) "Highways" mean roads, streets, alleys and bridges laid out or established for the public or dedicated or abandoned to the public. Highways shall include necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls, bridges, tunnels, grade separation structures, roadside improvements, adjacent lands or interests lawfully acquired, pedestrian facilities, and any other structures, works or fixtures incidental to the preservation or improvement of the highways. Roads laid out and recorded as highways, by order of a board of commissioners, and all roads used as such for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public, or located and recorded by order of a board of commissioners, are highways.

SECTION 3. That Section 40-1309, Idaho Code, be, and the same is hereby amended to read as follows:

40-1309. CORPORATE POWERS OF HIGHWAY DISTRICTS. Each highway district has power:

(1) To sue and be sued.

(2) To purchase and hold lands, make contracts, purchase and hold personal property as may be necessary or convenient for the purposes of this chapter, and to sell and exchange any real or personal property other than public lands which by the constitution and laws of the state are placed under the jurisdiction of the state land board. The highway district commissioners shall first adopt a resolution finding that the property to be sold or exchanged is no longer useful to the district; that a public hearing is to be held, of which hearing notice shall be published in accordance with the provisions of section 40-206, Idaho Code, and at which hearing any person interested may appear and show cause that the sale or exchange should not be made.

(3) To levy and apply ad valorem taxes for purposes under its exclusive jurisdiction as are authorized by law.

SECTION 4. That Section 40-1310, Idaho Code, be, and the same is hereby amended to read as follows:

40-1310. POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS. (1) The commissioners of a highway district have, except as provided in section 40-1323, Idaho Code, exclusive general supervision and juris-

diction over all highways within their ~~district~~ highway system, with full power to construct, maintain, repair and improve all highways within their highway ~~district~~ system, whether directly or by their own agents and employees or by contract. Except as otherwise provided in this chapter in respect to the highways within ~~the--district~~ their highway system, a highway district shall have all of the powers and duties that would by law be vested in the commissioners of the county and in the district directors of highways if the highway district had not been organized. Where any highway within the limits of the highway district has been designated as a state highway, then the board shall have exclusive supervision, jurisdiction and control over the designation, location, maintenance, repair and reconstruction of it. The highway district shall have power to manage and conduct the business and affairs of the district; establish and post speed and other regulatory signs; make and execute all necessary contracts; have an office and employ and appoint agents, attorneys, officers and employees as may be required, and prescribe their duties and fix their compensation. Highway district commissioners and their agents and employees have the right to enter upon any lands to make a survey, and may locate the necessary works on the line of any highways on any land which may be deemed best for the location.

(2) The highway district shall also have the right to acquire either by purchase, or other legal means, all lands and other property necessary for the construction, use, maintenance, repair and improvement of highways in their system. The highway district may change the width or location, or straighten lines of any highway in their system ~~district~~, and if in the constructing, laying out, widening, changing, or straightening of any highways, it shall become necessary to take private property, the district director of highways, with the consent and on order of the highway district commissioners, shall cause a survey of the proposed highway to be made, together with an accurate description of the lands required. He shall endeavor to agree with each owner of property, resident of the county in which the district is situated, for the purchase of a ~~rightofway~~ right-of-way over the lands included within the description. If the director is able to agree with the owner of the lands, the highway district commissioners may purchase the land and pay for it out of the funds of the highway district, and the lands purchased shall then be conveyed to the highway district for the use and purpose of highways.

(3) Whenever the director of highways shall be unable to agree with any person for the purchase of land, or that person shall be unknown or a nonresident of the county in which the highway district is situated, or a minor, or an insane or incompetent person, the director shall have the right, subject to the order of the highway district commissioners, to begin action in the name of the highway district in the district court of the county in which the district is situated, to condemn the land necessary for the ~~rightofway~~ right-of-way for the highway, under the provisions of chapter 7, title 7, Idaho Code. An order of the highway district commissioners entered upon its minutes that the land sought to be condemned is necessary for a public highway and public use shall be prima facie evidence of the fact.

(4) The highway district has the power to contract for and pay out any special rewards and bounties as may appear expedient or useful

in securing proper highway construction and maintenance, and to accept, on behalf of the district, aid or contributions in the construction or maintenance of any highway; to construct or repair, with the consent of the corporate authorities of any city within the district, any highway within a city, upon the division of the cost as may be agreed upon; or to join with the state or any body politic or political subdivision, or with any person in the construction or repair of any highway and to contract for an equitable division of the cost; and all counties, cities, highway districts and other bodies politic and political subdivisions are authorized to contract with any highway district acting through its highway district commissioners in exercise of the powers granted.

(5) The highway district has the power to receive highway petitions and lay out, alter, create and abandon and vacate public highways and public rights-of-way within their respective districts under the provisions of sections 40-202, 40-203 and 40-203A, Idaho Code. Provided however, when a public highway, public street and/or public right-of-way is part of a platted subdivision which lies within an established county/city impact area or within one (1) mile of a city if a county/city impact area has not been established, consent of the city council of the affected city, when the city has a functioning street department with jurisdiction over the city streets, shall be necessary prior to the granting of acceptance or vacation of said public street or public right-of-way by the highway district board of commissioners.

(6) The highway district is empowered to take conveyance or other assurances, in the name of the highway district, for all property acquired by it under the provisions of this chapter for the purposes of this title. The highway district may institute and maintain any and all actions and proceedings, suits at law and in equity, necessary or proper in order to carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities provided ~~by~~ in this chapter. In all courts, actions, suits or proceedings, the highway district may sue, appear and defend, in person or by attorneys, and in the name of the highway district.

(7) The highway district is empowered to hold, use, acquire, sell, manage, occupy and possess property. The highway district may create highway divisions, which must be carefully and distinctly defined and described. Highway divisions may be altered, changed, created or modified by the highway district commissioners, as the need requires.

(8) The highway district board of commissioners shall have the exclusive general supervisory authority over all public highways, public streets and public rights-of-way under their jurisdiction, with full power to establish design standards, establish use standards, establish regulations in accordance with the provisions of title 49, Idaho Code, and control access to said public highways, public streets and public rights-of-way.

SECTION 5. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1336, Idaho Code, and to read as follows:

40-1336. RECORD BOOKS TO BE KEPT. The highway district board of commissioners must cause to be kept permanently and indefinitely:

(1) A minute book, in which must be recorded all orders and decisions made by them, and the proceedings at all regular and special meetings.

(2) An allowance book or disbursement journal, in which must be recorded all orders for the payment of money from the highway district treasury, to whom made, and on what account, dating, numbering and indexing the same through each year.

(3) A road book, containing all proceedings and adjudications relating to the validation and abandonment and/or realignment of highways, public streets and public rights-of-way within the highway district highway system.

(4) An ordinance book, containing all ordinances, stating the date enacted.

(5) A resolution book, containing all resolutions, stating the date adopted.

SECTION 6. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-1337, Idaho Code, and to read as follows:

40-1337. CLASSIFICATION AND RETENTION OF RECORDS. (1) Highway district records shall be classified as follows:

(a) "Permanent records" shall consist of, but not be limited to, the following: proceedings of the governing body, ordinances, resolutions, bond register, warrant register, budget records, general ledger, cash books, right-of-way use permits and records affecting the title to real property or liens thereon, and other documents or records as may be deemed of permanent nature by the highway district board of commissioners.

(b) "Semipermanent records" shall consist of, but not be limited to, the following: claims, contracts, cancelled checks, warrants, duplicate warrants, purchase orders, vouchers, duplicate receipts, bonds and coupons, registration and other election records, financial records and other documents or records as may be deemed of semipermanent nature by the board of highway district commissioners.

(c) "Temporary records" shall consist of, but not be limited to, the following: correspondence not related to subsections (1) and (2) of this section, cash receipts subject to audit, and other records as may be deemed temporary by the board of highway district commissioners.

(d) Those records not included in subsection (1)(a), (1)(b) or (1)(c) of this section may be classified as permanent, semipermanent or temporary by the board of highway district commissioners.

(2) Highway district records shall be retained as follows:
(a) Permanent records shall be retained for not less than ten (10) years.
(b) Semipermanent records shall be kept for not less than five (5) years after date of issuance or completion of the matter contained within the record.
(c) Temporary records shall be retained for not less than two (2) years.

Approved March 31, 1994.

CHAPTER 325
(H.B. No. 821)

AN ACT

RELATING TO DOG RACING; REPEALING SECTION 54-2514, IDAHO CODE; AMENDING CHAPTER 25, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2514, IDAHO CODE, TO PROVIDE THE DISTRIBUTION OF DEPOSITS FROM PARI-MUTUEL DOG RACING AND TO PROVIDE FOR BREAKAGE; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-2514, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 25, 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 54-2514, Idaho Code, and to read as follows:

54-2514. DOG RACING -- DISTRIBUTION OF DEPOSITS -- BREAKAGE. (1) Each licensee conducting the pari-mutuel system for live dog races shall distribute all sums deposited in any pool as follows:
(a) Seventy-nine and one-half percent (79.5%) of any win, place or show pool to the winner thereof, and twenty and one-half percent (20.5%) to the licensee;
(b) Seventy-seven percent (77%) of all two (2) dog exotic wagers including, but not limited to, daily doubles and quinellas to the winner thereof, and twenty-three percent (23%) to the licensee;
(c) Seventy-five percent (75%) of all three (3) or more dog exotic wagers including, but not limited to, trifecta, twin trifecta, pick three, pick six and superfecta, to the winner thereof, and twenty-five percent (25%) to the licensee.
(2) Each licensee conducting the pari-mutuel system for live dog races shall retain the sums deposited in any pool as required in subsection (1) of this section, for distribution and payment based upon gross daily receipts as follows:
(a) One and one-quarter percent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the racing commission account.

(b) One percent (1%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for payment to the county in which the dog racing facility is located. The board of county commissioners shall spend such revenues only for visitor promotion.

(c) One-half percent (.5%) of gross daily receipts, separately stated, shall be paid to the Idaho state racing commission for deposit in the Idaho horse breeders and owner's award account in the state treasury for further distribution as follows:

(i) Fifty percent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, to the breeders of Idaho bred winners of each approved horse race in Idaho in proportion to the handle generated by each breed; and

(ii) Fifty percent (50%) of all moneys deposited in the Idaho horse breeders' and owners' award account shall be distributed by the racing commission annually but not later than December 15, in equal amounts to owners of Idaho bred horse race winners.

(d) From the balance of gross daily receipts remaining with the licensee after the distributions required in subsections (1)(a), (b) and (c) of this section from dog races, the following amounts shall be paid or retained:

(i) From the first twenty thousand dollars ($20,000) of gross daily receipts, the licensee shall retain the entire amount;

(ii) From the next ten thousand dollars ($10,000) of gross daily receipts, (gross daily receipts between twenty thousand dollars ($20,000) and thirty thousand dollars ($30,000)) the public school income fund shall receive one-quarter of one percent (.25%) and the licensee shall retain the balance.

(iii) From the next ten thousand dollars ($10,000) of gross daily receipts (gross daily receipts between thirty thousand dollars ($30,000) and forty thousand dollars ($40,000)) the public school income fund shall receive one and one-quarter percent (1.25%) and the licensee shall retain the balance.

(iv) From all amounts of over forty thousand dollars ($40,000) of gross daily receipts, the public school income fund shall receive two and one-quarter percent (2.25%) and the licensee shall retain the balance.

(3) Each licensee may retain the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as breakage, and the total amount of unclaimed tickets at the termination of the time allowed by rule of the commission.

(4) No dog racing facility shall be granted racing dates by the Idaho racing commission if such facility is located within one hundred (100) miles of any operating pari-mutuel horse racing facility in the state of Idaho which conducted pari-mutuel horse racing in 1986.

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 May 1, 1994.

Approved March 31, 1994.

CHAPTER 326
(H.B. No. 851, As Amended)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-340, IDAHO CODE, TO PROVIDE FOR DISCLOSURE OF FACTS CONTAINED IN RECORDS MAINTAINED PURSUANT TO THE YOUTH REHABILITATION ACT TO CERTAIN PERSONS AND AGENCIES, AND FOR DISCLOSURE OF THE NAME, THE OFFENSE OF WHICH THE JUVENILE WAS ADJUDICATED AND THE DISPOSITION OF THE COURT IF THE JUVENILE IS FOURTEEN YEARS OR OLDER AND IS ADJUDICATED GUILTY OF AN OFFENSE WHICH WOULD BE A FELONY IF COMMITTED BY AN ADULT AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 16-1816, IDAHO CODE, TO DELETE LANGUAGE INCLUDED IN SECTION 9-340, IDAHO CODE, AS HEREIN AMENDED AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section mean information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

(4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a

private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(11) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records;

(f) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

(i) Such information shall be available upon request to a law enforcement agency; and

(ii) The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name, date of birth and social security number of the person for whom the information is requested.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(13) Retired employees' and retired public officials' home

addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(14) Any personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(15) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

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

(18) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public

disclosure.

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

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

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

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the child. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision making.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submit-

ted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(31) (a) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the state auditor prior to release of the related final audit and all other records or materials in the possession of the office of the state auditor that would otherwise be confidential or exempt from disclosure.

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

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

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

(34) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may

inspect and copy his personnel records, except for material used to screen and test for employment.

(37) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(38) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(39) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(40) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided, however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise

available to any public agency.

(~~40~~1) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

SECTION 2. That Section 16-1816, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) These records shall be open to inspection ~~(3)~~ according to chapter 3, title 9, Idaho Code~~, except that facts contained in such reports shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the child~~. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(~~4~~3) The victim of misconduct shall always be entitled to the name of the child involved, the name of the child's parents or guardian, and their addresses and telephone numbers, if available in the records of the court.

(~~5~~4) Notwithstanding the other provisions of this act and notwithstanding any order entered pursuant hereto, nothing in this act shall prohibit the exchange of records created pursuant to this act between prosecuting attorneys or courts in this state.

Approved March 31, 1994.

CHAPTER 327
(H.B. No. 853, As Amended)

AN ACT

RELATING TO PUBLIC TRANSPORTATION SERVICES; AMENDING TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 21, TITLE 40, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF THE POLICY OF THE STATE, TO DEFINE TERMS, TO DEFINE THE PURPOSE OF AN AUTHORITY, TO GOVERN THE MEANS OF CREATION OF AN AUTHORITY, TO PROVIDE THE AUTHORITY BOARD, TO GOVERN BOARD PROCEDURES, TO PROVIDE THE CORPORATE POWERS OF AN AUTHORITY, TO PROVIDE THE POWERS AND DUTIES OF THE BOARD, TO AUTHORIZE COOPERATIVE AGREEMENTS AND CONTRIBUTIONS, TO PROVIDE FOR ISSUANCE OF BONDS, TO PROVIDE FOR ADOPTION OF A

BUDGET, TO EXEMPT THE AUTHORITY FROM TAXATION AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 21, Title 40, Idaho Code, and to read as follows:

CHAPTER 21
REGIONAL PUBLIC TRANSPORTATION AUTHORITY

40-2101. SHORT TITLE. This chapter may be known and cited as the "Regional Public Transportation Authority Act."

40-2102. POLICY OF STATE. It is hereby recognized by the legislature of the state of Idaho that, as the population and economy of areas of this state grow, the total needs for mobility of commerce and people cannot be met solely with highway and road systems; that motor vehicle congestion and air quality problems result which may adversely affect health and safety; that there are a variety of persons who are elderly, who have disabilities, who live in rural areas or who otherwise require public transportation services for their general welfare; and that prosperous commerce and industry depend upon effective regional systems of transportation. It is therefore declared to be the policy of the state to maintain a state commitment to improve public transportation; to increase the use of transportation alternatives to single occupancy motor vehicles; to promote cooperative agreements among governmental entities in providing public transportation services; and to attain greater efficiency in the use of public transportation funds in a manner consistent with the needs, health, safety and general welfare of the people of Idaho.

40-2103. DEFINITIONS. (1) "Authority" means the regional public transportation authority.

(2) "Board" means the governing body of the regional public transportation authority.

(3) "City" means an incorporated city.

(4) "Commission" means the board of county commissioners or the board of commissioners of a single county-wide highway district.

(5) "Public transportation service" means, without limitation, fixed transit routes; scheduled or unscheduled transit service provided by motor vehicle, bus, rail, van, aerial tramway and other modes of public conveyance; paratransit service for the elderly and transportation-disadvantaged; shuttle and commuter service between cities, counties, health care facilities, employment centers, educational institutions or park-and-ride locations; subscription van and car-pooling service; and transportation services unique to social service programs.

(6) "Region" means the geographical area encompassed by an authority.

40-2104. PURPOSE OF AUTHORITY. The purpose of an authority cre-

ated pursuant to this chapter is to establish a single governmental agency oriented entirely toward public transportation needs within each county that deems such an agency necessary. The purposes of such an agency are to provide public transportation services, encourage private transportation programs and coordinate private transportation programs, services and support functions.

40-2105. CREATION OF AUTHORITY. (1) In any county for which a public transportation plan has been adopted in full or partial compliance with the intermodal surface transportation efficiency act (23 U.S.C. App. 1001-9511), a city or commission may call for an election to establish a regional public transportation authority in the county to carry out the purposes of this chapter. The entire geographical area of the county must be included within the jurisdiction of the authority.

(2) Authorization to establish a regional public transportation authority may be made only by the registered voters of the region at a general election. A simple majority of votes cast on the question shall be necessary to establish the authority.

(3) An authority created pursuant to this act shall be named the "..... COUNTY REGIONAL PUBLIC TRANSPORTATION AUTHORITY." In the event two (2) or more authorities should by cooperative agreement merge their services the name may be appropriately changed by a majority vote of the board of each authority.

40-2106. AUTHORITY BOARD. (1) Each authority shall have a governing board selected by and serving at the pleasure of the governing bodies of the county and incorporated cities within the authority.

(2) The board shall be composed of not less than five (5) members selected as follows: two (2) members representing the board of county commissioners; one (1) member representing highway district commissions wholly or partially contained within the county; two (2) members representing each city with a population of fifty thousand (50,000) or more; and one (1) member representing each city with a population of less than fifty thousand (50,000).

(3) Board members shall be appointed by resolution of the appointing agency and shall serve at the pleasure of the appointing agency. Board members may be elected officials of the appointing agency or they may be representatives empowered by the agency to act in its best interests. The highway district board member shall be appointed by the board of commissioners of the highway district in counties with a single county-wide highway district or, in counties with more than one (1) highway district, by the board of county commissioners in consultation with all highway district commissions in the county.

(4) Board members may be compensated forty dollars ($40.00) for each day in the actual performance of duties, but the total amount to be received as compensation shall not exceed the sum of one thousand dollars ($1,000) per year. Actual expenses shall be paid in addition to compensation. The payment for expenses shall be paid from funds of the authority upon presentation of itemized vouchers, signed by the board member and under oath made to the secretary of the authority.

(5) Board members are considered employees of the authority. The

authority shall be liable and responsible for the actions of the board members and employees of the authority when the board members and employees are performing their duties on behalf of the authority.

40-2107. BOARD PROCEDURES. (1) At its first meeting following the appointment of all members, the board shall elect a chairman and a vice chairman from their number and appoint a secretary and a treasurer who need not be from their number for terms fixed by them. The offices of the secretary and treasurer may be filled by the same person. Certified copies of all appointments under the hand of the chairman and seal of the authority shall be filed with the clerk of the county and with the clerk of each city within the county and with the secretary of each highway district in the county.

(2) A majority of the board members constitutes a quorum for the conduct of business. A majority of board members present at a board meeting at which a quorum has been established may exercise all of the powers of the full board.

(3) As soon as practicable after organization the board shall designate a day, hour and place at which regular meetings shall be held. Minutes of all meetings must show what business was conducted, what votes were taken and what bills were submitted, considered, allowed or rejected. The secretary shall make a list of all bills presented, showing to whom payable, for what services or materials, the amount claimed and the amount allowed. The list shall be signed by the chairman and attested by the secretary.

(4) All meetings of the board shall be public and all records of the authority shall be open to the inspection of the public during normal business hours. Special meetings of the board may be held upon the call of the board chairman or a majority of the board. The secretary must give each member not joining in the order five (5) days' notice of any special meeting.

(5) The authority treasurer shall execute and file with the authority secretary an official bond in an amount of money equal to an amount that may come into his hands as treasurer but in no case shall the amount of the bond be less than an amount fixed by the board. The cost of such bond shall be a necessary expense paid by the authority.

40-2108. CORPORATE POWERS OF AN AUTHORITY. A regional public transportation authority has power:

(1) To sue and be sued;

(2) To raise and expend funds as provided in this chapter;

(3) To issue revenue bonds;

(4) To adopt and use an official seal;

(5) To purchase and hold lands, make contracts, purchase and hold personal property as may be necessary or convenient for the purposes of this act, and to sell and exchange real and personal property. The board shall first adopt a resolution finding that the property to be sold or exchanged is no longer needed by or useful to the district; that a public hearing is to be held, of which hearing notice shall be published in accordance with the provisions of section 40-206, Idaho Code.

40-2109. POWERS AND DUTIES OF BOARD. (1) Only one (1) regional

public transportation authority shall be created within a county and when established pursuant to this chapter the authority will have exclusive jurisdiction over all publicly funded or publicly subsidized transportation services and programs except those transportation services and programs under the jurisdiction of public school districts and law enforcement agencies.

(2) The authority may provide public transportation services on fixed or unfixed routes; public transportation services on fixed or unfixed schedules; paratransit services for the elderly and physically impaired as defined in the Americans with disabilities act; special services to accommodate community celebrations, sporting events and entertainment open to the public; public transportation services between cities, rural areas, park-and-ride facilities, employment centers, health care facilities, commercial and shopping areas; commuter services between communities; van or car pool programs.

(3) The authority shall fix by resolution the fares and fees to be charged those who use its public transportation services. Prior to adopting any such resolution, the board shall publish proposed fares and fees in at least one (1) issue of a newspaper having general circulation in the authority and shall hold at least one (1) public hearing on the proposed fares and fees.

(4) The authority may establish, fund, control and operate the administrative, equipment maintenance, servicing, storage, fueling, and other facilities required to support a safe and efficient public transportation system. In carrying out the purposes of this chapter, the authority may employ personnel, contract for services with public and private agencies and retain legal and other professional counsel.

(5) The board may adopt resolutions consistent with law, as necessary, for carrying out the purposes of this chapter and discharging all powers and duties conferred to the authority pursuant to this chapter.

(6) The authority shall have an annual audit made of the financial affairs of the authority as required in section 67-450B, Idaho Code, by the first day of December following the close of the fiscal year.

(7) The authority may enter into cooperative agreements with the state, other authorities, counties, cities and highway districts under the provisions of section 67-2328, Idaho Code.

40-2110. CONTRIBUTIONS. The county, cities, highway districts and other governmental entities within the county may, at their discretion, enter into a cooperative agreement with the authority in order to contribute funds from any source, provide services-in-kind and loan or convey real and personal property to the authority in recognition of costs of the authority, to maintain continuity of existing public transportation services, or to implement new services.

40-2111. ISSUANCE OF REVENUE BONDS. A regional public transportation authority may issue revenue bonds in the same manner and form as under the municipal bond law contained in chapter 10, title 50, Idaho Code, provided that the ordinance required therein shall be by resolution of the board. For the purpose of this section, the term "city" in the municipal bond law shall include the term "regional public trans-

portation authority."

40-2112. BUDGET. (1) The board shall annually adopt a budget and cause a public hearing to be held upon the budget.

(2) Notice of the budget hearing shall be posted at least ten (10) days prior to the date of the meeting in at least one (1) conspicuous place in the county and each city and highway district within the county. A copy of the notice shall also be published in accordance with the provisions of section 40-206, Idaho Code. The place, hour and day of the hearing shall be specified in the notice, as well as the place where the budget may be examined prior to the hearing. A full and complete copy of the proposed budget shall be published with and as a part of the publication of the notice of hearing.

(3) The budget shall be available for public inspection from and after the date of the posting of notice of hearing at a place and during business hours as the board may direct.

(4) A quorum of the board shall attend the hearing and explain the proposed budget and hear any and all objections to it.

(5) The budget shall be completed and finalized not later than the Tuesday following the first Monday in September for the ensuing fiscal year.

(6) The fiscal year of the authority shall commence on the first day of October of each year.

40-2113. EXEMPTION FROM TAXATION. It is hereby found, determined and declared that the creation of a regional public transportation authority is in all respects for the benefit of the people of the state of Idaho, for the improvement of their welfare and prosperity, and for the promotion of their transportation, and is a public purpose and that projects and services operated by authorities are essential parts of the public transportation system, and that such authorities will be performing essential governmental functions in the exercise of the powers conferred upon them by this chapter. The state of Idaho declares that authorities shall be required to pay no taxes or assessments upon any of the property acquired by them or under their respective jurisdiction, control, possession, or supervision or upon the activities of authorities in the operation and maintenance of projects and services, or upon any charges, fees, revenues, or other income received by authorities except motor vehicle fuel and aviation fuel taxes, and that the bonds of authorities and the income therefrom shall at all times be exempt from taxation. Regional public transportation authorities created pursuant to this chapter shall be exempt from the sales tax imposed under the provisions of section 63-3621, Idaho Code, and shall be issued a tax exemption certificate as provided for in section 63-3622, Idaho Code.

40-2114. SEVERABILITY. The provisions of this chapter 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 chapter.

Approved March 31, 1994.

CHAPTER 328
(H.B. No. 860)

AN ACT

RELATING TO RECREATION DISTRICTS; AMENDING SECTION 31-4306, IDAHO CODE, TO PROVIDE THAT ELECTIONS OF DIRECTORS SHALL BE CONDUCTED IN CONFORMITY WITH TITLE 34, IDAHO CODE, TO PROVIDE THAT NO ELECTION SHALL BE HELD IF ONLY ONE QUALIFIED CANDIDATE HAS FILED FOR EACH POSITION TO BE FILLED, TO PROVIDE FOR DECLARATION OF INTENT FOR WRITE-IN CANDIDATES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 31-4306, Idaho Code, be, and the same is hereby amended to read as follows:

31-4306. ELECTION OF DIRECTORS. (1) An election of directors shall be held in each district on the Tuesday succeeding the first Monday of November of each even numbered year. Such election shall be held ~~as nearly as practicable~~ in conformity with ~~the general election laws of the state. No prior registration shall be required but each person offering to vote shall be required to sign an elector's oath in the usual form but shall have added thereto the words "and I have been a resident within the boundaries of such recreation district for thirty (30) or more days next preceding the election." The polls at such election shall be open from 12:00 o'clock noon to 8:00 o'clock p.m. The board shall have power to make such rules and regulations for the conduct of such election as are not inconsistent with such general election laws and the provisions of this act~~ chapter 14, title 34, Idaho Code, and other applicable provisions of title 34, Idaho Code. Before the notice of ~~such~~ election is given, the board shall divide the district into subdivisions as nearly equal in population as possible to be designated as director's ~~sub-district~~ subdistrict 1, 2 and 3, or director's subdistrict 1, 2, 3, 4 and 5, depending upon the number of subdistricts in the district. ~~Nominations at such election shall be made in writing, shall state the name of the nominee,~~ Each nominating petition shall state the ~~director's sub-district~~ subdistrict for which ~~such~~ the nominee is nominated~~, shall be signed by not less than five (5) nor more than ten (10) qualified electors of the district, and shall be filed with the secretary at least ten (10) days prior to the date of such election.~~

(2) In any election for directors if, after the expiration of the date for filing written nominations for the office of director, it appears that only one (1) qualified candidate has been nominated for each position to be filled and if no declaration of intent has been filed as provided in subsection (3) of this section, it shall not be necessary to hold an election, and the board of directors, shall no later than seven (7) days before the scheduled date of the election declare such candidate elected as director, and the secretary of the recreation district board shall immediately make and deliver to such person a certificate of election.

(3) No write-in vote for recreation district director shall be

counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of recreation district director if elected. The declaration of intent shall be filed with the recreation district board secretary not later than eleven (11) days before the day of election.

Approved March 31, 1994.

CHAPTER 329
(H.B. No. 880)

AN ACT

RELATING TO RECOVERY OF CERTAIN MEDICAL ASSISTANCE; AMENDING SECTION 56-218, IDAHO CODE, TO CHANGE THE AGE FOR THE AUTHORIZATION OF RECOVERY AND TO PROVIDE EXCEPTIONS UNDER CONDITIONS SPECIFIED.

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

SECTION 1. That Section 56-218, Idaho Code, be, and the same is hereby amended to read as follows:

56-218. RECOVERY OF CERTAIN MEDICAL ASSISTANCE. (1) Except where exempted or waived in accordance with federal law mMedical assistance pursuant to this chapter paid on behalf of an individual who was ~~sixty~~ fifty-five (65) years of age or older when the individual received such assistance may be recovered from the estate, or if there be no estate the estate of the surviving spouse, if any, shall be charged for such aid paid to either or both; provided, however, that claim for such medical assistance correctly paid to the individual may be established against the estate, but there shall be no adjustment or recovery thereof until after the death of the surviving spouse, if any, and only at a time when the individual has no surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of such aid without adequate consideration are voidable and may be set aside by an action in the district court.

(2) Except where there is a surviving spouse, or a surviving child who is under twenty-one (21) years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under this chapter on behalf of an individual who was ~~sixty~~ fifty-five (65) years of age or older when the individual received such assistance is a claim against the estate in any guardianship or conservatorship proceedings and may be paid from the estate.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

Approved March 31, 1994.

CHAPTER 330
(H.B. No. 898, As Amended)

AN ACT

RELATING TO REAL ESTATE LICENSEES; AMENDING SECTION 54-2039, IDAHO CODE, TO PROVIDE THAT PAYMENT OF A PART OR SHARE OF COMMISSION TO CERTAIN CORPORATIONS SHALL NOT BE PROHIBITED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2039, Idaho Code, be, and the same is hereby amended to read as follows:

54-2039. SPLITTING FEES WITH NONLICENSED PERSONS PROHIBITED. A licensed real estate broker, associate broker or salesman shall not pay any part or share of a commission or compensation received in his capacity as such to any person who is not a licensed real estate broker, associate broker or salesman, except that this section shall not prohibit payment of a part or share of a commission or compensation to a corporation, all of whose shareholders and directors are real estate licensees. A violation of this section shall be deemed a ground for revocation or suspension of license under section 54-2040, 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 31, 1994.

CHAPTER 331
(H.B. No. 903)

AN ACT

RELATING TO HIGHWAY DISTRICTS; AMENDING TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 21, TITLE 40, IDAHO CODE, TO PROVIDE A PROCEDURE FOR DETACHING TERRITORY FROM AN EXISTING HIGHWAY DISTRICT AND FOR ORGANIZATION OF A NEW HIGHWAY DISTRICT FROM THE DETACHED TERRITORY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 21, Title 40, Idaho Code, and to read as follows:

CHAPTER 21
DETACHMENT OF TERRITORY BY PETITION AND ORGANIZATION OF NEW DISTRICT

40-2101. HIGHWAY DISTRICTS SUBJECT TO DETACHMENT. A portion of the territory of an existing highway district, provided that the district is not a single county-wide highway district organized under the provisions of chapter 14, title 40, Idaho Code, whether the district is situated wholly in one (1) or more counties, may be detached from the highway district and established as a new highway district as provided in this chapter.

40-2102. PETITION. Whenever electors of a portion of the territory embraced in any existing highway district desire that their portion be detached from the highway district and organized into a new highway district, a petition describing the territory by its boundaries, signed by not less than ten (10) electors qualified to vote at a highway district election and residing in the territory sought to be detached shall be presented to the commissioners of the highway district.

40-2103. ORDER FOR HEARING UPON PETITION. Immediately upon its next regular meeting or at a special meeting called for that purpose, the highway district commissioners shall by order or resolution fix a time and place for a hearing of the petition, which time shall not be less than twenty-one (21) days from and after the date of the first publication of the notice of the petition and of the hearing.

40-2104. NOTICE OF HEARING AND PETITION. The highway district commissioners shall require their clerk to have a notice published in accordance with the provisions of section 40-206, Idaho Code, setting forth the fact that a petition has been filed with the commissioners. The notice shall state the name of the highway district from which territory is proposed to be detached and organized into a new highway district; a concise description of the boundaries of the territory so proposed to be detached and organized into a new highway district; the current bonded and current warrant indebtedness of the district; a notice of the time and place when and where the petition will be heard by the highway district commissioners; and notice that any elector qualified to vote at an election of the highway district may, prior to or at the time of the hearing, file with the highway district clerk written objections to the proposed detachment and organization of said territory.

40-2105. HEARING -- ORDER FOR DETACHMENT AND ORGANIZATION. At the time and place specified in the notice, the highway district commissioners shall consider the petition and all written objections filed with them and shall hear all persons in relation to it. Upon the conclusion of the hearing, which may be continued from day to day, if the commissioners shall determine that the detachment from the highway district of the territory described in the petition is practicable and to the best interests of the territory and of the highway district, they shall, within ten (10) days, make and enter an order directing

that the territory be detached from the highway district and be organized into a new highway district at a date not less than thirty (30) nor more than sixty (60) days from and after the date of the order.

40-2106. NEW HIGHWAY DISTRICT -- ESTABLISHMENT OF SUBDISTRICTS. When the commissioners of the existing highway district order the establishment of a new highway district, they shall have the duty to name the new highway district and to divide the new highway district into three (3) subdistricts, as nearly equal in population, area and mileage as practicable, to be known as highway commissioners subdistricts one, two and three. Subdistricts may be revised or modified as changes in conditions demand. Not more than one (1) of the highway district commissioners shall be an elector of the same highway subdistrict.

40-2107. FIRST COMMISSIONERS OF NEW HIGHWAY DISTRICT. The existing highway district commissioners shall appoint a qualified elector to serve as a highway district commissioner for each of the subdistricts of the new highway district. The commissioners shall provide each of the commissioners appointed to the new highway district with a certificate of appointment. Each appointed highway district commissioner shall take and subscribe the official oath, which oath shall be filed in the office of the newly organized highway district commissioners. The first commissioners shall serve until the next highway district election as specified in section 40-1305, Idaho Code.

40-2108. ORGANIZATION AND OPERATION OF NEW HIGHWAY DISTRICT. The newly organized highway district shall be organized and operated in accordance with the provisions of chapter 13, title 40, Idaho Code, except for the provisions of sections 40-1323, 40-1333 and 40-1334, Idaho Code. All of the public highways, public rights-of-way and public streets located within the boundaries of any unincorporated city located within the new highway district shall be under the exclusive jurisdiction of the new highway district and such highways and streets shall be eligible for maintenance and construction with highway district funds in the same manner as any other highways in the highway district system.

40-2109. EFFECT OF DETACHMENT OF TERRITORY -- APPORTIONMENT OF INDEBTEDNESS. The detachment of territory from the district shall be deemed to relate only to the operations of the district subsequent to the order of detachment. Territory detached and all taxable property in that territory shall be and remain liable for the proportionate share of all bonded, warrant, and other indebtedness incurred by the district prior to the time of detachment. The proportionate share of the indebtedness of the district incurred prior to the order of detachment shall be borne by the detached territory and shall be computed as provided in section 40-1609, Idaho Code.

40-2110. VALIDITY OF OUTSTANDING BONDS AND WARRANTS NOT AFFECTED. Nothing in this chapter shall be construed as impairing the validity of any bonds or warrants of a highway district outstanding at the time of the detachment of any territory.

40-2111. FILING OF CERTIFIED COPY OF ORDER. The commissioners shall cause a certified copy of the order of detachment of territory and organization of the new highway district to be filed for record in the office of the county recorder of the county in which the highway district is situate, and shall transmit a certified copy of the order to the highway district commissioners of the newly organized highway district.

40-2112. HIGHWAY DISTRIBUTION ACCOUNT -- ELIGIBILITY. After the new highway district has been organized and in operation for a full quarter of a calendar year, the newly organized highway district shall be eligible for apportionment of funds from the highway distribution account as provided in section 40-709, Idaho Code.

40-2113. TRANSFER OF PROPERTY, FUNDS AND MATERIEL. Except for the highways, bridges, public streets and public rights-of-way within the detached territory, none of the property, either real or personal, or any funds, material, supplies or equipment owned and under the control of the highway district from which the territory was detached shall be transferred to the newly organized highway district unless specifically authorized in writing by the highway district owning and controlling such property. However, the highway district organizing the new highway district may provide property, funds, personnel, materiel or services to the newly organized highway district in accordance with the provisions of section 67-2328, 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 31, 1994.

CHAPTER 332
(H.B. No. 908)

AN ACT

RELATING TO CONFLICTS OF INTEREST AND PUBLIC OFFICERS; AMENDING CHAPTER 2, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-201A, IDAHO CODE, TO PROVIDE THAT A PUBLIC OFFICER SHALL NOT BE DEEMED TO BE INTERESTED IN A CONTRACT IF HE HAS ONLY A REMOTE INTEREST, THE REMOTE INTEREST IS DISCLOSED TO THE BODY OF WHICH HE IS A MEMBER AND THE OFFICER WITH THE REMOTE INTEREST DOES NOT VOTE ON THE CONTRACT, TO DEFINE THE TERM REMOTE INTEREST, TO PROVIDE THAT THE PUBLIC OFFICIAL WITH THE REMOTE INTEREST SHALL NOT INFLUENCE OR ATTEMPT TO INFLUENCE ANY OTHER OFFICER OF THE BOARD OF WHICH HE IS AN OFFICER TO ENTER INTO THE CONTRACT AND TO PROVIDE PENALTIES.

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

SECTION 1. That Chapter 2, Title 59, Idaho Code, be, and the same

is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-201A, Idaho Code, and to read as follows:

59-201A. REMOTE INTERESTS. (1) A public officer shall not be deemed to be interested in a contract, within the meaning of section 59-201, Idaho Code, if he has only a remote interest in the contract and if the fact and extent of such interest is disclosed to the body of which he is an officer and noted in the official minutes or similar records prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section, "remote interest" means:

(a) That of a nonsalaried officer of a nonprofit corporation; or

(b) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary; or

(c) That of a landlord or tenant of a contracting party; or

(d) That of a holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party.

(2) Although a public official's interest in a contract may be only remote, a public official shall not influence or attempt to influence any other officer of the board of which he is an officer to enter into the contract. Violation of the provisions of this subsection shall be a misdemeanor as provided in section 59-208, Idaho Code. Any contract created or entered into in violation of the provisions of this subsection shall be void.

Approved March 31, 1994.

CHAPTER 333
(H.B. No. 921, As Amended)

AN ACT

RELATING TO POWERS AND DUTIES OF THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-118, IDAHO CODE, TO ELIMINATE THE REQUIREMENT THAT THE STATE BOARD OF EDUCATION PRESCRIBE COURSES FOR PRIVATE AND PAROCHIAL SCHOOLS.

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

SECTION 1. That Section 33-118, Idaho Code, be, and the same is hereby amended to read as follows:

33-118. COURSES OF STUDY -- TEXTBOOKS. The state board shall prescribe the minimum courses to be taught in all public elementary and secondary schools, ~~public, private and parochial,~~ and shall cause to be prepared and issued, such syllabi, study guides and other instruc-

tional aids as the board shall from time to time deem necessary. The board shall also determine how and under what regulations textbooks shall be adopted for the public schools.

Approved March 31, 1994.

CHAPTER 334
(H.B. No. 930)

AN ACT

RELATING TO MORTGAGE GUARANTY INSURANCE; AMENDING SECTION 41-2651, IDAHO CODE, TO PROVIDE THAT MORTGAGE GUARANTY INSURANCE MAY INSURE INDEBTEDNESS IN AN AMOUNT UP TO NINETY-SEVEN PERCENT OF THE FAIR MARKET VALUE OF THE REAL PROPERTY WHICH IS THE SECURITY FOR THE INDEBTEDNESS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-2651, Idaho Code, be, and the same is hereby amended to read as follows:

41-2651. DEFINITIONS. In this chapter unless context or subject matter otherwise requires:

(1) "Mortgage guaranty insurance" means:

(a) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real property, provided the improvement on such real property is a residential building or buildings designed for occupancy by not more than four (4) families, or a condominium unit.

(b) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real property, provided the improvement on such real property is a building or buildings designed for occupancy by five (5) or more families or designed to be occupied for industrial or commercial purposes.

(c) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real property, provided the improvement on such real property is a building or buildings designed to be occupied for industrial or commercial purposes.

(2) "Authorized real property security" for the purposes of paragraphs (a) and (b) of subsection (1) of this section means an amortized note, bond or other evidence of indebtedness, not exceeding ninety-~~five~~seven per cent (95~~7~~%) of the fair market value of the real estate, secured by a mortgage, deed of trust, or other instrument con-

stituting a first lien or charge on real property; provided:

(a) The real property loan secured in such manner is one which a bank, savings and loan association, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make.

(b) The improvement on such real property is a building or buildings designed for occupancy as specified by paragraphs (a) and (b) of subsection (1) of this section.

(c) The lien on such real property may be subject and subordinate to the following:

(i) The lien of any public bond, assessment, or tax, when no instalment, call or payment of or under such bond, assessment or tax is delinquent.

(ii) Outstanding mineral, oil or timber rights, rights of way, easements or rights of way of support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

(3) "Contingency reserve" means an additional premium reserve established for the protection of ~~policy-holders~~ policyholders against the effect of adverse economic cycles or losses.

(4) "~~Policy--holders~~ Policyholders' surplus" means the aggregate of paid-in capital stock, surplus and contingency reserve.

Approved March 31, 1994.

CHAPTER 335
(H.B. No. 954)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1995; APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE GUARDIAN AD LITEM ACCOUNT; APPROPRIATING MONEYS FROM THE GUARDIAN AD LITEM ACCOUNT TO THE SUPREME COURT; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. It is legislative intent that the expenditures for the Supreme Court not exceed the following amount for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$17,349,200
Water Resources Adjudication Fund	851,600
Miscellaneous Revenue Fund	215,800
TOTAL	$18,416,600

SECTION 2. There is hereby appropriated to the Supreme Court, the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. SUPREME COURT:					
FROM:					
General Fund	$ 2,175,400	$ 380,600		$52,500	$ 2,608,500
Miscellaneous Revenue Fund		215,800			215,800
TOTAL	$ 2,175,400	$ 596,400		$52,500	$ 2,824,300
B. LAW LIBRARY:					
FROM:					
General Fund	$ 272,700	$ 207,600	$ 57,700		$ 538,000
C. DISTRICT COURTS:					
FROM:					
General Fund	$ 5,291,200	$ 463,600	$ 873,400		$ 6,628,200
Water Resources Adjudication Fund	473,600	286,700	91,300		851,600
TOTAL	$ 5,764,800	$ 750,300	$ 964,700		$ 7,479,800
D. MAGISTRATES DIVISION:					
FROM:					
General Fund	$ 6,422,600	$ 266,400			$ 6,689,000
E. JUDICIAL COUNCIL:					
FROM:					
General Fund	$ 2,000	$ 67,300			$ 69,300
F. COURT OF APPEALS:					
FROM:					
General Fund	$ 713,000	$ 99,000	$ 4,200		$ 816,200
GRAND TOTAL	$15,350,500	$1,987,000	$1,026,600	$52,500	$18,416,600

SECTION 3. There is hereby appropriated from the General Fund for deposit in the Guardian Ad Litem Account the sum of $361,600.

SECTION 4. There is hereby appropriated from the Guardian Ad Litem Account to the Supreme Court the sum of $370,200 to be expended according to Section 16-1636, Idaho Code, for the period July 1, 1994, through June 30, 1995.

SECTION 5. It is legislative intent that of the amount appropriated in Section 2, an amount not to exceed $5,000 may be used at the discretion of the Chief Justice, to assist in defraying expenses relating to or resulting from the discharge of the Supreme Court Justices' official duties and the official duties of the Supreme Court. Further, it is legislative intent that an amount, not to exceed $1,500 of the amount appropriated in Section 2, may be used at the discretion of the Chief Judge of the Court of Appeals to assist in defraying expenses relating to or resulting from the discharge of the Court of

Appeals Judges' official duties and the official duties of the Court of Appeals. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved March 31, 1994.

CHAPTER 336
(H.B. No. 959)

AN ACT

APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Industrial Commission the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. COMPENSATION:					
FROM:					
Industrial Administration Fund	$1,554,300	$ 504,700	$77,700	$ 822,900	$2,959,600
Federal Grant Fund	4,200	4,900			9,100
Miscellaneous Revenue Fund		42,900			42,900
TOTAL	$1,558,500	$ 552,500	$77,700	$ 822,900	$3,011,600
B. REHABILITATION:					
FROM:					
Industrial Administration Fund	$2,164,900	$ 493,100	$45,500		$2,703,500
C. CRIME VICTIMS:					
FROM:					
Crime Victims Compensation Fund	$ 224,000	$ 51,500	$ 4,800	$1,146,600	$1,426,900
Federal Grant Fund				381,300	381,300
TOTAL	$ 224,000	$ 51,500	$ 4,800	$1,527,900	$1,808,200
D. ADJUDICATION:					
FROM:					
Industrial Administration Fund	$ 826,600	$ 327,800	$17,800		$1,172,200
GRAND TOTAL	$4,774,000	$1,424,900	$145,800	$2,350,800	$8,695,500

Approved March 31, 1994.

CHAPTER 337
(H.B. No. 962)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF HEALTH AND THE DIVISION OF WELFARE FOR FISCAL YEAR 1995, AND IDENTIFYING PROGRAM ENHANCEMENTS; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE VARIOUS FUNDS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Health and the Division of Welfare the following amounts to be expended for the designated programs according to the designated expense classes from the funds listed for the period July 1, 1994, through June 30, 1995, and identifying program enhancements:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DIVISION OF HEALTH SERVICES:					
A. PHYSICAL HEALTH SERVICES:					
FROM:					
General Fund	$ 725,100	$1,354,000		$ 1,421,100	$ 3,500,200
Cooperative Welfare Fund (Other)	564,300	417,100		361,300	1,342,700
Cancer Control Fund	19,700	362,700			382,400
Central Tumor Registry Fund				141,000	141,000
Cooperative Welfare Fund (Federal)	2,085,400	1,501,300		22,727,800	26,314,500
TOTAL	$3,394,500	$3,635,100		$24,651,200	$31,680,800

The appropriation in this section for Physical Health Services contains the following program enhancements:

(1) $16,000 of the appropriation from the Central Tumor Registry Fund is provided to cover increased operating expenses associated with the Idaho Hospital Association contract to maintain the Idaho Central Tumor Registry.

(2) $100,000 of the appropriation from the General Fund is provided to expand the Medical Educational Loan Repayment Program to attract more primary care physicians, nurse practitioners, and physi-

cian assistants to primary care shortage areas in rural Idaho.

(3) $60,000 of the appropriation from the General Fund is provided to implement the Primary Care Partnership Program. These funds are pass-through-only and the Department of Health and Welfare shall not retain any portion of the appropriation. In addition, this program shall sunset on June 30, 1996.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. EMERGENCY MEDICAL SERVICES:					
FROM:					
General Fund		$ 10,000			$ 10,000
Cooperative Welfare Fund (Other)		103,100		$ 23,500	126,600
Emergency Medical Services Funds I & II	$ 995,700	602,300		665,000	2,263,000
Cooperative Welfare Fund (Federal)	90,300	472,300			562,600
TOTAL	$1,086,000	$1,187,700		$688,500	$2,962,200

The appropriation in this section for Emergency Medical Services contains the following program enhancements:

(1) $208,100 of the appropriation from the Emergency Medical Services Fund I & II is provided to staff the Emergency Medical Services Communications and Poison Control Center.

(2) $20,000 of the appropriation from the Emergency Medical Services Fund I & II is provided as a one-time grant to the Shoshone-Bannock Emergency Medical Services First Responder Program and is contingent upon sufficient funds in this account. Of the stated amount, $15,000 shall be provided for emergency medical equipment and $5,000 shall be provided for training of emergency medical personnel. If revenues are determined to be insufficient by the Department of Health and Welfare on June 30, 1995, $20,000 of the Emergency Medical Services Fund I & II appropriation shall lapse.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. LABORATORY SERVICES:					
FROM:					
General Fund	$1,356,500	$ 299,400		$ 190,200	$ 1,846,100
Cooperative Welfare Fund (Other)	702,000	265,300		6,500	973,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Water Pollution Control Fund	103,400	15,800			119,200
Hazardous Waste Training, Emergency and Monitoring Fund	76,400	43,100			119,500
Cooperative Welfare Fund (Federal)	400,100	213,000		13,100	626,200
TOTAL	$2,638,400	$ 836,600		$ 209,800	$ 3,684,800
DIVISION TOTAL	$7,118,900	$5,659,400		$ 25,549,500	$ 38,327,800
II. DIVISION OF WELFARE:					
A. ELIGIBILITY SERVICES:					
FROM:					
General Fund	$ 8,686,400	$3,062,800			$ 11,749,200
Cooperative Welfare Fund (Other)	58,400	14,700			73,100
Cooperative Welfare Fund (Federal)	8,234,400	2,850,000			11,084,400
TOTAL	$16,979,200	$5,927,500			$ 22,906,700
B. MEDICAL ASSISTANCE PAYMENTS:					
FROM:					
General Fund	$2,507,700	$3,699,200	$ 7,500	$101,271,300	$107,485,700
Cooperative Welfare Fund (Other)	250,900	122,800		12,952,500	13,326,200
Medical Assistance Fund				15,000	15,000
Liquor Fund				650,000	650,000
Cooperative Welfare Fund (Federal)	3,426,100	5,291,300	8,800	241,701,700	250,427,900
TOTAL	$6,184,700	$9,113,300	$16,300	$356,590,500	$371,904,800

The appropriation in this section for Medical Assistance Payments contains the following program enhancements:

(1) $7,500,000 of the appropriation from the General Fund and $18,300,000 of the appropriation from the Cooperative Welfare Fund (Federal) is provided to cover increased enrollment in the Aid to Families with Dependent Children (AFDC) Program; the Pregnant Women and Children's (PWC) Program; and the Aid to the Aged, Blind and Disabled

(AABD) Program.

(2) $56,800 of the appropriation from the General Fund and $56,800 of the appropriation from the Cooperative Welfare Fund (Federal) is provided to implement the Legislature's intent that the Department of Health and Welfare make and collect assessments on a sliding fee scale from parents whose children are living in nursing homes, ICF-MR facilities, or receiving benefits under the Certain Disabled Children (Katie Beckett) Program. It is estimated that this action will save Medicaid $727,200 in fiscal year 1995.

(3) $51,700 of the appropriation from the General Fund and $141,200 of the appropriation from the Cooperative Welfare Fund (Federal) is provided to add additional third party recovery staff needed to handle caseload growth and to comply with federal surveillance and utilization guidelines. It is estimated that this action will save Medicaid $721,800 in fiscal year 1995 because of increased collections and third party recoveries.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. ADULT AND ADC ASSISTANCE PAYMENTS:					
FROM:					
General Fund				$16,577,800	$16,577,800
Cooperative Welfare Fund (Other)				9,200,000	9,200,000
Cooperative Welfare Fund (Federal)				17,305,000	17,305,000
TOTAL				$43,082,800	$43,082,800

The appropriation in this section for Adult and ADC Assistance Payments contains the following program enhancements:

(1) $1,215,900 of the appropriation from the General Fund and $1,334,300 of the appropriation from the Cooperative Welfare Fund (Federal) is provided to cover increased enrollment in the Aid to Families with Dependent Children (AFDC) Program and in the Aid to the Aged, Blind and Disabled (AABD) Program.

(2) $221,000 of the appropriation from the General Fund is provided to increase Residential Care and Adult Foster Care rates by two percent.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. CHILD SUPPORT ENFORCEMENT:					
FROM:					
General Fund	$ 738,000	$ 1,064,400	$17,200		$ 1,819,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Other)	853,400	322,100			1,175,500
Cooperative Welfare Fund (Federal)	3,620,900	5,356,200	58,100		9,035,200
TOTAL	$ 5,212,300	$ 6,742,700	$75,300		$ 12,030,300
DIVISION TOTAL	$28,376,200	$21,783,500	$91,600	$399,673,300	$449,924,600
GRAND TOTAL	$35,495,100	$27,442,900	$91,600	$425,222,800	$488,252,400

The appropriation in this section for Child Support Enforcement contains the following program enhancements: $128,800 of the appropriation from the General Fund and $862,300 of the appropriation from the Cooperative Welfare Fund (Federal) is provided to develop a new computer system in response to noted deficiencies identified during a federal office of child support enforcement audit.

SECTION 2. As appropriated, the State Auditor shall make transfers of the General Fund, the Water Pollution Control Fund and the Hazardous Waste Training, Emergency, and Monitoring Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. Notwithstanding any other provision of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources.

SECTION 4. There is hereby reappropriated to the Department of Health and Welfare for the Division of Health and the Division of Welfare, any unexpended and unencumbered balances of the Cooperative Welfare Fund moneys as appropriated in fiscal year 1994, for the Division of Health and the Division of Welfare to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 5. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for the Division of Health and the Division of Welfare is hereby authorized to expend all receipts collected in the Division of Health and the Division of Welfare as noncognizable funds for the period July 1, 1994, through June 30, 1995.

Approved March 31, 1994.

CHAPTER 338
(H.B. No. 963)

AN ACT

RELATING TO THE STATE EXPENDITURE LIMIT; AMENDING SECTION 67-6803, IDAHO CODE, TO EXEMPT ONE-TIME APPROPRIATIONS FROM THE LIMIT, TO PROVIDE A CLARIFICATION AND TO CORRECT A CODIFIER'S ERROR.

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

SECTION 1. That Section 67-6803, Idaho Code, be, and the same is hereby amended to read as follows:

67-6803. EXPENDITURE LIMITS. (a) The legislature shall not, by ongoing appropriation for any fiscal year, cause the expenditure of general ~~account~~ fund revenues for that fiscal year to exceed five and one-third percent (5 1/3%) of the total personal income of the state for the ensuing fiscal year as determined by the economic estimates commission. One-time general fund appropriations are not to be included in the expenditure limit.

(b) In order to permit the transference of governmental functions between the federal and state governments and between the state government and its political subdivisions and school districts, without abridging the purpose of this act, adjustments to the appropriation percentage limitation of total personal income shall be specifically detailed in appropriations and shall be consistent with the following principles:

(1) If, by order of any court or by legislative enactment on or after January 1, 1980, the costs of a program or any portion thereof are ~~trans-ferred~~ transferred from a political subdivision of this state or school district to the state, the appropriation percentage limitation may be commensurately increased provided the tax revenues of the affected political subdivisions or school districts are commensurately decreased.

(2) If, by order of any court or by legislative enactment on or after January 1, 1980, the costs of a program or any portion thereof are transferred from the state to a political subdivision of this state, the appropriation percentage limitation shall be commensurately decreased, and the tax rates of the political subdivision may be commensurately increased.

(3) If funds provided by the federal government in support of an existing service or program are eliminated or significantly curtailed on or after January 1, 1980, the appropriation percentage limitation may be commensurately increased by the amount of the increased state costs incurred in ~~continuing~~ providing such service or program or any portion thereof pursuant to an order of any court or by legislative enactment.

(4) If the costs of a program are transferred from the state to the federal government on or after January 1, 1980, the appropriation percentage limitation shall be commensurately decreased.

Approved March 31, 1994.

CHAPTER 339
(H.B. No. 964)

AN ACT

AUTHORIZING THE DEPARTMENT OF ADMINISTRATION AND DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO FINANCE THE CONSTRUCTION OF CERTAIN FACILITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. The Legislature recognizes the need for public facilities for use by the Department of Parks and Recreation for headquarters and offices and related improvements. The Legislature declares it to be "to the economic benefit of the citizens of the State of Idaho to provide sufficient office space and necessary related facilities for such governmental bodies and thus provide a more efficient and more economical operation of state government," as provided in Section 67-6404, Idaho Code.

New facilities are being constructed to meet the needs of the Department of Parks and Recreation and the cost of developing such new facilities in the maximum amount of $3,306,412 is being financed through the State Insurance Fund. It is advantageous to arrange for refinancing of lower interest rates available through tax-exempt financing.

The Legislature hereby authorizes the Department of Administration, Division of Public Works, and the Department of Parks and Recreation of the State of Idaho to enter into an agreement or agreements with the Idaho State Building Authority, upon such terms and conditions as may be reasonable and necessary, for the purpose of refinancing and providing office and related facilities being developed and constructed for the Idaho Department of Parks and Recreation.

This act shall for all purposes constitute prior legislative approval in accordance with Section 67-6410, Idaho Code, with respect to the agreement or agreements and the facilities referred to herein.

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 31, 1994.

CHAPTER 340
(H.B. No. 736)

AN ACT

RELATING TO JOINT CUSTODY AND DOMESTIC VIOLENCE; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 32-717B, IDAHO CODE, TO PROVIDE THAT THERE SHALL BE A PRESUMPTION THAT JOINT CUSTODY IS NOT IN THE BEST INTERESTS OF A MINOR CHILD OR CHILDREN IF ONE OF THE PARENTS IS

FOUND BY THE COURT TO BE A PERPETRATOR OF DOMESTIC VIOLENCE.

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

SECTION 1. The Legislature finds that joint custody requires the ability of parents to cooperate in joint decision-making. In relationships where there is a history of physical violence, joint custody is inappropriate since the requirement of cooperative decision-making is not evident. The spirit and intent of joint custody arrangements is compromised by custody orders that result in or maintain hostility and the risk of further violence. Therefore, custody arrangements should not effectively maintain a level of continuous turmoil in the family or hinder the ability of a parent to make appropriate and timely decisions regarding the child and the child's safety.

SECTION 2. That Section 32-717B, Idaho Code, be, and the same is hereby amended to read as follows:

32-717B. JOINT CUSTODY. (1) "Joint custody" means an order awarding custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child or children of frequent and continuing contact with both parents. The court may award either joint physical custody or joint legal custody or both as between the parents or parties as the court determines is for the best interests of the minor child or children. If the court declines to enter an order awarding joint custody, the court shall state in its decision the reasons for denial of an award of joint custody.

(2) "Joint physical custody" means an order awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents or parties.

Joint physical custody shall be shared by the parents in such a way to assure the child a frequent and continuing contact with both parents but does not necessarily mean the child's time with each parent should be exactly the same in length nor does it necessarily mean the child should be alternating back and forth over certain periods of time between each parent.

The actual amount of time with each parent shall be determined by the court.

(3) "Joint legal custody" means a judicial determination that the parents or parties are required to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of a child or children.

(4) Except as provided in subsection (5), of this section, aAbsent a preponderance of the evidence to the contrary, there shall be a presumption that joint custody is in the best interests of a minor child or children.

(5) There shall be a presumption that joint custody is not in the best interests of a minor child if one (1) of the parents is found by the court to be a habitual perpetrator of domestic violence as defined in section 39-6303, Idaho Code.

Approved April 1, 1994.

CHAPTER 341
(H.B. No. 722)

AN ACT

RELATING TO TAXIDERMIST LICENSE FEES; AMENDING SECTION 36-602, IDAHO CODE, TO PROVIDE THAT NONRESIDENT FUR BUYERS LICENSE FEES BE EQUAL TO FEES CHARGED TO IDAHO FUR BUYERS IN APPLICANT'S STATE OF RESIDENCE.

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

SECTION 1. That Section 36-602, Idaho Code, be, and the same is hereby amended to read as follows:

36-602. LICENSE FEES -- EXPIRATION. (a) A fee of ten dollars ($10.00) shall be charged for a taxidermist license.

(b) Resident Fur Buyers License. A fee of five dollars ($5.00) shall be charged for a resident fur buyers license.

(c) Nonresident Fur Buyers License. ~~A--fee--of-twenty-dollars ($20.00)-shall-be-charged-for-a-nonresident-fur-buyers-license~~ Nonresidents shall pay an amount equal to that charged Idaho residents in the state of the applicant for a nonresident fur buyer's license. In no case shall this amount be less than twenty dollars ($20.00). The department shall promulgate rules implementing the provisions of this section.

(d) The expiration date for such licenses shall be June 30 next following the date of issuance.

Approved April 6, 1994.

CHAPTER 342
(H.B. No. 883, As Amended)

AN ACT

RELATING TO INCOME TAX CREDITS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029D, IDAHO CODE, TO PROVIDE A STATE INCOME TAX CREDIT FOR INCOME TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 1994, FOR PURCHASES OF QUALIFIED EQUIPMENT USED IN CONNECTION WITH THE MANUFACTURE OF PRODUCTS COMPOSED OF POSTCONSUMER WASTE OR POSTINDUSTRIAL WASTE; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029D, Idaho Code, and to read as follows:

63-3029D. TAX CREDIT FOR QUALIFIED EQUIPMENT UTILIZING

POSTCONSUMER WASTE OR POSTINDUSTRIAL WASTE. (1) For income tax years commencing on and after January 1, 1994, there shall be allowed a credit against the tax imposed pursuant to this chapter for each taxpayer who purchases qualified equipment on and after January 1, 1994.

(2) The credit provided pursuant to the provisions of subsection (1) of this section shall be an amount equal to twenty per cent (20%) of the costs incurred by the taxpayer for purchases of qualified equipment and shall be claimed in the income tax year in which at least ninety per cent (90%) of the total production of such qualified equipment is used by the taxpayer to manufacture products utilizing postconsumer waste or postindustrial waste. In no event shall the tax credit be more than thirty thousand dollars ($30,000) per tax year.

(3) If the amount of the credit provided pursuant to the provisions of subsection (2) of this section exceeds the amount of income taxes otherwise due on the income of the taxpayer in the income tax year for which the credit is being claimed, the amount of the credit not used as an offset against income taxes in such income tax year may be carried forward as a credit against subsequent years' income tax liability for a period not exceeding seven (7) years and shall be applied first to the earliest income tax years possible. Any amount of the credit which is not used after such period shall not be refundable to the taxpayer.

(4) As used in this section:

(a) "Collection" means:

(i) The acquisition of materials from businesses or the general public through purchase or donation, including the organization of systems for such acquisitions;

(ii) The preparation of materials for over-the-road transportation through cleaning, densification by shredding, baling, or any other method, or coalescence, including the organization of systems for such preparation; or

(iii) The transportation of postconsumer waste or postindustrial waste between separate geographical locations.

(b) "Costs" mean the amount of the purchase price or the amount of the annual lease payment.

(c) "Postconsumer waste" or "postindustrial waste" means only those products and materials consisting of paper, glass or plastic generated by businesses or consumers which have served their intended end use or usefulness and either have been or would normally be disposed of as solid waste except for the fact that they are separated from solid waste for purposes of collection, recycling or reuse. "Postconsumer waste" or "postindustrial waste" shall not include radioactive waste, as defined in this section, or hazardous waste, as defined in chapter 44, title 39, Idaho Code.

(d) "Product" means any material resulting from a manufacturing process and offered for sale to the private or public sector which is composed of at least fifty per cent (50%) postconsumer waste or postindustrial waste. "Product" does not include any shredded material unless such shredded material is incorporated directly into the manufacturing process.

(e) "Purchase" means:

(i) Any transaction under which title to qualified equip-

ment is transferred for consideration; or

(ii) Any lease contract for qualified equipment for a period of at least three (3) years regardless of whether title to qualified equipment is transferred at the end of such period.

(f) "Qualified equipment" means machinery or equipment located within Idaho which has at least an estimated three (3) years useful life and of which at least ninety per cent (90%) of the total production thereof is used by the taxpayer to manufacture products utilizing postconsumer waste or postindustrial waste. "Qualified equipment" shall not include any machinery or equipment which is used for the collection of postconsumer waste or postindustrial waste.

(g) "Radioactive waste" or "nuclear waste" means a waste or combination of wastes of a solid, liquid, semisolid or contained gaseous form which contains radiation as that term is defined in section 39-3003, Idaho Code.

(5) Any recomputation of the credit allowed in subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of its useful life, shall be determined according to section 47 of the Internal Revenue Code, as such existed on November 5, 1990.

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

Approved April 6, 1994.

CHAPTER 343
(H.B. No. 550)

AN ACT

RELATING TO THE STATE MILITIA; AMENDING SECTION 46-105, IDAHO CODE, TO REMOVE THE RESTRICTION PLACED ON THE GOVERNOR TO AUTHORIZE THE APPOINTMENT OF FEMALES IN THE NATIONAL GUARD AND ORGANIZED MILITIA TO NONCOMBATANT POSITIONS ONLY.

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

SECTION 1. That Section 46-105, Idaho Code, be, and the same is hereby amended to read as follows:

46-105. APPOINTMENT AND ENLISTMENT OF FEMALE CITIZENS. The governor may authorize the appointment and enlistment of female citizens of the state in the ~~medical corps, nurse corps, and other noncombatant branches and services of the~~ national guard and organized militia, and while so serving they shall have the same status as male members of the military forces.

Approved April 7, 1994.

CHAPTER 344
(H.B. No. 578)

AN ACT

RELATING TO TECHNICAL AMENDMENTS TO THE MOTOR FUELS TAX ACT; AMENDING SECTION 63-2401, IDAHO CODE, RELATING TO DEFINITIONS, TO CLARIFY "AIRCRAFT ENGINE FUEL," "GASOHOL," "GASOLINE," "MOTOR FUEL," "RETAIL DEALER," "SPECIAL FUELS DEALER," AND "SPECIAL FUELS USER," TO ADD A DEFINITION OF "WHOLESALER," TO DELETE EXCLUSIONS FROM THE DEFINITION OF "SPECIAL FUELS" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2409, IDAHO CODE, TO DELETE THE REQUIREMENT THAT THE TAX COMMISSION PUBLISH THE VOLUME OF DISTRIBUTORS' PURCHASES EACH MONTH; AMENDING SECTION 63-2416, IDAHO CODE, RELATING TO LEVY OF TAX ON SPECIAL FUELS, TO CLARIFY LEVY OF TAX ON OPERATION AS WELL AS PROPULSION OF MOTOR VEHICLES, ADDING EXEMPTIONS FROM SPECIAL FUELS, AND MOVING BACKUP USE TAX FROM SECTION 63-2417, IDAHO CODE; REPEALING SECTION 63-2417, IDAHO CODE; AMENDING SECTION 63-2419, IDAHO CODE, TO AUTHORIZE THE STATE TAX COMMISSION TO PUBLISH LISTS OF LICENSED SPECIAL FUELS DEALERS; AMENDING SECTION 63-2434, IDAHO CODE, TO INCORPORATE BY REFERENCE STATUTES GOVERNING FILING TAX RETURNS AND OTHER DOCUMENTS WITH THE TAX COMMISSION BY MAIL; AMENDING SECTION 63-2439, IDAHO CODE, TO DELETE INCONSISTENT RULES RELATING TO FILING TAX RETURNS AND OTHER DOCUMENTS WITH THE TAX COMMISSION BY MAIL; AMENDING SECTION 63-2440, IDAHO CODE, TO DELETE OBSOLETE PROVISIONS ALLOWING SOME SPECIAL FUELS USERS TO BE GRANTED ANNUAL EXCLUSION FROM SPECIAL FUELS PERMIT REQUIREMENTS; AMENDING SECTION 63-2442A, IDAHO CODE, TO GRANT THE TAX COMMISSION EXPANDED AUTHORITY TO MAKE COOPERATIVE AGREEMENTS WITH OTHER STATES, TO REQUIRE PARTICIPATION IN THE INTERNATIONAL FUEL TAX AGREEMENT, AND TO AUTHORIZE THE STATE TAX COMMISSION TO ENTER RECIPROCAL AGREEMENTS WITH OTHER STATES FOR COLLECTION OF MOTOR FUELS TAXES.

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 <u>any</u> mixture of volatile hydrocarbons ~~blended--specifically--for~~ use<u>d</u> in aircraft reciprocating engines; and

(b) Jet fuel, defined as a<u>ny</u> mixture of volatile hydrocarbons ~~blended--specifically--for~~ use<u>d</u> in aircraft turbojet and turboprop engines.

(2) "Bond" means:

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

this chapter; or

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

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

(3) "Bulk storage tank" means a tank with a capacity of fifty-five (55) gallons capacity or more which meets both of the following criteria:

(a) It is physically attached to the real property of a purchaser of special fuels which are delivered into the tank.

(b) It is primarily used to store special fuels which are used by the purchaser of the special fuels for purposes other than propelling a motor vehicle on a highway.

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

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

(6) "Distributor" means any person who receives gasoline and/or aircraft fuel in this state.

(7) "Gasohol" means ~~a motor fuel~~ gasoline containing a mixture of at least ten percent (10%) blend anhydrous ethanol.

(8) "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.

(9) "Highways" mean every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who is registered under section 63-2438, Idaho Code, pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuel's tax liability or refund.

(10) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2409, Idaho Code.

(11) "Licensed special fuels dealer" means any special fuels dealer licensed under the provisions of section 63-2419, Idaho Code.

(12) "Motor fuel" means ~~all fuel subject to tax under this chapter~~ gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles or motor boats.

(13) "Motor vehicle" means every self-propelled vehicle designed

for operation, or required to be licensed for operation, upon a highway.

(14) "Person" means any individual, firm, fiduciary, copartnership, association, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(15) "Qualified one-way rental truck" means a motor vehicle registered in Idaho at a gross weight of twenty-six thousand (26,000) pounds or under having two (2) axles and a straight body which is exclusively used by the owner in the business of renting such vehicle without driver to the general public. It does not include a "truck tractor" as defined in section 49-121, Idaho Code. To be a qualified one-way rental truck the vehicle must display clearly identifiable commercial or other markings which identify the vehicle as part of a specific one-way rental fleet.

(16) "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.

(17) "Retail dealer" means any person engaged in the retail sale of ~~gasoline--and/or--aircraft-engine~~ motor fuels to the public or for use in the state.

(18) "Special fuels" mean:

(a) A~~a~~ll fuel suitable as fuel for diesel engines~~,-or~~;

(b) A~~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 ~~includes~~

(c) N~~n~~atural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles. ~~It-does-not-include-fuels-for-off-road-agricultural-use,-domestic-heating-or-other-nonhighway--use,--nor--does--it--include-fuels-used-in-motor-vehicles-over-sixteen-thousand-(16,000)-pounds-maximum-gross-weight-owned-or-leased-and-operated-by-an-instrumentality--of-the-federal-government-or-of-the-state-of-Idaho-including-the-state-and-all-of-its-political-subdivisions.~~

(19) "Special fuels dealer" means any person in the business of handling special fuels and:

(a) Who delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him; or

(b) Who sells special fuels to another ~~special-fuel-dealer~~ person who is not a licensed special fuels dealer.

(20) "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.

(21) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed dis-

tributor 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.

(22) "Wholesaler" means any person who, as a regular part of their trade or business, makes sales of special fuels to special fuels dealers for resale.

SECTION 2. That Section 63-2409, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 3. That Section 63-2416, Idaho Code, be, and the same is hereby amended to read as follows:

63-2416. TAX IMPOSED. (1) For the privilege of using the public highways, an excise tax is hereby imposed on all special fuels used for the operation or propulsion of any motor vehicle which is licensed or required to be licensed under the laws of this state or which is required to be licensed under the laws of another state and is operated on a highway in this state. The tax shall apply at the same rate as the tax imposed by section 63-2405, Idaho Code. The tax shall attach and be collected at the time of delivery. Licensed special fuels dealers shall collect the tax and pay it over to the commission.

(2) The tax imposed in subsection (1) of this section does not apply to special fuels intended for off-road vehicular use, domestic heating or other nonhighway use, nor does it include fuels used in motor vehicles over sixteen thousand (16,000) pounds maximum gross weight owned or leased and operated by an instrumentality of the federal government or of the state of Idaho, including the state and all of its political subdivisions.

(3) When the motor vehicle to which gaseous special fuel is delivered displays a valid gaseous special fuels permit under section 63-2424, Idaho Code, the tax imposed by subsection (1) of this section shall not be collected by the special fuels dealer.

(~~3~~4) Special fuels delivered into a bulk storage tank ~~shall--be presumed--to be fuel consumed for nonhighway use and therefore~~ are not subject to the tax imposed in subsection (1) of this section. All other special fuels, except propane not delivered into the fuel supply tank of a motor vehicle, shall be presumed to be subject to tax except

as provided in subsection (5) or (6) of this section.

(~~4~~5) Special fuels delivered by a licensed special fuels dealer who is also a wholesaler are not subject to the tax imposed in subsection (1) of this section when the fuel is delivered by means of an attended, metered pump and through a hose with an inside diameter of at least one and one-half (1 1/2) inches. The exemption provided in this subsection shall not apply to fuel delivered into the motor fuel supply tank of a motor vehicle.

(~~5~~6) A licensed special fuels dealer may apply to the state tax commission for authority to sell untaxed special fuels solely to purchasers who will use the special fuels in motor vehicles which are exempt for off-road consumption. Authority to make such sales shall be granted only upon the condition that the special fuels purchaser be registered with the state tax commission and hold a special fuels permit issued under section 63-2440 or 63-2442A, Idaho Code. Dealers granted authority to make untaxed sales under this subsection must maintain a record of all untaxed sales, which record shall include the purchaser's name, address, special fuels permit number, and number of gallons sold. A dealer granted authority to sell untaxed special fuels under this subsection may have such authority revoked by the state tax commission in the manner provided for the revocation of licenses in section ~~63-2450~~ 63-2430, Idaho Code.

(7) If fuel on which tax is not collected under subsection (1) of this section, including special fuels delivered into a bulk storage tank, is used or consumed in the operation or propulsion of a motor vehicle on a highway, the tax shall be payable at the rate established in section 63-2405, Idaho Code, to the commission by the user or consumer of the fuels and shall be a debt owing to the state until it is paid.

SECTION 4. That Section 63-2417, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 63-2419, Idaho Code, be, and the same is hereby amended to read as follows:

63-2419. SPECIAL FUELS DEALERS' LICENSES. (1) It shall be unlawful for any person to act as a special fuels dealer in this state unless:

(a) T~~t~~he person is the holder of a valid special fuels dealer's license issued to him by the commission; or

(b) P~~p~~urchases all special fuels from a licensed special fuels dealer who charges the tax imposed in section 63-2416, Idaho Code, on all fuel purchased. Application for a special fuels dealer's license shall be made upon a form and in a manner provided by the commission, shall contain information as it deems necessary, and be accompanied by a bond in the amount required in section 63-2428, Idaho Code.

(2) Upon receipt of the application and bond in proper form the commission shall issue to the applicant a special fuels dealer's license unless the applicant:

(a) Is a person who formerly held a license under the provisions of this chapter or any predecessor statute which license, prior to

the time of filing the application, had been revoked for cause; or

(b) Who is not the real party in interest and the real party in interest is a person described in subsection (2)(a) of this section.

(3) A special fuels dealer's license shall be valid until suspended or revoked for cause, for failure to maintain the bond required in section 63-2428, Idaho Code, or otherwise canceled.

(4) No special fuels dealer's license shall be transferable.

(5) The commission shall furnish each licensed special fuels dealer with a list of all special fuels dealers licensed pursuant to this section. The list shall be supplemented by the commission from time to time to reflect additions and deletions.

SECTION 6. That Section 63-2434, Idaho Code, be, and the same is hereby amended to read as follows:

63-2434. ENFORCEMENT PROVISIONS. For the purpose of carrying out its duties to enforce or administer the provisions of this chapter, the commission shall have the powers and duties provided by sections 63-3038, 63-3039, 63-3042 through 63-3066, 63-3068, 63-3071, ~~and~~ 63-3074 through 63-3078, and 63-2221 through 63-2223, Idaho Code, which sections are incorporated by reference herein as though set out verbatim.

SECTION 7. That Section 63-2439, Idaho Code, be, and the same is hereby amended to read as follows:

63-2439. RETURNS AND PAYMENT BY HOLDERS OF SPECIAL FUELS PERMITS. (1) For the purpose of reporting the amount of tax due and payable under section 63-241~~7~~6, Idaho Code, each person issued a special fuels permit as required under section 63-2438, Idaho Code, shall file with the commission in the manner and form prescribed by it, a tax return. The return may be filed annually, semiannually, quarterly or monthly, as permitted by the tax commission. Such return shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the return and shall be in lieu of such verification. The return shall show such information as the commission may reasonably require for the proper administration and enforcement of this chapter. The return shall be filed on or before the last day of the next ~~sched-uling~~ calendar month following the period to which it relates.

~~If the final filing date falls on Saturday, Sunday or a legal holiday, the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing such report properly addressed to the commission, or on the date it was mailed, if proof satisfactory to the commission establishes the date it was mailed.~~

(2) The tax return shall be accompanied by the remittance covering the tax due hereunder, for use of special fuels during the preceding reporting period. The tax due shall be calculated by multiplying the tax rate per gallon provided in section 63-2405, Idaho Code, by

the number of gallons of special fuels consumed in the operation or propulsion of a motor vehicle upon the highways of this state, which displays a special fuels permit, less any tax paid under section 63-2416, Idaho Code. The gallons consumed shall be calculated by dividing the miles traveled on the public highways of this state by such motor vehicles by the fleet average miles per gallon of such motor vehicles.

SECTION 8. That Section 63-2440, Idaho Code, be, and the same is hereby amended to read as follows:

63-2440. EXEMPTIONS FROM SPECIAL FUELS PERMITS AND RETURNS. (1) ~~Any--person--who--consumes--special-fuels-in-the-propulsion-of-a-motor vehicle-over-twenty-six-thousand-(26,000)-pounds-maximum-gross--weight upon-the-highways-of-this-state-and-all-of-whose-vehicles-over-twenty-six--thousand--(26,000)--pounds--maximum-gross-weight-operate-at-least ninety-percent-(90%)-of-their-miles-in-this-state--may--apply--to--the commission--for--exemption-from-the-provisions-of-sections-63-2438-and 63-2439,-Idaho-Code,-and-upon-presentation--of--satisfactory--evidence that--the--person--confines--his--purchases--of-special-fuels-to-those delivered-into-the-motor-fuels-supply-tank-of-his-motor-vehicles-by--a licensed-special-fuels-dealer-in-this-state,-the-commission-may-exempt the--person--from--the--display--of-special-fuels-permits,-bonding-and reporting-requirements-of-sections-63-2438-and-63-2439,-Idaho-Code.~~

~~(2)~~ In lieu of obtaining a special fuels permit pursuant to this chapter, any person operating a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight, propelled by special fuels in this state, shall secure a temporary trip permit under section 49-432, Idaho Code, authorizing the operation of such vehicle in the state for a period not to exceed ninety-six (96) hours. The temporary trip permit shall be obtained through the Idaho transportation department. The fees shall be those provided by section 49-432, Idaho Code, and the revenues shall be distributed as provided by section 40-701, Idaho Code.

(~~3~~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.

(~~4~~3) The commission may, in its discretion, grant the owner of any fleet of qualified one-way rental trucks, as defined in section 63-2401, Idaho Code, an exclusion from the requirements of sections 63-2438 and 63-2439, Idaho Code. The person engaged in the business of renting qualified one-way rental trucks may apply to the commission for such an exclusion. The application shall be in such form and contain such information as the commission may require. The application may be refused, or once granted, may be cancelled by the commission if it finds the granting of this exclusion may lead to avoidance of any tax imposed by this chapter.

~~(5)--Special--fuel--dispensed--into--the--fuel--tank--of-a-vehicle described-in-subsections-(1),-(2)-and-(4)-of--this--section--shall--be subject--to-tax-at-the-pump-in-the-manner-required-in-section-63-2416,~~

~~Idaho Code:~~

SECTION 9. That Section 63-2442A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2442A. COOPERATIVE AGREEMENTS BETWEEN STATES. (1) The commission may enter into cooperative agreements with other states~~,~~ for exchange of information and auditing of distributors, special fuels dealers and users of motor fuels ~~used in fleets of motor vehicles operated or intended to operate interstate~~. The commission shall participate in the international fuel tax agreement as required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, including subsequent amendments to that agreement. If the provisions set forth in the international fuel tax agreement are in conflict with any provision of this chapter, the agreement provisions shall prevail. An agreement, arrangement, declaration or amendment thereto is not effective until stated, in writing, and filed with the commission.

(2) An agreement may provide for determining the base state for users, users records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods including defining uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of motor fuels taxes and penalties to another jurisdiction, and other provisions as will facilitate the administration of the agreement.

(3) The commission may, as required by the terms of an agreement, forward to officers of another state any information in the commission's possession relative to the manufacture, receipts, sale, use, transportation, or shipment of motor fuels by any person. The commission may disclose to officers of another state, the location of officers, motor vehicles, and other real and personal property of users of motor fuels.

(4) An agreement may provide for each state to audit the records of persons based in the state, to determine if the motor fuels taxes due each state are properly reported and paid. Each state shall forward the findings of the audits performed on persons based in the state, to each state in which the person has taxable use of motor fuels. For persons not based in this state and who have taxable use of motor fuels in this state, the commission may serve the audit findings received from another state, in the form of an assessment, on the person as though an audit was conducted by the commission.

(5) The commission may enter into additional cooperative agreements with other states for mutual enforcement of taxes on gasoline and special fuels not subject to collection pursuant to the international fuel tax agreement. Such agreements may provide for collection and enforcement of the motor fuels taxes of all signatory states pursuant to the law, rules, and regulations of the state in which a person liable for such taxes maintains his principal place of business. An agreement may provide for any or all of the following: determining the base state of persons liable for taxes, records requirements, audit procedures, exchange of information, persons eligible for tax

licensing, determining if bonding is required, specifying reporting requirements and periods including defining uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of motor fuels taxes and penalties to another jurisdiction, and other provisions as will facilitate the administration of the agreement.

(6) Any agreement entered into pursuant to this section does not preclude the commission from auditing the records of any person covered by the provisions of this chapter.

(~~6~~7) The legal remedies for any person served with an order or assessment under this section are as prescribed in this chapter.

(~~7~~8) If the commission enters into any agreement under the authority of this section, and the provisions set forth in the agreement are in conflict with any rules or regulations promulgated by the commission, the agreement provisions prevail.

Approved April 7, 1994.

CHAPTER 345
(H.B. No. 583)

AN ACT

RELATING TO SCHOOL DISTRICT FACILITY FUNDING; AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE THAT LOTTERY DIVIDENDS AND INTEREST EARNED THEREON IN THE SCHOOL DISTRICT BUILDING ACCOUNT SHALL BE DISTRIBUTED TO SCHOOL DISTRICTS BASED UPON THE AVERAGE DAILY ATTENDANCE OF THAT DISTRICT.

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

SECTION 1. That Section 33-905, Idaho Code, be, and the same is hereby amended to read as follows:

33-905. SCHOOL DISTRICT BUILDING ACCOUNT -- PAYMENTS TO ACCOUNT -- MONEYS APPROPRIATED TO STATE BOARD -- APPLICATION FOR MONEYS -- PAYMENTS TO DISTRICTS -- REPORTS ON APPLICATIONS -- USES OF MONEYS. 1. The state of Idaho, recognizing its responsibility to establish and maintain a general, uniform and thorough system of public, free common schools, in an effort to partially fulfill this responsibility, hereby creates and establishes the school district building account in the agency asset fund. The school district building account shall have paid into it such appropriations or revenues as may be provided by law.

2. Moneys in the school district building account are hereby appropriated to and may be expended by the state board of education at any time for the purposes provided in this section, any provision of chapter 35, title 67, Idaho Code, or chapter 36, title 67, Idaho Code, notwithstanding.

3. (a) ~~Commencing July 1, 1994,~~ As to any moneys in the account other than lottery dividends distributed pursuant to subsection 4. of this section, the board of trustees of any school district may

apply to the state board of education to receive a payment or payments from the school district building account; provided, a district demonstrates to the state board of education that it has a substantial and serious need based upon the district's classroom student-teacher ratios, past efforts to levy for such construction, physical condition of existing structures, and the total assessed market value of the district, all of which shall be further defined by actual need criteria established by the state board of education.

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

4. By not later than August 31 ~~of 1991, 1992 and 1993~~, moneys in the account pursuant to distribution from section 67-7434, Idaho Code, the lottery dividends and interest earned thereon, shall be distributed to each of the several school districts, in the proportion that the average daily attendance of that district for the previous school year bears to the total average daily attendance of the state during the previous school year. Average daily attendance shall be calculated as provided in section 33-1002 4., Idaho Code.

5. All payments from the school district building account shall be paid out directly to the school district in warrants drawn by the state auditor upon presentation of proper vouchers from the state board of education. Pending payments out of the school district building account, the moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be returned to the school district building account.

6. Payments from the school district building account received by a school district may be used by the school district for the purposes authorized in section 33-1102, Idaho Code.

Approved April 7, 1994.

CHAPTER 346
(H.B. No. 618, As Amended, As Amended in the Senate)

AN ACT

RELATING TO CRIMES INVOLVING ANIMALS; AMENDING THE HEADING FOR CHAPTER 21, TITLE 18, IDAHO CODE, TO REDESIGNATE THE CHAPTER AND TITLE; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 25-3501 AND 25-3502, IDAHO CODE, TO PROVIDE ADMINISTRATION AND TO DEFINE TERMS; AMENDING SECTION 18-2101, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE CRIME OF POISONING ANIMALS; AMENDING SECTION 18-2102, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE THE CRIME OF COMMITTING CRUELTY TO ANIMALS; AMENDING SECTION 18-2103, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE CRIME OF CARRYING AN ANIMAL IN A CRUEL MANNER;

AMENDING SECTION 18-2104, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE CRIME OF PERMITTING ANIMAL FIGHTS FOR AMUSEMENT; AMENDING SECTION 18-2105, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-2106, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-2107, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO DELETE LANGUAGE REGARDING SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS; AMENDING SECTION 18-2108, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE THE CRIME OF IMPOUNDING ANIMALS WITHOUT FOOD OR WATER; AMENDING SECTION 18-2109, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE THE CRIME OF PERMITTING ANIMALS TO GO WITHOUT CARE AND TO PROVIDE FOR ABANDONED ANIMALS TO BE HUMANELY DESTROYED; AMENDING SECTION 18-2110, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE PROCEDURES WHEN ANIMALS ARE LEFT WITH VETERINARIANS; AMENDING SECTION 18-2111, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROCEDURES FOR PROSECUTION; REPEALING SECTION 18-2112, IDAHO CODE; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3514, IDAHO CODE, TO PROVIDE WHEN THE CHAPTER WILL BE CONSTRUED NOT TO INTERFERE WITH NORMAL OR LEGAL PRACTICES; AMENDING SECTION 18-2113, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE WHEN THE CHAPTER WILL NOT INTERFERE WITH CERTAIN FISH AND GAME LAWS; AMENDING SECTION 18-2114, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 18-2115, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE WHEN ANIMALS MAY BE HUMANELY DESTROYED WHEN UNFIT FOR WORK; AMENDING SECTION 18-2116, IDAHO CODE, TO REDESIGNATE THE SECTION AND PROVIDE ELEMENTS OF THE CRIME OF BEATING AND HARASSING ANIMALS; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 25-3519, 25-3520 AND 25-3521, IDAHO CODE, TO PROVIDE AUTHORITY TO ENTER PREMISES AND EXAMINE ANIMALS, TO PROVIDE FOR RULES AND TO PROVIDE SEVERABILITY ; AND AMENDING SECTION 18-2407, IDAHO CODE, AS AMENDED BY SENATE BILL NO. 1369, SECOND REGULAR SESSION, FIFTY-SECOND IDAHO LEGISLATURE, TO PROVIDE THAT TAKING OR DELIBERATELY KILLING LIVESTOCK OR ANY OTHER ANIMAL EXCEEDING ONE HUNDRED FIFTY DOLLARS IN VALUE IS GRAND THEFT.

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

SECTION 1. That the heading for Chapter 21, Title 18, Idaho Code, be, and the same is hereby redesignated to read as follows:

CHAPTER ~~21~~ 35
CRUELTY TO ANIMALS

SECTION 2. That Chapter 35, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 25-3501 and 25-3502, Idaho Code, and to read as follows:

25-3501. ADMINISTRATION. The department of agriculture, division of animal industries shall be responsible for the administration of the provisions of this chapter and shall inform the public and animal owners concerning their legal responsibilities, conduct investigations of alleged violations, develop cases and prosecute violators. The

division shall be authorized to call upon any peace officer in the state to aid in fulfillment of the requirements of this chapter. The cost of administering the provisions of this chapter shall be borne by the citizens of this state through the appropriation of general funds for administration, personnel, travel, equipment and supplies.

25-3502. DEFINITIONS. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Abandon" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance and shelter.

(2) "Animal" means any vertebrate member of the animal kingdom, except man.

(3) "Cruel" or "cruelty" shall mean any or all of the following:

(a) The intentional and malicious infliction of pain, physical suffering, injury or death upon an animal;

(b) To maliciously kill, maim, wound, overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink or shelter, cruelly beat, mutilate or cruelly kill an animal;

(c) To subject an animal to needless suffering, inflict unnecessary cruelty, drive, ride or otherwise use an animal when same is unfit;

(d) To abandon an animal.

(4) "Custodian" means any person who keeps or harbors an animal, has an animal in his care or acts as caretaker of an animal.

(5) "Malicious" or "maliciously" means the intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or death.

(6) "Owner" means any person who has a right of property in an animal.

(7) "Person" means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the state of Idaho, or any municipal corporation or political subdivision of the state.

(8) "Pound" means a place enclosed by public authority for the detention of stray animals.

SECTION 3. That Section 18-2101, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2101~~25-3503. POISONING ANIMALS. Every person who wilfully administers any poisonous substance to an animal, the property of another, or maliciously ~~exposes~~ places any poisonous substance where it would be found by an animal or where it would attract an animal, with the intent that the same shall be taken, ingested or ~~swallowed~~ absorbed by any such animal, is punishable by imprisonment in the state prison not exceeding three (3) years, or in the county jail not exceeding one (1) year, and a fine not ~~exceeding~~ less than one hundred dollars ($100) or more than five thousand dollars ($5000~~.00~~).

SECTION 4. That Section 18-2102, Idaho Code, be, and the same is

hereby amended to read as follows:

~~18-2102~~25-3504. ~~KILLING AND OTHERWISE MISTREATING~~ COMMITTING CRUELTY TO ANIMALS. (1) Every person who ~~maliciously kills, maims, or wounds an animal, the property of another, or who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly beats, mutilates, or cruelly kills~~ is cruel to any animal, or causes or procures any animal to be ~~so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink or shelter, or to be cruelly beaten, mutilated or~~ cruelly ~~killed~~ treated; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to ~~needless suffering or inflicts any unnecessary cruelty upon the same, or in any manner abuses any animal, or fails to provide the same with proper food, drink, shelter or protection from the weather, or who cruelly drives, rides, or otherwise uses the same when unfit for labor~~ cruelty, is, for every such offense, guilty of a misdemeanor.

(2) Any person convicted for violation of this section shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars ($100) or more than ~~one~~ five thousand dollars ($ ~~1~~5,000), or by both such fine and imprisonment.

SECTION 5. That Section 18-2103, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2103~~25-3505. CARRYING IN A CRUEL MANNER ~~--- UNNECESSARY TORTURE -- SEIZURE,~~ EXPENSES, LIEN. Whoever carries or causes to be carried in or upon any vehicle or otherwise any ~~domestic~~ animal in a cruel ~~or inhuman~~ manner, or knowingly and wilfully authorizes or permits it to be subjected to ~~unnecessary torture, suffering or~~ cruelty of any kind, is guilty of a misdemeanor.~~, and w~~Whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle, and its contents, together with the ~~horse or team attached to such vehicle~~ animal and deposit them in some place of custody.~~; and a~~Any necessary expense incurred for taking care of and keeping the same, is a lien thereon, to be paid before the same can be lawfully recovered; and if such expense, or any part thereof remains unpaid, it may be recovered, by the person incurring the same, ~~of~~ from the owner of such ~~domestic~~ animal, in an action therefor.

SECTION 6. That Section 18-2104, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2104~~25-3506. PERMITTING ANIMAL FIGHTS FOR AMUSEMENT. Any person who causes any ~~bull, bear, cock, dog or~~ bird or animal to fight any other bird or animal ~~to fight~~ or to injure each other for his amusement, or for gain~~, or to worry or injure each other~~; and any person who permits the same to be done on any premises under his charge or control; and any person who aids, abets or is present at such fighting ~~or worrying~~ of such birds or animals, as a spectator, is guilty of a misdemeanor.

SECTION 7. That Section 18-2105, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2105~~25-3507. TRAINING BIRDS OR ANIMALS FOR FIGHTING. Whoever owns, possesses, keeps or trains any bird or animal, with the intent that such bird or animal shall be engaged in an exhibition of fighting, or is present at any place, building or tenement, where preparations are being made for an exhibition of fighting of birds or animals, with the intent to be present at such exhibition, is guilty of a misdemeanor.

SECTION 8. That Section 18-2106, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2106~~25-3508. DOG OR COCK FIGHTS. Every person who participates in dog or cock fighting, or who aids or abets the same by his presence, is guilty of a misdemeanor.

SECTION 9. That Section 18-2107, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2107~~25-3509. ARRESTS WITHOUT WARRANTS. Any sheriff, constable, police or peace officer, ~~or any officer or agent of any incorporated society for the prevention of cruelty to animals,~~ qualified under the provisions of law to make arrests may enter any place, building or tenement where there is an exhibition of the fighting of birds or animals or where preparations are being made for such an exhibition, and without a warrant, arrest all persons there present.

SECTION 10. That Section 18-2108, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2108~~25-3510. IMPOUNDING WITHOUT FOOD OR WATER. Any person who impounds, or causes to be impounded in any pound, any ~~domestic~~ animal, must supply the same during such confinement with a sufficient quantity of ~~good--and~~ wholesome food and clean water, and in default thereof, is guilty of a misdemeanor. ~~In case any domestic animal is at any time impounded as aforesaid and continues to be without necessary food and water for more than twelve (12) hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which such animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person is not liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and such animal is not exempt from levy and sale upon execution issued upon a judgment therefor.~~

SECTION 11. That Section 18-2109, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2109~~25-3511. PERMITTING ANIMALS TO GO WITHOUT CARE -- ABANDONED ANIMALS TO BE ~~KILLED~~ HUMANELY DESTROYED. Every owner, ~~driver~~ custodian or possessor of any animal, who shall permit the same to be

in any building, inclosure, lane, street, square or lot of any city, county or precinct, without proper care and attention, as determined by an Idaho licensed veterinarian, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, or officer of any incorporated association qualified as provided by law, to take possession of the animal so abandoned or neglected, and care for the same until it is redeemed by the owner or claimant, and the cost of caring for such animal shall be a lien on the same until the charges are paid. Every sick, disabled, infirm or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found therefor, be ~~killed~~ humanely destroyed by or on the order of such officer; and it shall be the duty of all peace officers, or by an officer of said incorporated association, to cause the same to be ~~killed~~ humanely destroyed on information of such abandonment. Such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the ~~labor~~ activity it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until it is deemed to be in a suitable condition to be delivered to such owner, and any necessary expenses which may be incurred for taking care of and keeping the same shall be a lien thereon, to be paid before the same can be lawfully recovered. If, after due process under this section, a responsible owner cannot be found, the animal may be offered for adoption to a responsible person in lieu of destruction.

SECTION 12. That Section 18-2110, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2110~~25-3512. ABANDONMENT OF ANIMALS LEFT WITH VETERINARIAN. (1) Any animal placed in the custody of a veterinarian licensed under the provisions of chapter 21, title 54, Idaho Code, for treatment, boarding or other care, and which is unclaimed by its owner or the agent of the owner for a period of more than ten (10) days after written notice by certified mail, return receipt requested, is given to the addressee only at his last known address, shall be deemed to be abandoned and may be turned over to the nearest ~~humane society, animal shelter~~ pound or to a peace officer, or disposed of as such custodian may deem proper.

(2) The giving of notice to the owner, or the agent of the owner, of such animal by the licensed veterinarian, as provided in subsection (1) of this section, shall relieve the licensed veterinarian and any custodian to whom such animal may be given of any further liability for disposal. Such procedure by the licensed veterinarian shall not constitute grounds for discipline under the provisions of chapter 21, title 54, Idaho Code.

(3) For the purposes of this section, the term "abandoned" means to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for treatment, care and support of an animal by its owner, or the agent of the owner. Such abandonment shall constitute the relinquishment of all rights and claims by the owner to such animal.

SECTION 13. That Section 18-2111, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2111~~25-3513. PROSECUTIONS. When complaint is made on oath, to any magistrate authorized to issue warrants in criminal cases, that ~~the complainant~~ there is probable cause to believe~~s~~ that any provision of law relating to or in any way affecting ~~dumb~~ animals ~~or birds~~, is being, or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff~~, constable,~~ police or peace officer, or animal control officer ~~of any incorporated association qualified as provided by law~~, authorizing him to enter and search such building or place, and to arrest any person there present violating or attempting to violate any law relating thereto, or in any way affecting ~~dumb~~ animals ~~or birds,~~ and to bring such person before some court or magistrate of competent jurisdiction, within the city~~,~~ or county~~, or precinct~~ within which such offense has been committed or attempted, to be dealt with according to law, and such attempt must be held to be a violation of section ~~18-2102~~ 25-3504, Idaho Code.

SECTION 14. That Section 18-2112, Idaho Code, be, and the same is hereby repealed.

SECTION 15. That Chapter 35, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-3514, Idaho Code, and to read as follows:

25-3514. CHAPTER CONSTRUED NOT TO INTERFERE WITH NORMAL OR LEGAL PRACTICES. No part of this chapter shall be construed as interfering with or allowing interference with:

(1) Normal or accepted veterinary practices;

(2) The humane slaughter of any animal normally and commonly raised as food or for production of fiber;

(3) Bona fide experiments or research carried out by professionally recognized private or public research facilities or institutions;

(4) The humane destruction of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane destruction of animals for population control;

(5) Normal or accepted practices of animal identification and animal husbandry;

(6) The killing of any animal, by any person at any time, which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(7) The killing of an animal that is vicious by an animal control officer, law enforcement officer or veterinarian;

(8) The killing or destruction of predatory animals, vermin or other animals or birds which are injuring or posing a threat to farm or privately owned animals or property, when such killing or destruction is conducted in accordance with laws and rules covering such animals;

(9) Any other exhibitions, competitions, activities, practices or

procedures normally or commonly considered acceptable.
The practices, procedures and activities described in this section shall not be construed to be cruel nor shall they be defined as cruelty to animals, nor shall any person engaged in these practices, procedures or activities be charged with cruelty to animals.

SECTION 16. That Section 18-2113, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2113~~25-3515. CHAPTER CONSTRUED NOT TO INTERFERE WITH GAME LAWS. No part of this chapter shall be construed as interfering with, negating or preempting any of the laws or rules of the department of fish and game of this state ~~known as the game laws~~ or any law for or against the destruction of certain birds, nor must this chapter be construed as interfering with the right to destroy any venomous reptile, or animal known as dangerous to life, limb, or property, or to interfere with the right to kill, slaughter, bag or take all animals used for food or with properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college, or university of this state, or any other recognized research facility or institution.

SECTION 17. That Section 18-2114, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2114~~25-3516. HIGH-ALTITUDE DECOMPRESSION CHAMBER PROHIBITED. No person, peace officer, officer of a humane society, or officer of a pound, or any public agency shall kill any dog or cat by the use of any high-altitude decompression chamber. Every person who violates the provisions of this section is guilty of a misdemeanor.

SECTION 18. That Section 18-2115, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2115~~25-3517. ANIMALS TO BE ~~KILLED~~ HUMANELY DESTROYED WHEN UNFIT FOR WORK. Every animal which is unfit, by reason of its physical condition, for the purpose for which such animals are usually employed, and when there is no reasonable probability of such animal ever becoming fit for the purpose for which it is usually employed, shall be by the owner or lawful possessor of the same, deprived of life within twelve (12) hours after being notified by a representative of the division or any peace officer~~, or officer of said incorporated association~~ to ~~kill~~ humanely destroy the same, and such owner, possessor, or person omitting or refusing to comply with the provisions of this section shall, upon conviction, be guilty of a misdemeanor, and after such conviction, the court or magistrate having jurisdiction of such offense shall order any peace officer, or officer of said incorporated association, to immediately ~~kill~~ humanely destroy such animal: provided, that this shall not apply to such owner keeping any old or diseased animal belonging to him on his own premises with proper care.

SECTION 19. That Section 18-2116, Idaho Code, be, and the same is hereby amended to read as follows:

~~18-2116~~25-3518. BEATING AND ~~WORRYING~~ HARASSING ANIMALS. Every person who cruelly whips, beats or otherwise ~~unnecessarily--ill~~ maliciously treats any animal, or ~~worries~~ maliciously harasses with a dog any cattle, horses, sheep, ~~or~~ hogs~~,~~ or other livestock shall be guilty of a misdemeanor.

SECTION 20. That Chapter 35, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 25-3519, 25-3520 and 25-3521, Idaho Code, and to read as follows:

25-3519. AUTHORITY TO ENTER PREMISES AND EXAMINE ANIMALS. Representatives of the division are authorized and empowered to enter any field, pasture, feedyard, barn, stable, kennel, cage, yard, vehicle, trailer or other premises in this state where animals are kept, during normal operating hours, when probable cause exists, with the permission of the owner, to investigate alleged violations of the provisions of this chapter. If permission is not granted, said representatives 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.

25-3520. AUTHORITY TO PROMULGATE RULES. The division shall be authorized and empowered to promulgate and enforce such rules, pursuant to chapter 52, title 67, Idaho Code, as it deems necessary for the administration and enforcement of the provisions of this chapter.

25-3521. 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 21. That Section 18-2407, Idaho Code, as amended by Senate Bill No. 1369, Second Regular Session, Fifty-second Idaho Legislature be, and the same is hereby amended to read as follows:

18-2407. GRADING OF THEFT. Theft is divided into two (2) degrees, grand theft and petit theft.

(1) Grand theft.

(a) A person is guilty of grand theft when he commits a theft as defined in this chapter and when the property, regardless of its nature and value, is obtained by extortion committed by instilling in the victim a fear that the actor or another person will:

1. Cause physical injury to some person in the future; or
2. Cause damage to property; or
3. Use or abuse his position as a public servant by engaging in conduct within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

(b) A person is guilty of grand theft when he commits a theft as defined in this chapter and when:

1. The value of the property taken exceeds three hundred

dollars ($300); or

2. The property consists of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant; or

3. The property consists of a credit card; or

4. The property, regardless of its nature or value, is taken from the person of another; or

5. The property, regardless of its nature and value, is obtained by extortion; or

6. The property consists of one or more firearms, rifles or shotguns; or

7. The property taken or deliberately killed is livestock or any other animal exceeding ~~three~~ one hundred fifty dollars ($~~30~~150) in value.

8. When any series of thefts, comprised of individual thefts having a value of three hundred dollars ($300) or less, are part of a common scheme or plan, the thefts may be aggregated in one (1) count and the sum of the value of all of the thefts shall be the value considered in determining whether the value exceeds three hundred dollars ($300).

(2) Petit theft. A person is guilty of petit theft when he commits a theft as defined in this chapter and his actions do not constitute grand theft.

Approved April 7, 1994.

CHAPTER 347
(H.B. No. 630, As Amended in the Senate)

AN ACT

RELATING TO DRIVER TRAINING COURSES; AMENDING SECTION 33-1702, IDAHO CODE, TO SPECIFY STANDARDS FOR DRIVER TRAINING COURSES; AMENDING SECTION 49-305, IDAHO CODE, TO PROVIDE FOR ISSUANCE OF A TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT; AMENDING SECTION 49-306, IDAHO CODE, TO ALLOW FOR ISSUANCE OF A TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-307, IDAHO CODE, TO PROVIDE THAT NO STUDENT MAY COMPLETE A DRIVER TRAINING COURSE UNLESS HE HAS OBTAINED A DRIVER'S TRAINING INSTRUCTION PERMIT; AND AMENDING SECTION 49-2103, IDAHO CODE, TO ALLOW A COMMERCIAL DRIVER TRAINING SCHOOL TO USE THE SERVICES OF ANY OR ALL OF ITS INSTRUCTORS IF THE COMMERCIAL SCHOOL HAS CONTRACTED WITH A PUBLIC SCHOOL TO PROVIDE A DRIVER TRAINING CLASS AT OR FOR THE PUBLIC SCHOOL.

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

SECTION 1. That Section 33-1702, Idaho Code, be, and the same is hereby amended to read as follows:

33-1702. MINIMUM STANDARDS FOR COURSES. (1) The state board of education and the department of law enforcement shall cooperate in

establishing, and amending as need arises, minimum standards for driver training programs reimbursable hereunder.

(2) Such standards shall require not less than thirty (30) clock hours of classroom instruction and six (6) hours behind the wheel practice driving; but the state board of education may allow in lieu of not more than three (3) hours of such practice driving, such equivalent thereof in simulated practice driving as the said board may have, by uniform regulations, approved.

(3) When an approved driver training course is provided by a private, commercial driver training school, the standards for the driver training program as specified in subsection (2) of this section can be satisfied if all of the following alternative requirements are met:

(a) No more than four (4) students are in a class; and

(b) Not less than thirty (30) hours of classroom instruction are provided; and

(c) Not less than six (6) hours behind-the-wheel practice driving are required; and

(d) Not less than six (6) hours of observation time are completed with a parent or legal guardian.

SECTION 2. That Section 49-305, Idaho Code, be, and the same is hereby amended to read as follows:

49-305. INSTRUCTION PERMITS ~~AND~~ -- TEMPORARY LICENSES -- TEMPORARY DRIVER'S TRAINING INSTRUCTION PERMIT. (1) Upon passage of a knowledge test for the license class type, the department may issue an instruction permit for the type of vehicle(s) the person will be operating, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of at least one hundred eighty (180) days. That person must be accompanied by an adult licensed driver who holds at least the same class of driver's license and who is actually occupying a seat beside the driver.

(a) Any person who has reached the age of fifteen (15) years, and who has successfully completed an approved driver training course may apply for a class D instruction permit with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(b) Any person who has reached the age of eighteen (18) years may apply for a class A, B or C instruction permit.

(c) Until October 1, 1993, direct, uninterrupted audio or audio-visual electronic communication between the holder of a class A, B or C instruction permit and a driver instructor may be substituted for the driver instructor's physical presence in the vehicle if:

(i) The driver instructor holds the same or higher class of driver's license; and

(ii) The behind-the-wheel instruction is administered pursuant to a driver training program that is formally recognized and operated within the state according to state standards for such programs; and

(iii) The behind-the-wheel instruction occurs solely within

the boundaries of the state and within the radius of uninterrupted electronic communication between the permit holder and the driver instructor as long as the distance between the two (2) parties does not exceed one (1) mile; and

(iv) The behind-the-wheel training occurs while the vehicle is used for training purposes exclusively and not for purposes of transporting passengers or property; and

(v) The vehicle being driven is not of a type whose operator would require an endorsement on his driver's license for double/triple trailers, tank vehicles or hazardous material.

(d) On and after April 1, 1992, federal highway administration rules and regulations concerning instruction permits, as specified in 49 CFR part 383, will be in effect for commercial motor vehicles.

(2) The department may, in its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) If an applicant for a driver's training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver's training instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver training course. Upon receipt of the certified copy of the birth certificate, the department shall issue the driver's training instruction permit.

SECTION 3. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE OR INSTRUCTION PERMIT. (1) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C license with endorsements $23.50

(b) Class D license $19.50

(c) Class A, B, C instruction permit $15.50

(d) Class D instruction permit $11.50

(e) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50

(f) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50

(g) License classification change (upgrade) $15.50

(h) Endorsement addition $11.50

(i) Class A, B, C skills tests $35.00
(j) Class D skills test ..... $ 3.00
(k) Knowledge test ..... $ 3.00
(l) Seasonal driver's license $23.50

(2) Every application shall state the full name, date of birth, place of birth, sex, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and for a class A, B, or C driver's license or seasonal driver's license the applicant's social security number as verified by the applicant's social security card. A driver's license or instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Every application shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, cancelled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature. The applicant may be required to submit proof of identity and date and place of birth as set forth in a certified copy of his birth certificate and other satisfactory evidence to satisfy the issuing officer or the department. If an applicant for a driver's training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver's training instruction permit in accordance with the provisions of section 49-305, Idaho Code.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to insure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars ($5.00) from each driver's license or instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement in the current expense fund; and

(b) Deposit an amount equal to three dollars ($3.00) from each

fee for a knowledge test or class D skills test in the current expense fund; and

(c) Remit the remainder to the state treasurer.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars ($2.00) of each fee for a driver's license or seasonal driver's license shall be deposited in the emergency medical services account II created in section 39-146A, Idaho Code; and

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a seasonal or class A, B, or C driver's license shall be deposited in the state highway account; and

(c) Ten dollars and fifty cents ($10.50) of each fee for a class A, B, or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Six dollars and fifty cents ($6.50) of each fee for a duplicate seasonal or class A, B, or C driver's license, class A, B, or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(e) Five dollars and thirty cents ($5.30) of each fee for a class D driver's license shall be deposited in the driver training account; and

(f) Seven dollars and twenty cents ($7.20) of each fee for a class D driver's license shall be deposited in the highway distribution account; and

(g) Two dollars and sixty cents ($2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training account; and

(h) Three dollars and ninety cents ($3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution account; and

(i) Five dollars ($5.00) of each fee for a class A, B, or C skills test shall be deposited in the state highway account.

(9) The contractor administering the skills test shall be entitled to thirty dollars ($30.00) of the skills test fee. A contractor administering the skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) The department may issue seasonal class B or C driver's licenses that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred-fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid class D driver's licenses.

(11) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of 49 CFR part 383;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or 49-335(2), Idaho Code, or any one (1) serious traffic offense;

(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and

(e) Are at least sixteen (16) years old.

SECTION 4. That Section 49-307, Idaho Code, be, and the same is hereby amended to read as follows:

49-307. FEE FOR DRIVER'S TRAINING INSTRUCTION PERMIT. (1) Every enrollee of a driver training course in a public school shall pay a fee of thirty dollars ($30.00). Twenty-five dollars ($25.00) of each fee so imposed shall be deposited in the driver training account and five dollars ($5.00) will be deposited in the county current expense fund.

(2) Every enrollee of a driver's training course offered by a commercial business shall pay a fee of ten dollars ($10.00). Five dollars ($5.00) of the fee so imposed shall be deposited in the driver training account and five dollars ($5.00) shall be deposited in the county current expense fund.

(3) Each enrollee of a driver training course shall provide the type of information required for a driver's license or instruction permit, but the driver's training instruction permit shall be issued to the instructor of the course.

(4) No enrollee of any driver training course shall be allowed to complete the course unless he has obtained a driver's training instruction permit.

SECTION 5. That Section 49-2103, Idaho Code, be, and the same is hereby amended to read as follows:

49-2103. INSTRUCTORS -- LICENSE REQUIRED -- CONTENTS OF APPLICATION FOR LICENSE -- PUBLIC SCHOOL CONTRACTS. No person shall act as an instructor, unless the person applies for and obtains from the state board of education a license in the manner and form prescribed by the state board of education.

The regulations shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and other matters as the state board of education may prescribe for the protection of the public. Provided, however, that the state board of education shall not require the possession of a valid Idaho teaching certificate as a condition for the issuance of an instructor's

license.

Any commercial driver training school that contracts with a public school to provide a driver training class at or for a public school may be allowed to use the services of any or all of the certified instructors of that commercial driving school.

Approved April 7, 1994.

CHAPTER 348
(H.B. No. 633, As Amended)

AN ACT

RELATING TO OUT-OF-STATE MAIL SERVICE PHARMACIES; AMENDING SECTION 54-1720, IDAHO CODE, TO PROVIDE FOR A LICENSE RENEWAL FEE OF TWO HUNDRED FIFTY DOLLARS FOR OUT-OF-STATE MAIL SERVICE PHARMACIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1741, IDAHO CODE, TO PROVIDE MANDATORY LANGUAGE WITH RESPECT TO THE LEGISLATURE'S INTENT REGARDING DUTIES OF OUT-OF-STATE MAIL SERVICE PHARMACIES; AMENDING SECTION 54-1743, IDAHO CODE, TO INCREASE THE FEE FOR LICENSURE OF OUT-OF-STATE MAIL SERVICE PHARMACIES AND TO REQUIRE THAT SUCH PHARMACIES ANNUALLY SUBMIT TO THE BOARD OF PHARMACY LICENSE INFORMATION FOR ALL PHARMACISTS EMPLOYED BY THE PHARMACY DISPENSING PRESCRIPTIONS FOR SHIPMENT TO IDAHO; AMENDING SECTION 54-1744, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-1748, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1720, Idaho Code, be, and the same is hereby amended to read as follows:

54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy shall have such other duties, powers, and authority as may be necessary to the enforcement of this act and to the enforcement of board rules ~~and--regulations~~ made pursuant thereto, which shall include, but are not limited to, the following:

(1) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

(2) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

(3) The executive director of the board shall keep the seal of the board and shall affix it only in such manner as may be prescribed by the board.

(4) On or before the 60th day after the last day of each state fiscal year, the board shall submit to the governor a report summariz-

ing its proceedings and activities during that fiscal year, together with a report of all moneys received and disbursed by the board. Such reports or comprehensive summaries or abstracts thereof, as determined by the board shall be made available to the public.

(5) (a) The board shall determine within thirty (30) days prior to the beginning of each state fiscal year the fees to be collected for:

1. Examinations and reexaminations, which fee shall not exceed two hundred fifty dollars ($250);

2. The issuance of licenses, which fee shall not exceed two hundred fifty dollars ($250);

3. The issuance of certificates of registration and renewal certificates of registration, which fee shall not exceed one hundred dollars ($100), except in the case of out-of-state mail service pharmacies licensed pursuant to section 54-1743, Idaho Code, in which case the fee shall not exceed two hundred fifty dollars ($250); and

4. The certification of approved providers of continuing education courses, which fee shall not exceed three hundred dollars ($300).

(b) All fees or fines which shall be paid under the provisions of this act shall be paid over by the board to the treasurer of the state of Idaho, and shall be held by the state treasurer in the pharmacy account, which shall be paid out by the state treasurer upon warrant drawn by the state auditor against said account. The state auditor is hereby authorized, upon presentation of the proper vouchers of claims against the state, approved by the said board and the state board of examiners, as provided by law, to draw his warrant upon said account.

(6) The board may receive and expend moneys in addition to its annual appropriations, from parties other than the state, provided:

(a) Such moneys are awarded for the pursuit of a specific objective which the board is authorized to accomplish by this act, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(b) Such moneys are expended for the pursuit of the objective for which they are awarded;

(c) Activities connected with or occasioned by the expenditures of such moneys do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this act;

(d) Such moneys are kept in a separate, special state account; and

(e) Periodic reports are made to the administrator, division of budget, policy planning and coordination, concerning the board's receipt and expenditure of such moneys.

(7) The board shall assign to each drug outlet under its jurisdiction, a uniform state number, coordinated where possible with all other states which adopt the same uniform numbering system.

(8) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this act or of the rules ~~and regulations~~ of the board.

(9) (a) Notwithstanding anything in this act to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug, or device is adulterated or misbranded within the meaning of the Idaho food, drug and cosmetic act, he shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated or misbranded, has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

(b) When a drug or device detained or embargoed under paragraph (a) of this subsection (9) has been declared by such representative to be adulterated or misbranded, the board shall, as soon as practical thereafter, petition the judge of the district court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the board shall direct the immediate removal of the tag or other marking.

(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

(d) It is the duty of the attorney general to whom the board reports any violation of this subsection to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this subsection (9) shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

(10) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with the administrative procedures act.

(11) (a) For the purpose of any proceedings held before the board as authorized by law, including the refusal, nonrenewal, revocation or suspension of licenses, registrations or certifications

authorized by this act, or the imposition of fines or reprimands on persons holding such licenses, certification or registrations, the board may subpoena witnesses and compel their attendance, and may also at such time require the production of books, papers, documents or other memoranda. In any such proceeding before the board, any member of the board, or its designee, may administer oaths or affirmations to witnesses so appearing.

(b) If any person shall refuse to obey a subpoena so issued, or refuse to testify or produce any books, papers or documents called for by said subpoena, the board may make application to the district court of the county in which the proceeding is held, for an order of the court requiring the person to appear before the court, and to show cause why the person should not be compelled to testify, to produce such books, papers, memoranda or other documents required by the subpoena, or otherwise comply with its terms. The application shall set forth the action theretofore taken by the board to compel the attendance of the witness, the circumstances surrounding the failure of the witness to attend or otherwise comply with the subpoena, together with a brief statement of the reasons why compliance with the subpoena is necessary to the proceeding before the board.

(c) Upon the failure of a person to appear before the court at the time and place designated by it, the court may enter an order without further proceedings requiring the person to comply with the subpoena. Any person failing or refusing to obey such order of the court shall be punished for contempt of court as in other cases provided.

SECTION 2. That Section 54-1741, Idaho Code, be, and the same is hereby amended to read as follows:

54-1741. LEGISLATIVE DECLARATION. The legislature recognizes that with the proliferation of alternate methods of health delivery, there has arisen among third-party payers and insurance companies the desire to control the cost and utilization of pharmacy services through a variety of mechanisms, including the use of mail service pharmacies located outside the state of Idaho.

As a result, the legislature finds and declares that to continue to protect the Idaho consumer-patient, all out-of-state pharmacies that provide service to Idaho residents shall be licensed with the board, <u>shall</u> disclose specific information about their services, and <u>shall</u> provide pharmacy services at a high level of protection and competence. This act shall be liberally construed to carry out these objects and purposes.

SECTION 3. That Section 54-1743, Idaho Code, be, and the same is hereby amended to read as follows:

54-1743. LICENSE REQUIREMENTS. ~~Every~~ <u>Each</u> out-of-state mail service pharmacy shall be licensed by the board <u>of pharmacy.</u> In order to be licensed by the board to do business in the state of Idaho and for annual renewal of the license, every out-of-state mail service pharmacy <u>shall:</u>

(1) ~~Shall b~~Be licensed in good standing by the state in which its dispensing facilities are located and shall comply with all applicable laws, regulations, and standards of such state and the United States;

(2) Submit an application in form and content as determined by the board but including the following minimum information:

(a) Ownership;

(b) Location;

(c) Identity of a pharmacist licensed to practice pharmacy in the state of domicile, who shall be the pharmacist in charge of the out-of-state mail service pharmacy~~,~~; and

(d) ~~s~~Such further information as the board may deem necessary.

(3) Pay a fee for the initial license in the amount of ~~two--hundred--fifty~~ five hundred dollars ($~~2~~500) and annual renewal in an amount not to exceed the amount set forth in section 54-1720, Idaho Code;

(4) Submit evidence satisfactory to the board that its physical facilities, records and operations are in accordance with the laws and regulations of the state in which the facilities are located;

(5) Submit certification satisfactory to the board that it will cooperate with all lawful requests and directions from the regulatory board or licensing authority of its state of domicile relating to the shipment, mailing or delivery of dispensed legend drugs to Idaho residents;

(6) Submit to the board, at the beginning of each calendar quarter, the following information acceptable to the board in form and substance, by the pharmacist-in-charge, concerning each prescription for a scheduled controlled substance shipped, mailed or delivered to an Idaho resident:

(a) Name of patient;

(b) Name of practitioner;

(c) Number of prescription;

(d) Date of prescription;

(e) Name of drug; and

(f) Strength and quantity of dosage.

(7) In lieu of providing the information required in subsection (6) of this section to the board, the out-of-state mail service pharmacy may submit to on-site inspection by the board.

(8) Every out-of-state mail service pharmacy shall submit to the board a current list of all pharmacists employed by said pharmacy dispensing prescriptions for shipment to Idaho. Such list shall be updated by January 31 of each year and shall include the following information:

(a) The full legal name of the pharmacist;

(b) The location of the facility at which the pharmacist is employed and dispensing prescriptions for shipment to Idaho;

(c) The identity of the state in which the pharmacist is licensed;

(d) A certification by the out-of-state mail service pharmacy that the pharmacist is in good standing with the licensing authority of the state of licensing and that no disciplinary action is pending.

SECTION 4. That Section 54-1744, Idaho Code, be, and the same is

hereby amended to read as follows:

54-1744. NOTIFICATIONS. Every out-of-state mail service pharmacy shall report to the board the occurrence of any of the events set forth in section 54-1731, Idaho Code, within ten (10) working days of any such occurrence.

SECTION 5. That Section 54-1748, Idaho Code, be, and the same is hereby amended to read as follows:

54-1748. VIOLATIONS AND PENALTIES. (1) The board may impose on the license of an out-of-state mail service pharmacy, any of the penalties in section 54-1728, Idaho Code, for any violation of the provisions of this ~~act~~ chapter.

(2) The board may impose any of the penalties provided in section 54-1728, Idaho Code, for conduct which causes serious bodily or serious psychological injury to a resident of this state if the board has referred the matter to the regulatory or licensing agency in the state in which the out-of-state mail service pharmacy is located and the regulatory or licensing agency fails to initiate an investigation within forty-five (45) days of the referral. The board shall obtain and maintain a record of referrals pursuant to this subsection and any action taken thereon.

(3) It is unlawful for any out-of-state mail service pharmacy which is not licensed pursuant to this act to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of an out-of-state mail service pharmacy which has not licensed with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

(4) Any person or out-of-state mail service pharmacy violating the provisions of this act, upon conviction, shall be guilty of a misdemeanor, subject to imprisonment in the county jail for a period not to exceed one (1) year and/or a fine in an amount not to exceed one thousand dollars ($1,000). Each such violation shall constitute a separate offense.

Approved April 7, 1994.

CHAPTER 349
(H.B. No. 638)

AN ACT

RELATING TO THE IDAHO TORT CLAIMS ACT; AMENDING SECTION 6-906A, IDAHO CODE, TO PROVIDE THAT A MINOR SHALL HAVE ONE HUNDRED EIGHTY DAYS AFTER REACHING THE AGE OF MAJORITY TO FILE A TORT CLAIM.

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

SECTION 1. That Section 6-906A, Idaho Code, be, and the same is hereby amended to read as follows:

6-906A. TIME FOR FILING CLAIMS BY MINORS. No person who is a minor shall be required to present and file a claim against a governmental entity or its employee under this ~~act~~ chapter until one hundred ~~twenty~~ eighty (1~~2~~80) days after said person reaches the age of majority or six (6) years from the date the claim arose or should reasonably have been discovered, whichever is earlier.

Approved April 7, 1994.

CHAPTER 350
(H.B. No. 647, As Amended)

AN ACT

RELATING TO RESTRICTIONS ON DEVISES; AMENDING SECTION 15-2-616, IDAHO CODE, TO PROVIDE THAT A DEVISE OR BEQUEST INVOLVING REAL OR PERSONAL PROPERTY DIRECTLY OR INDIRECTLY TO ANY PERSON WHO OWNS, OPERATES OR IS EMPLOYED AT A NURSING HOME, RESIDENTIAL CARE FACILITY OR ANY HOME, INCLUDING THE TESTATOR'S HOME SHALL BE PRESUMED TO HAVE BEEN THE RESULT OF UNDUE INFLUENCE, REBUTTABLE BY CLEAR AND CONVINCING EVIDENCE.

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

SECTION 1. That Section 15-2-616, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-616. RESTRICTION ON DEVISES TO NURSING HOME OR RESIDENTIAL CARE HOME OPERATORS. ~~No estate,~~ A devise or bequest involving either real or personal property, ~~shall be bequeathed or devised, either~~ directly or indirectly, to any person who owns, operates or is employed at a nursing home, ~~or~~ residential care home or any home, including the testator's home, whether or not licensed, in which the testator was a resident within one (1) year of his death ~~if the will was executed while the testator was a resident of the facility, except the same be done by will duly executed at least one (1) year before the death of the testator~~ shall be presumed to have been the result of undue influence, rebuttable by clear and convincing evidence. This section shall apply to all property passing by testate succession after July 1, 1983, regardless of when the will was written; provided, this section shall in no way limit or affect the rights of a beneficiary who is related to the testator, or who is a charitable or benevolent society or corporation; provided further that the foregoing limitations shall not apply to wills of persons whose death is caused by accidental means and whose wills are executed prior to the accident which results in death.

Approved April 7, 1994.

CHAPTER 351
(H.B. No. 682, As Amended)

AN ACT

RELATING TO THE BOARD OF COSMETOLOGY; AMENDING SECTION 54-816, IDAHO CODE, TO PROVIDE THAT THE BOARD MAY REFUSE TO ISSUE OR RENEW THE LICENSE OR CERTIFICATE OF A PERSON IN DEFAULT IN THE PAYMENT OF A STUDENT LOAN INSURED OR GUARANTEED BY THE STUDENT LOAN FUND OF IDAHO, INC. OR ISSUED BY A FINANCIAL INSTITUTION IF THE STUDENT HAS RECEIVED AND ACKNOWLEDGED WRITTEN NOTICE OF THE POWER OF THE BOARD TO REFUSE TO ISSUE OR RENEW A LICENSE OR CERTIFICATE UPON A DEFAULT IN REPAYMENT SIX MONTHS PRIOR TO SUCH REFUSAL TO ISSUE OR RENEW A LICENSE OR CERTIFICATE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-816, Idaho Code, be, and the same is hereby amended to read as follows:

54-816. REFUSAL, REVOCATION OR SUSPENSION OF CERTIFICATE. The board may either refuse to issue or renew, or may suspend or revoke, any certificate of registration or license for any one (1) of the following causes:

1. Conviction of a felony evidenced by a certified copy of the record of the court of conviction;

2. Malpractice or incompetency;

3. Continued practice by a person knowingly having an infectious or contagious disease;

4. Advertising by means of knowingly false or deceptive statements;

5. Habitual intoxication or addiction to the use of morphine, cocaine, or other habit-forming drugs;

6. Immoral or unprofessional conduct;

7. Where the application is fraudulently made or the certificate fraudulently obtained;

8. The violation of any of the provisions of this act, or rules ~~and regulations~~ adopted pursuant thereto.

9. The board may refuse to issue or renew a certificate or license for a person who is in default in the repayment of any student loan guaranteed or insured by the student loan fund of Idaho, inc. or otherwise issued by a financial institution if, at the time the loan was incurred, the student is provided notice of the power of the board to refuse to issue or renew a certificate or license in the event of a default in the repayment, which notice shall be in writing and acknowledged by the signature of the student six (6) months prior to the refusal to issue or renew a certificate or license. The board shall not renew the certificate or license until the person in default enters into a payment agreement with the student loan fund of Idaho, inc. or the financial institution and the board is notified by the fund or the financial institution that the agreement is in effect.

Approved April 7, 1994.

CHAPTER 352
(H.B. No. 686)

AN ACT
RELATING TO DIVORCE ACTIONS; AMENDING SECTION 32-704, IDAHO CODE, TO PROVIDE CONDITIONS AUTHORIZED IN A DECREE OF LEGAL SEPARATION.

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

SECTION 1. That Section 32-704, Idaho Code, be, and the same is hereby amended to read as follows:

32-704. ALLOWANCE OF SUPPORT MONEY, COURT COSTS AND ATTORNEY FEES -- REPRESENTATION OF CHILD. 1. While an action for divorce is pending, the court may, in its discretion, on the motion of either party and upon showing made in conformity with section 32-705 or section 32-706, Idaho Code, whichever be appropriate, order the payment of temporary maintenance of either spouse by the other or temporary support of a child of the marriage, in amounts and on terms just and proper under the circumstances.

2. The court may, in its discretion, on the motion of either party enter a decree of legal separation, providing for custody of children, division of property, payment of debts, payment of child support, and payment of spousal support as set forth in the statutes governing domestic relations.

3. The court may from time to time after considering the financial resources of both parties and the factors set forth in section 32-705, Idaho Code, order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this act and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

~~3~~4. The court may appoint an attorney to represent the interests of a minor or dependent child with respect to his or her support, custody, and visitation, but only in those instances where the court deems legal representation necessary beyond any court ordered and court related services previously authorized for the particular case. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against either or both parents, except, if both parties are indigent, the costs, fees, and disbursements shall be borne by the county in which the action is pending.

Approved April 7, 1994.

CHAPTER 353
(H.B. No. 687)

AN ACT

RELATING TO ATTORNEY FEES IN CIVIL ACTIONS; AMENDING SECTION 12-120, IDAHO CODE, TO PROVIDE REASONABLE POST-JUDGMENT ATTORNEY FEES AND COSTS INCURRED IN ATTEMPTING TO COLLECT ON THE JUDGMENT.

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

SECTION 1. That Section 12-120, Idaho Code, be, and the same is hereby amended to read as follows:

12-120. ATTORNEY FEES IN CIVIL ACTIONS. (1) Except as provided in subsection (3) of this section, in any action where the amount pleaded is twenty-five thousand dollars ($25,000) or less, there shall be taxed and allowed to the prevailing party, as part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees. For the plaintiff to be awarded attorney fees, for the prosecution of the action, written demand for the payment of such claim must have been made on the defendant not less than ten (10) days before the commencement of the action; provided, that no attorney fees shall be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action, an amount at least equal to ninety-five per cent (95%) of the amount awarded to the plaintiff.

(2) The provisions of subsection (1) of this section shall also apply to any counterclaims, cross-claims or third party claims which may be filed after the initiation of the original action. Except that a ten (10) day written demand letter shall not be required in the case of a counterclaim.

(3) In any civil action to recover on an open account, account stated, note, bill, negotiable instrument, guaranty, or contract relating to the purchase or sale of goods, wares, merchandise, or services and in any commercial transaction unless otherwise provided by law, the prevailing party shall be allowed a reasonable attorney fee to be set by the court, to be taxed and collected as costs.

The term "commercial transaction" is defined to mean all transactions except transactions for personal or household purposes. The term "party" is defined to mean any person, partnership, corporation, association, private organization, the state of Idaho or political subdivision thereof.

(4) In all instances where a party is entitled to reasonable attorney fees and costs under subsections (1), (2) or (3) of this section, such party shall also be entitled to reasonable post-judgment attorney fees and costs incurred in attempting to collect on the judgment. Such attorney fees and costs shall be set by the court following the filing of a memorandum of attorney fees and costs with notice to all parties and hearing.

Approved April 7, 1994.

CHAPTER 354
(H.B. No. 690, As Amended in the Senate)

AN ACT

RELATING TO INCOME TAXATION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022I, IDAHO CODE, TO AUTHORIZE AN INCOME TAX DEDUCTION FOR EXPENSES FOR LEGAL AND MEDICAL SERVICES INCURRED BY ADOPTIVE PARENTS IN THE ADOPTION OF A CHILD WITH A LIMIT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022I, Idaho Code, and to read as follows:

63-3022I. ADOPTION EXPENSES. For taxable years commencing on or after January 1, 1994, legal fees and costs and medical expenses and costs all related to the adoption of a child may be deducted from taxable income by adoptive parents. The deduction allowed pursuant to this section shall not exceed three thousand dollars ($3,000) for the legal fees and costs and medical expenses and costs incurred in the adoption, or the actual costs of the legal fees and costs and medical expenses and costs incurred in the adoption, whichever amount is less, which amount may not include travel costs.

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

Approved April 7, 1994.

CHAPTER 355
(H.B. No. 712, As Amended, As Amended in the Senate)

AN ACT

RELATING TO INCOME TAX DEDUCTIONS; AMENDING SECTION 63-3022C, IDAHO CODE, TO REVISE THE DEFINITION OF ALTERNATIVE ENERGY DEVICE; AND PROVIDING AN EFFECTIVE DATE.

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

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

63-3022C. DEDUCTION FOR ALTERNATIVE ENERGY DEVICE AT RESIDENCE. (1) An individual taxpayer who installs an alternative energy device

to serve a place of residence of the individual taxpayer in the state of Idaho may deduct from taxable income as defined in section 63 of the Internal Revenue Code, the following amounts actually paid or accrued by the individual taxpayer: forty percent (40%) of the amount that is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of the alternative energy device in the year when such device is completed or acquired and is placed in service by the taxpayer; and twenty percent (20%) per year thereafter for a period of three (3) succeeding years; provided, however, that said deduction shall not exceed five thousand dollars ($5,000) in any one (1) taxable year.

(2) An individual taxpayer who purchases a residence in the state of Idaho served by an alternative energy device for which none or less than all of the total deduction allowable under this section has been taken, may take the deduction specified in this section, or the unused balance of the deduction.

(3) As used in this section, "alternative energy device" means any system or mechanism or series of mechanisms using solar radiation, wind~~,~~ or geothermal resource as defined in section 42-4002, Idaho Code, ~~or--wood-or-wood-products~~ primarily to provide heating, to provide cooling, to produce electrical power, or any combination thereof. Alternative energy device includes a fluid to air heat pump operating on a fluid reservoir heated by solar radiation or geothermal resource. ~~A--built-in--fireplace--does--not--qualify--as-an-energy-saving-device unless-it-is-equipped-with-a-metal-heat-exchanger--that--will--deliver heated--air--to-a-substantial-portion-of-the-residence-and-is-equipped with-control-doors-and-a-regulated-draft.~~ An alternative energy device shall also include either (i) a natural gas or propane heating unit; or (ii) a wood burning or pellet stove which meets the most current environmental protection agency certification and which is used to replace during the same tax year a wood burning stove designed for residential heating and that does not meet environmental protection agency requirements for certification, provided the wood burning stove is surrendered to the division of environmental quality of the department of health and welfare or its agent for destruction in accordance with applicable federal and state rules.

SECTION 2. This act shall be in full force and effect on and after January 1, 1995.

Approved April 7, 1994.

CHAPTER 356
(H.B. No. 720, As Amended, As Amended)

AN ACT

RELATING TO THE PRACTICE OF ENGINEERING; AMENDING SECTION 54-1223, IDAHO CODE, TO PROVIDE AN ADDITIONAL EXEMPTION TO THE ENGINEERS LICENSURE ACT, AND TO PROVIDE FOR CIVIL ACTIONS BY THE PROSECUTING ATTORNEY OR THE ATTORNEY GENERAL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1223, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) Other Professions or Trades. 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) Temporary Permits.

(a) Professional Engineer -- The practice of professional engineering by a person not a resident of and having no established place of business in this state, when such practice does not exceed in the aggregate more than thirty (30) days in any calendar year and provided such person is duly licensed or registered to practice such profession in a state in which the requirements and qualifications for obtaining a certificate of registration or license are not lower than those specified in this act for obtaining the license required for such work, upon examination, and provided further that such nonresident shall file with the board, on or before entering the state for commencing such work, a statement to be filed with the board, accompanied by a filing fee not to exceed one hundred dollars ($100), giving his name, residence, the number of his license or certificate of registration and by what authority issued, and the place and nature of the work on which he will be engaged in this state and, upon the completion of the work, an exit statement of the time engaged in such work within the state shall be filed with the board; provided, however, no right to practice engineering shall accrue to such applicant with respect to any other work not set forth in said permit;

(b) Professional Land Surveyor -- The practice of land surveying under a temporary permit by a person registered as a professional land surveyor in another state is not considered to be in the best interests of the public, and therefore, shall not be granted.

(3) Employees and Subordinates. The work of an employee or a subordinate of a person holding a certificate of registration under this act, or an employee of a person practicing lawfully under paragraph (2) of this section, 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 act or a person practicing lawfully under paragraph (2) of this section.

(4) 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.

(5) Individuals or Firms Doing Work for Themselves. An individual doing surveying work for himself or herself, or through a firm, partnership or corporation, on property owned or leased by the individual, firm, partnership or corporation, or in which the individual, firm, partnership or corporation has an interest, estate or possessory right

and which affects exclusively the property or interests of the individual, firm, partnership or corporation; 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.

(6) Mining Claim Location. An individual doing survey work for himself or herself, or through a firm, partnership or corporation with respect to the location, amendment, or relocation of a mining claim.

(7) Individuals Doing Work for Corporations or Companies. The practice of engineering by employees of a corporation or a company as long as the services provided by them are for internal corporate or company use only.

B. 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.

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 April 7, 1994.

CHAPTER 357
(H.B. No. 735, As Amended in the Senate)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICATING SUBSTANCES; AMENDING SECTION 18-8002A, IDAHO CODE, AS ADDED BY SECTION 2, CHAPTER 413, LAWS OF 1993, TO DELETE THE WORD "BLOOD" IN REFERENCES TO ALCOHOL CONCENTRATION AND TO PROVIDE FOR DESIGNATION BY RULE OF LOCATIONS WITHIN THE DEPARTMENT'S ADMINISTRATIVE DISTRICTS THROUGHOUT THE STATE WHERE HEARINGS ON ADMINISTRATIVE LICENSE SUSPENSIONS SHALL BE HELD; AMENDING SECTION 49-326, IDAHO CODE, TO PROVIDE FOR DESIGNATION BY RULE OF LOCATIONS WITHIN THE DEPARTMENT'S ADMINISTRATIVE DISTRICTS THROUGHOUT THE STATE WHERE OTHER ADMINISTRATIVE HEARINGS SHALL BE HELD; AND AMENDING SECTION 49-328, IDAHO CODE, TO SPECIFY THAT PAYMENT OF THE FEE OF ONE HUNDRED FIFTEEN DOLLARS FOR REINSTATEMENT OF DRIVING PRIVILEGES SHALL APPLY TO SUSPENSIONS IMPOSED FOR REFUSAL OF EVIDENTIARY TESTING FOR ALCOHOL CONCENTRATION OR THE PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES, TO EXEMPT FROM PAYMENT OF THE FEE THOSE SUSPENSIONS IMPOSED ON PERSONS UNDER EIGHTEEN YEARS OF AGE FOR THE PROCUREMENT, POSSESSION OR USE OF ALCOHOL AND EXTENDING TO FEBRUARY, 1996, THE TIME BY WHICH THE TRANSPORTATION DEPARTMENT SHALL REEVALUATE THE AMOUNT OF THE FEE.

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

SECTION 1. That Section 18-8002A, Idaho Code, as added by Section 2, Chapter 413, Laws of 1993, be, and the same is hereby amended to read as follows:

18-8002A. TESTS OF DRIVER FOR ALCOHOL CONCENTRATION, PRESENCE OF DRUGS OR OTHER INTOXICATING SUBSTANCES -- SUSPENSION UPON FAILURE OF TESTS. (1) Definitions. As used in this section:

(a) "Administrative hearing" means a hearing conducted by a hearing officer to determine whether a suspension imposed by the provisions of this section should be vacated or sustained.

(b) "Department" means the Idaho transportation department and, as the context requires, shall be construed to include any agent of the department designated by rule as hereinafter provided.

(c) "Director" means the director of the Idaho transportation department.

(d) "Hearing officer" means a person designated by the department to conduct administrative hearings. The hearing officer shall have authority to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas, regulate the course and conduct of the hearing and make a final ruling on the issues before him.

(e) "Hearing request" means a request for an administrative hearing on the suspension imposed by the provisions of this section.

(2) Suspension.

(a) Upon receipt of the sworn statement of a peace officer that there existed legal cause to believe a person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances and that the person submitted to a test and the test results indicated an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, Idaho Code, the department shall suspend the person's license or permit to drive:

(i) For a period of ninety (90) days for a first failure of evidentiary testing under the provisions of this section. The first thirty (30) days of the suspension shall be absolute and the person shall have absolutely no driving privileges of any kind. Restricted driving privileges applicable during the remaining sixty (60) days of the suspension may be requested as provided in subsection (8) of this section.

(ii) For a period of one (1) year for a second and any subsequent failure of evidentiary testing under the provisions of this section within the immediately preceding five (5) years. No driving privileges of any kind shall be granted during the suspension imposed pursuant to this subsection.

The person may request an administrative hearing on the suspension as provided in subsection (6) of this section. Any right to contest the suspension shall be waived if a hearing is not requested as therein provided.

(b) The suspension shall become effective thirty (30) days after service upon the person of the notice of suspension. The notice shall be in a form provided by the department and shall state:

(i) The reason and statutory grounds for the suspension;

(ii) The effective date of the suspension;

(iii) The suspension periods to which the person may be subject as provided in subsection (2)(a) of this section;

(iv) The procedures for obtaining restricted driving privileges;

(v) The rights of the person to request an administrative hearing on the suspension and that if an administrative hearing is not requested within seven (7) days of service of the notice of suspension the right to contest the suspension shall be waived;

(vi) The procedures for obtaining an administrative hearing on the suspension;

(vii) The right to judicial review of the hearing officer's decision on the suspension and the procedures for seeking such review.

(3) Information when testing requested. At the time evidentiary testing is requested, in addition to the information required under the provisions of section 18-8002(3), Idaho Code, the person shall be informed that if he takes the test and the test results indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, Idaho Code:

(a) His driver's license shall be seized by the peace officer and a temporary permit which shall be valid for a period not to exceed thirty (30) days shall be issued by the peace officer; provided, however, that no peace officer shall issue a temporary permit pursuant to this subsection to a driver whose driver's license or permit has already been and is suspended, revoked, cancelled, disqualified or denied.

(b) Effective not later than thirty (30) days after service upon him of the notice of suspension his license shall be suspended for ninety (90) days, the first thirty (30) days of which shall be absolute, for a first failure of evidentiary testing under the provisions of this section; or for a period of one (1) year, all of which shall be absolute, for a second and any subsequent failure of evidentiary testing under the provisions of this section within the immediately preceding five (5) years;

(c) He may request restricted driving privileges for the remaining sixty (60) days of a ninety (90) day suspension;

(d) He has the right to request an administrative hearing on the suspension before a hearing officer designated by the department within seven (7) days of the date of service upon him of the notice of suspension, and the right to judicial review of that decision;

(e) After submitting to evidentiary testing he may, when practicable, at his own expense, have additional tests made by a person of his own choosing.

(4) Service of suspension by peace officer. If the driver submits to evidentiary testing after the information in section 18-8002(3), Idaho Code, and subsection (3) of this section has been provided and the results of the test indicate an alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, Idaho Code:

(a) The peace officer shall take possession of the person's

driver's license, shall issue a temporary permit which shall be valid for a period not to exceed thirty (30) days from the date of issuance, and, acting on behalf of the department, shall serve the person with a notice of suspension in the form and containing the information required under subsection (2) of this section.

(b) Within three (3) business days following service of a notice of suspension the peace officer shall forward to the department a copy of the completed notice of suspension form upon which the date of service upon the driver shall be clearly indicated, a copy of any completed temporary permit form along with any confiscated driver's license, and a sworn statement of the officer setting forth:

(i) The identity of the person;

(ii) Stating the officer's legal cause to stop the person;

(iii) Stating the officer's legal cause to believe that the person had been driving or was in actual physical control of a motor vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, Idaho Code;

(iv) That the person was advised of the consequences of taking and failing the evidentiary test as provided in subsection (3) of this section;

(v) That the person was lawfully arrested;

(vi) That the person was tested for ~~blood~~ alcohol concentration, drugs or other intoxicating substances as provided in this chapter, and that the results of the test indicated an ~~blood~~ alcohol concentration or the presence of drugs or other intoxicating substances in violation of the provisions of section 18-8004, Idaho Code.

A certified copy of the results of all tests for ~~blood~~ alcohol concentration, drugs or other intoxicating substances as shown by analysis of blood, urine or breath administered at the direction of the officer shall accompany the officer's statement. The sworn statement required in this subsection shall be made on forms in accordance with rules adopted by the department.

(5) Additional tests. After submitting to evidentiary testing at the request of the peace officer, the person may, when practicable, at his own expense, have additional tests for alcohol concentration or for the presence of drugs or other intoxicating substances made by a person of his own choosing. The person's failure or inability to obtain additional tests shall not preclude admission of the results of evidentiary tests administered at the direction of the peace officer unless additional testing was denied by the peace officer.

(6) Administrative hearing on suspension. A person who has been served with a notice of suspension after submitting to an evidentiary test may request an administrative hearing on the suspension before a hearing officer designated by the department. The request for hearing shall be in writing and must be received by the department within seven (7) calendar days of the date of service upon the person of the notice of suspension. The date on which the hearing request was received shall be noted on the face of the request. The person may use the form provided by the department to request an administrative hearing on the suspension, but use of the form is not required.

If a hearing is requested, the hearing shall be held within twenty (20) days of the date the hearing request was received by the department unless this period is, for good cause shown, extended by the hearing officer for one ten (10) day period. Such extension shall not operate as a stay of the suspension and any temporary permit shall expire thirty (30) days after service of the notice of suspension, notwithstanding an extension of the hearing date beyond such thirty (30) day period. Written notice of the date, time and place of the hearing shall be sent to the party requesting the hearing at least seven (7) days prior to the scheduled hearing date. The department may conduct all or part of the hearing by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. If the hearing is not conducted by electronic means, it shall be held at a place designated by rule of the department in one (1) or more location in each of the administrative districts of the department which are headquartered in Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello and Rigby.

The hearing shall be recorded. The sworn statement of the arresting officer, and the copy of the notice of suspension and any temporary permit issued by the officer shall be admissible at the hearing without further evidentiary foundation. The results of any tests for alcohol concentration or the presence of drugs or other intoxicating substances by analysis of blood, urine or breath administered at the direction of the peace officer and the records relating to calibration, certification, approval or quality control pertaining to equipment utilized to perform the tests shall be admissible as provided in section 18-8004(4), Idaho Code. The arresting officer shall not be required to appear unless directed to do so by a subpoena issued by the hearing officer.

The burden of proof shall be on the person requesting the hearing. The hearing officer shall vacate the suspension if he finds, by a preponderance of the evidence, that:

(a) The peace officer did not have legal cause to stop the person; or

(b) The officer did not have legal cause to believe the person had been driving or was in actual physical control of a vehicle while under the influence of alcohol, drugs or other intoxicating substances in violation of the provisions of section 18-8004, Idaho Code; or

(c) The test results did not show an alcohol concentration or the presence of drugs or other intoxicating substances in violation of section 18-8004, Idaho Code; or

(d) The tests for ~~blood~~ alcohol concentration, drugs or other intoxicating substances administered at the direction of the peace officer were not conducted in accordance with the requirements of section 18-8004(4), Idaho Code, or the testing equipment was not functioning properly when the test was administered; or

(e) The person was not informed of the consequences of submitting to evidentiary testing as required in subsection (3) of this section.

If the hearing officer finds that the person has not met his burden of proof, he shall sustain the suspension. The hearing officer

shall make findings of fact and conclusions of law on each issue and shall enter an order vacating or sustaining the suspension. If the suspension is vacated, the person's driver's license, unless unavailable by reason of an existing suspension, revocation, cancellation, disqualification or denial shall be returned to him. The findings of fact, conclusions of law and order entered by the hearing officer shall be considered a final order pursuant to the provisions of chapter 52, title 67, Idaho Code, except that no motion for reconsideration of such order shall be allowed.

The facts as found by the hearing officer shall be independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect the suspension required to be imposed under the provisions of this section. If a license is suspended under this section and the person is also convicted on criminal charges arising out of the same occurrence for a violation of the provisions of section 18-8004, Idaho Code, both the suspension under this section and the suspension imposed pursuant to the provisions of section 18-8005, Idaho Code, shall be imposed, but the periods of suspension may run concurrently, with the total period of suspension not to exceed the longer of the applicable suspension periods.

(7) Judicial review. A party aggrieved by the decision of the hearing officer may seek judicial review of the decision in the manner provided for judicial review of final agency action provided in chapter 52, title 67, Idaho Code.

(8) Restricted driving privileges. A person served with a notice of suspension for ninety (90) days pursuant to this section may apply to the department for restricted driving privileges, to become effective after the thirty (30) day absolute suspension has been completed. The request may be made at any time after service of the notice of suspension.

(9) Rules. The department may adopt rules under the provisions of chapter 52, title 67, Idaho Code, deemed necessary to implement the provisions of this section.

SECTION 2. That Section 49-326, Idaho Code, be, and the same is hereby amended to read as follows:

49-326. AUTHORITY OF DEPARTMENT TO SUSPEND, DISQUALIFY OR REVOKE DRIVER'S LICENSE AND PRIVILEGES. (1) If the court has not ordered the suspension of a license or privileges, the department is authorized to suspend, disqualify or revoke the license or privileges of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the driver:

(a) Has committed an offense for which mandatory revocation or disqualification of license or privileges is required upon conviction;

(b) Has been convicted in any court in this state of an offense against a municipal ordinance which would have been grounds for suspension, revocation or disqualification of his driver's license or privileges had the charge been prosecuted under a state law;

(c) Is incompetent to drive a motor vehicle;

1. Any person who in the opinion of the department, based upon recommendation of the person's personal physician, is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when the person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the streets and highways, or any person who is unable to understand highway signs, warning, regulating or directing traffic, is incompetent to drive a motor vehicle.

2. Any person who shall not have minimum visual acuity with or without corrective lenses of 20/40 in at least one (1) eye as determined by the Snellen system or other available systems is incompetent to operate a motor vehicle, however, the department shall have the authority to license such person upon the recommendation of an ophthalmologist or qualified physician and upon passage of a skills test. At 20/70 or more in both eyes with or without corrective lenses the department may suspend the driver's license and privileges. Any person who applies for or receives any type of tax, welfare or other benefits or exemptions for the blind shall be conclusively presumed incompetent to operate a motor vehicle.

3. Any person, department, or political subdivision of the state of Idaho who receives an application for any type of tax, welfare, aid or other benefits or exemptions for the blind shall immediately forward the name, address, sex, date of birth, and date of application of the applicant to the department;

(d) Has permitted an unlawful or fraudulent use of a driver's license;

(e) Has committed an offense in another state which if committed in Idaho would be grounds for suspension, disqualification or revocation;

(f) Has been convicted of the offense of reckless driving, or fleeing or attempting to elude a peace officer, and providing that the operating privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the period of suspension shall be for one (1) year;

(g) Has failed to satisfy a judgment as set forth in chapter 12, title 49, Idaho Code;

(h) Has failed to maintain proof of financial responsibility as set forth in chapter 12, title 49, Idaho Code;

(i) Has a driving record which shows a violation point count of twelve (12) or more points in any consecutive twelve (12) month period;

(j) Is an habitual violator of traffic laws;

(k) Has been convicted of the offense of violation of a restricted license and providing the driver's license and privi-

leges be suspended for a period of thirty (30) days;

(l) Has been convicted for the offense of leaving the scene of an accident involving damages to a vehicle, the period of revocation shall be one (1) year;

(m) Has been convicted for the offense of leaving the scene of an accident resulting in injury or death, the period of revocation shall be one (1) year.

(2) A violation point is assessed for conviction of any charge or with proof of any infraction involving a moving traffic violation. A value of one (1) point shall be given for a less serious violation and up to four (4) points for a more serious violation. Conviction or proof of infraction for only one (1) violation arising from one (1) occasion of arrest or citation shall be counted in determining the violation point count.

(3) The department is authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of driver's licenses issued by the department.

(4) Upon suspending, revoking or disqualifying the driver's license or privileges of any person, the department shall immediately notify the licensee in writing, and upon his request shall afford him an opportunity for a hearing before the director. The hearing shall be held within twenty (20) days after receipt of the request~~, and be held in the county where the licensee resides unless the department and the licensee agree that the hearing may be held in some other county~~. The place of the hearing shall be designated by rule of the department in one (1) or more location in each of the administrative districts of the department which are headquartered at Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello and Rigby. The notice and hearing shall be required prior to the imposition of additional suspension or disqualification periods beyond the periods as set forth in this section. Upon a hearing the director or his duly authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon the hearing the department shall either rescind its order or, with good cause, may extend the suspension or disqualification of the driver's license or revoke the driver's license.

Whenever a driver's license, permit or driving privilege has been suspended or revoked by the department as provided in this section, other than as set forth in subsections (1)(c), (d), (g), (h) or (m), the department may issue a temporary restricted permit restricting the time, area and purpose of use. The application, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule.

(5) The department shall not suspend a driver's license or privileges for a period of more than one (1) year and upon revoking a driver's license or privileges shall not in any event grant application for a new driver's license until the expiration of one (1) year after the revocation. The provisions of this subsection shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-325, Idaho Code.

(6) The department shall not disqualify a driver for a period

longer than specified by 49 CFR part 383.

SECTION 3. That Section 49-328, Idaho Code, be, and the same is hereby amended to read as follows:

49-328. REINSTATEMENT OF REVOKED, DISQUALIFIED OR SUSPENDED DRIVER'S LICENSE -- FEE -- WHEN REINSTATEMENT PROHIBITED. (1) When the period of revocation, disqualification or suspension of a driver's license has expired, or the reason for the revocation, disqualification or suspension no longer exists, the department shall reinstate the driver's license or driving privileges on application of the driver. The application shall be in the form prescribed by the department and accompanied by a reinstatement fee of fifteen dollars ($15.00) which shall be deposited in the state highway account.

(2) A driver's license which has been suspended under section 49-1505, Idaho Code, for failure to pay an infraction penalty shall not be reinstated until the licensee provides proof that the infraction penalty has been paid to the court.

(3) In addition to any other fees required in this section to be collected, the department shall collect twenty-five dollars ($25.00) for reinstating a driver's license after conviction for driving under the influence, without privileges, and after conviction or other violation of any other traffic related misdemeanor or infraction, of which fees twenty dollars ($20.00) shall be paid over to the county treasurer of the county in which the conviction occurred for support of that county's justice fund, or the current expense fund if no county justice fund has been established and the five dollars ($5.00) shall be deposited in the state highway account.

(4) In addition to any other fees required in this section to be collected, the department shall collect one hundred fifteen dollars ($115) for reinstating a driver's license after a suspension imposed under the provisions of section 18-8002 or section 18-8002A, Idaho Code, or after a suspension arising out of any alcohol or drug related offense, other than a suspension imposed upon a person under eighteen (18) years of age pursuant to section 18-1502(d), Idaho Code. Funds collected pursuant to this subsection shall be deposited in the state highway account. The department shall reevaluate the amount of the reinstatement fee herein imposed not later than February, 1995~~6~~, to determine the sufficiency of the fee to meet the costs associated with the implementation of section 18-8002A, Idaho Code.

Approved April 7, 1994.

CHAPTER 358
(H.B. No. 738, As Amended, As Amended in the Senate)

AN ACT

RELATING TO UTILITY RECORDS DISCLOSURE UNDER THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2741A, IDAHO CODE, TO REDUCE THE STANDARD REQUIRED TO SUBPOENA UTILITIES FOR THE PRODUCTION OF RECORDS FROM A PROBABLE CAUSE STANDARD TO A REASONABLE ARTICULABLE

SUSPICION STANDARD, TO PROVIDE FOR DESTRUCTION OF RECORDS OBTAINED PURSUANT TO SUBPOENA ISSUED UNDER THE SECTION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 37-2741A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2741A. ~~FINANCIAL INSTITUTION AND~~ UTILITY RECORDS -- INSPECTION AND COPYING -- WRONGFUL DISCLOSURE. (a) Upon request of the attorney general or prosecuting attorney, a subpoena for the production of records of a ~~financial institution or~~ utility may be signed and issued by a ~~district court~~ magistrate judge if there is ~~probable cause~~ reasonable articulable suspicion that a violation of the provisions of sections 37-2732, 37-2732B, 37-2733, 37-2734 or 37-2734A, Idaho Code, has occurred or is occurring and that the records sought will materially aid in the investigation of such activity or appear reasonably calculated to lead to the discovery of information that will do so. The subpoena shall be served on the ~~financial institution or~~ utility as in civil actions. The court may, upon motion timely made and in any event before the time specified for compliance with the subpoena, condition compliance upon advancement by the attorney general or prosecuting attorney of the reasonable costs of producing the records specified in the subpoena.

(b) A response to a subpoena issued under this section is sufficient if a copy or printout, duly authenticated by an authorized representative of the ~~financial institution or~~ utility as a true and correct copy or printout of its records, is provided, unless otherwise provided in the subpoena for good cause shown.

(c) Except as provided in this subsection, a ~~financial institution or~~ utility served with a subpoena under this section may disclose to the customer the fact that a subpoena seeking records relating to the customer has been served. A magistrate judge ~~of the district court~~ may order that the attorney general, prosecuting attorney~~, financial institution~~ or utility refrain from disclosing the fact that a subpoena has been served.

(d) A ~~financial institution or~~ utility shall be reimbursed in an amount set by the court for reasonable costs incurred in providing information pursuant to the provisions of this section.

(e) The provisions of this section do not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges or the right to seek a protective order where appropriate.

(f) Disclosure by the attorney general, county prosecuting attorney, or any peace officer or other person designated by the attorney general or the county prosecuting attorney, of information obtained under this section, except in the proper discharge of official duties, is punishable as a misdemeanor.

(g) Upon filing of any civil or criminal action, the nondisclosure requirements of any subpoena or order under this section shall terminate, and the attorney general or prosecuting attorney filing the action shall provide copies to the defendant of all subpoenas

or other orders issued under this section.

(h) A good faith reliance on a court order by ~~a financial institution or~~ a utility shall constitute a complete defense to any civil or criminal action brought against such ~~a financial institution or~~ utility under the laws of this state.

(i) The term "utility," as used herein, shall mean every corporation, association, company, partnership, sole proprietorship, business entity, person, or any municipal corporation, mutual nonprofit or cooperative corporation which provides water, gas or electrical services to members of the public, for compensation, within the state of Idaho.

(j) If an action is not filed within two (2) years and the investigation is no longer active, records obtained pursuant to this section shall be destroyed by the attorney general or prosecuting attorney.

Approved April 7, 1994.

CHAPTER 359
(H.B. No. 742)

AN ACT

RELATING TO RESTRICTIONS ON CHARITABLE DEVISES; REPEALING SECTION 15-2-615, IDAHO CODE.

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

SECTION 1. That Section 15-2-615, Idaho Code, be, and the same is hereby repealed.

Approved April 7, 1994.

CHAPTER 360
(H.B. No. 743, As Amended, As Amended in the Senate)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1402, IDAHO CODE, TO AUTHORIZE CREATION OF A FIRE PROTECTION DISTRICT CONTAINING CONTIGUOUS TERRITORY AND TO CONFIRM EXISTING DISTRICTS; AMENDING SECTION 31-1411, IDAHO CODE, TO AUTHORIZE THE ANNEXATION OF CONTIGUOUS OR NONCONTIGUOUS TERRITORY; AMENDING SECTION 31-1412, IDAHO CODE, TO AUTHORIZE THE ADDITION OF CONTIGUOUS OR NONCONTIGUOUS TERRITORY IN ANOTHER COUNTY TO THE DISTRICT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 31-1402, Idaho Code, be, and the same is hereby amended to read as follows:

31-1402. CREATION AND ORGANIZATION OF DISTRICT. (1) Whenever twenty-five (25) or more of the holders of title, or evidence of title, to lands aggregating not less than one thousand (1,000) acres of contiguous territory, or consisting of contiguous territory of less extent but having market value for assessment purposes of at least five hundred thousand dollars ($500,000) at the last preceding county assessment, desire to provide for the organization of the same as a fire protection district, none of their lands being included within the boundaries of an already created and organized fire protection district under the terms of this chapter, a district may be created and organized as provided in this chapter.

(2) All creations and organizations of fire protection districts and annexations to existing fire protection districts during the twelve (12) month period preceding the effective date of this act shall be deemed to be in full compliance with all applicable laws regardless of prior interpretations.

SECTION 2. That Section 31-1411, Idaho Code, be, and the same is hereby amended to read as follows:

31-1411. ANNEXATION OF TERRITORY IN SAME COUNTY -- PETITION -- HEARING -- ORDER -- CERTIFICATION TO COUNTY COMMISSIONERS -- ALTERNATE PROCEDURE -- ELECTION. After the organization of a fire protection district, additional contiguous or noncontiguous territory lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district.~~, by the~~ Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. The owners or contract purchasers of all the land sought to be annexed shall petition~~ing~~ the fire protection board and request~~ing~~ annexation of the territory particularly described in said petition. Upon receipt of any such petition the fire protection board shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, and said board shall cause notice of such hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district. Any person supporting or objecting to such petition shall be heard at such hearing, if in attendance, and at the close of such hearing said board shall approve or reject said petition. If the board approves said petition it shall make an order to that effect and certify a copy of said order containing an accurate legal description of the annexed territory to the board of county commissioners of the county where said fire district is situated. Said board of county commissioners shall thereupon enter an order of annexation and cause the same to be recorded so as to include the annexed property on the tax rolls as in this chapter provided.

In the event that all the owners or contract purchasers of the land sought to be annexed do not join in said petition or the petition is denied as above set forth, additional territory may nevertheless be annexed by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken either at a general or special election held as provided in section 31-1405, Idaho Code. But such additional territory shall not be annexed to or be included

within the district unless such annexation and inclusion be first approved by the fire protection board of the existing district by resolution entered on the minutes of such board prior to the election on the question of annexation. The same procedure, with such modifications in the form of petition, notices, ballots, etc., as may be necessary shall be adopted as in this law provided in sections 31-1402 to 31-1406, Idaho Code.

SECTION 3. That Section 31-1412, Idaho Code, be, and the same is hereby amended to read as follows:

31-1412. ANNEXATION OF TERRITORY IN ADJOINING COUNTY. After the organization of a fire protection district, additional territory ~~adjoining--the--district~~, contiguous or noncontiguous thereto and located wholly within an adjoining county, may be added to the district and become a part thereof as hereinafter provided in this section. Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. The proceedings for annexation shall be the same as the proceedings for the creation and organization of a fire protection district with the following exceptions and modifications:

a. Such proceeding may be initiated by two (2) or more of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres, or of less area but having market value for assessment purposes of at least one hundred twenty-five thousand dollars ($125,000).

b. A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of the territory, and name and describe the fire protection district to which annexation is sought, shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. The petition must be accompanied by a certified copy of a resolution of the board of fire protection commissioners of the original district consenting to the annexation.

c. The notice of hearing on the petition shall state that certain territory described in the petition, is proposed to be annexed to a fire protection district named in the petition and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections at the time and place specified. The order entered by the local board of county commissioners on the petition shall, if the petition be granted, fix the boundaries of the annexed territory and direct that a map of it be prepared under the direction of the clerk of the board, and certified copies of the order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original fire protection district is situated.

d. An election shall be held in the territory proposed to be annexed for the purpose of voting upon the annexation and the notice shall accurately describe the boundaries of the territory proposed to be annexed, shall state the name of the district to which annexation is sought, and that a map showing the boundaries of the district and

of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. The notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to .... Fire Protection District" and "Against annexation to .... Fire Protection District," and shall direct that the voter indicate his choice thereon by a cross (X).

e. The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to .... Fire Protection District." The returns of the election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from the canvass that more than one-half (1/2) of the voters are in favor of the annexation, the board shall, by order entered on its minutes, declare the territory a part of the fire protection district to which annexation is sought, and a certified copy of the order shall be transmitted to the fire protection board of the original district, and also to the board of the county commissioners of the county in which the original district is situated. A certified copy of the order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. At the first meeting of the board of county commissioners following the annexation of property from another county, the board of county commissioners shall resubdivide the expanded fire protection district into three (3) subdivisions, as nearly equal in population and area as practicable. Not more than one (1) fire protection district commissioner shall reside in each subdistrict. If, because of resubdistricting, two (2) or more commissioners reside in the same subdistrict, they shall draw lots to determine who shall remain in office. The county commissioners shall appoint, as necessary, persons to fill vacancies created as a result of annexation. An appointee shall serve the remainder of the term of office he or she is appointed to fill. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to the levy.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after June 1, 1994.

Approved April 7, 1994.

CHAPTER 361
(H.B. No. 747, As Amended)

AN ACT

RELATING TO THE REGULATION OF THE SALE AND DISTRIBUTION OF BEER AND WINE; AMENDING SECTION 23-1033, IDAHO CODE, TO CLARIFY CERTAIN PERMITTED AID TO A BEER RETAILER BY A BREWERY, DEALER OR WHOLESALER; AMENDING SECTION 23-1325, IDAHO CODE, TO CLARIFY CERTAIN PERMITTED AID TO A WINE RETAILER BY AN IMPORTER OR BY A VINTNER, WINERY OR DISTRIBUTOR.

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

SECTION 1. That Section 23-1033, Idaho Code, be, and the same is hereby amended to read as follows:

23-1033. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) Except as provided in sections 23-1003(d), and 23-1003(e), Idaho Code, it shall be unlawful for any brewer, dealer, wholesaler, or the holder of any certificate of approval, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except such property as shall have been so owned or controlled continuously for more than one (1) year prior to July 1, 1975; or

(b) To aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of beer; or

(c) To aid or assist any licensed retailer by furnishing, giving, renting, lending or selling any equipment, signs, supplies, services, or other thing of value to the retailer which may be used in conducting the retailer's retail beer business, except as expressly permitted by this chapter; or

(d) To enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer; or

(e) To provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space.~~;-or~~

~~(f)--To-furnish-or-sell-to-a-retailer--consumer--advertising--specialties--which--bear-advertising-matter,-such-as-ashtrays,-bottle or-can-openers,-corkscrews,-paper-bags,-matches,--leaflets,--blotters,--postcards,--pencils,-napkins,-coasters,-clothing,-glassware or-other-containers.~~

(2) A brewer, dealer, or wholesaler as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may ~~furnish-or~~ sell to a retailer~~,-under-the-conditions-and-within-the--limitations--prescribed herein,--the--following--items:~~ equipment, supplies, or clothing which may be used in conducting the retailer's retail business. A brewer, dealer or wholesaler may not sell such equipment or supplies at a

price, or under terms, intended or designed to encourage or induce the retailer to use products of the seller to the exclusion of the products of other brewers, dealers or wholesalers. In no event shall the sales price be less than the reasonable value of such equipment or supplies.

(3) Notwithstanding the provisions of subsection (2) of this section, a brewer, dealer, or wholesaler, as an incident to merchandising in the ordinary course of business, and if available to all retailers within the brewer, dealer or wholesaler's service area, without discrimination, may lend, give, furnish or sell to a retailer, the following items:

(a) Necessary accessory equipment, such as shaft blowers, tapping devices, valves, beer hoses, washers, couplings, clamps, air hoses, vents, faucets, CO gas regulators, picnic or party pumps, together with necessary nonmechanical or nonenergized equipment to enable cooling of beer, and CO gas or ice when the same is furnished at the current retail price and as a bona fide sale in the regular course of business;

(b) Signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment. The ~~industry member~~ brewer, dealer or wholesaler shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

(c) Newspaper cuts, mats or engraved blocks for use in retailer's advertisements;

(d) Items such as sports schedules, posters, calendars, informational pamphlets, decals and other similar materials for display at the point of sale which bear brand advertising for beer prominently displayed thereon, and which items are intended for use by the retailer's customers off the licensed premises and which items are made available to the retailer's customers for such purpose;

(e) Temporary signs or banners displaying a brewer's, dealer's or wholesaler's name, trademark or label, which signs may be permitted to be temporarily displayed on the exterior portion of the retailer premises in connection with a special event, in accordance with such rules relating thereto as may be established by the director.

(4) A distributor may p~~P~~erform services incident to or in connection with the following:

(a) T~~t~~he stocking, rotation and restocking of beer sold and delivered to such licensed retailer on or in such licensed ~~retailer's~~ storeroom, salesroom shelves or refrigerating units, including ~~to~~ the marking or remarking of containers of such beer to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section. For the purposes of this paragraph, a wholesaler may, with the permission of the retailer, and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all beer upon the shelves of the retailer. Labor performed or schematics prepared by the wholesaler relating to conduct authorized pursuant to this paragraph shall not constitute prohibited conduct or unlawful aid to a

retailer;

(~~e~~b) ~~Perform services in connection with:~~

~~1.~~(i) The inspection of a licensed retailer's draught equipment to insure sanitation and quality control;

~~2.~~(ii) The instruction of licensed retailers in the proper use, maintenance and care of draught equipment, glasses and products used in the sale and dispensing of beer and the preparation and distribution of written information or instructions to licensed retailers with respect thereto;

~~3.~~(iii) The tapping of kegs~~.~~;

~~(3) When services, equipment, or supplies are provided by a brewer, dealer or wholesaler to a retailer as permitted in subsection (2) of this section, a charge for services, equipment or supplies may, upon request of a brewer, dealer or wholesaler, be paid by such retailer, at a price which shall not be less than the cost thereof to the industry member providing such services, equipment or supplies.~~

(iv) A wholesaler may perform such services as may be required to maintain sanitation or quality control and which are incident to the repair and cleaning of a retailer's draught beer equipment and may furnish or sell the necessary equipment and repair parts and cleaning supplies required in the performance of such services.

(5) A wholesaler may assist a retailer by temporarily providing storage of the retailer's beer for a period not in excess of seven (7) days in the event that such storage is necessary to maintain the quality of such beer during a temporary loss or failure of the retailer's refrigeration equipment.

(6) A brewery, dealer or wholesaler may furnish or give to a retailer authorized to sell beer for consumption on the licensed premises, for sampling purposes only, a container of beer containing not more than sixty-four (64) ounces, not currently being sold by the retailer, and which container is clearly marked "NOT FOR SALE--FOR SAMPLING PURPOSES ONLY."

(~~4~~7) The word "ale" or "malt liquor" may be substituted for "beer" on any sign used in connection with any advertising herein permitted, provided reference shall be to ale or malt liquor which has an alcoholic content not greater than the limitation prescribed in section 23-1002, Idaho Code.

(~~5~~8) Every violation of the provisions of this section by a dealer, brewer or wholesaler, in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

SECTION 2. That Section 23-1325, Idaho Code, be, and the same is hereby amended to read as follows:

23-1325. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) It shall be unlawful for any importer, distributor, vintner or winery, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except such property as

shall have been so owned or controlled continuously for more than one (1) year prior to July 1, 1975; or

(b) To aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of wine; or

(c) To aid or assist any retailer by furnishing, giving, renting, lending or selling any equipment, signs, supplies, wine menus or wine lists, services, or other thing of value which may be used in conducting the retailer's retail wine business, except as expressly permitted by this chapter; or

(d) To enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer; or

(e) To provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space.~~;--or~~

~~(f)--To--furnish--or--sell-to-a-retailer-consumer-advertising-specialties-which-bear-advertising-matter,-such-as--ashtrays,--bottle or-can-openers,-corkscrews,-paper-bags,-matches,-wine-lists,-leaflets,--blotters,--postcards,-pencils,-napkins,-coasters,-clothing, glassware-or-other-containers.~~

(2) An importer, distributor, vintner or winery as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may ~~furnish-or~~ sell to a retailer~~,-under-the-conditions-and-within-the-limitations-prescribed herein,-the-following:~~ equipment, supplies or clothing which may be used in conducting the retailer's retail wine business. A winery, vintner, importer or distributor may not sell such equipment or supplies at a price, or under terms, intended or designed to encourage or induce the retailer to use products of the seller to the exclusion of the products of other wineries, vintners, importers or distributors. In no event shall the sales price of such equipment or supplies be less than the reasonable value of such equipment or supplies.

(3) Notwithstanding the provisions of subsection (2) of this section, a vintner, winery, importer or distributor, as an incident to merchandising in the ordinary course of business, and if available to all retailers without discrimination, may lend, give, furnish or sell to a retailer, the following items:

(a) Those services, equipment, brochures and recipes authorized under the provisions of sections 23-1325A and 23-1325B, Idaho Code;

(b) Signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment. The importer, distributor, vintner or winery shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

(c) Newspaper cuts, mats or engraved blocks for use in retailer's advertisements;

(~~e~~d) Items such as sports schedules, posters, calendars, informational pamphlets, decals and other similar materials for display at the point of sale which bear brand advertising for wine prominently displayed thereon, and which items are intended for use by the retailer's customers off the licensed premises and which items

are made available to the retailer's customers for such purpose.

(e) Temporary signs or banners displaying a vintner's, winery's or distributor's name, trademark or label, which signs may be permitted to be temporarily displayed on the exterior portion of the retailer premises in connection with a special event, in accordance with such rules relating thereto as may be established by the director.

(4) A distributor may p~~P~~erform services incident to or in connection with the stocking, rotation and restocking of wine sold and delivered to such licensed retailer on or in such licensed retailer's storeroom, salesroom shelves or refrigerating units, including ~~to~~ the marking or remarking of containers of such wine to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section. A distributor may, with the permission of the retailer and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all wine upon shelves of the retailer. Labor performed or schematics prepared by the distributor relating to conduct authorized pursuant to the provisions of this paragraph shall not constitute prohibited conduct.

~~(3)--When-services,-equipment,-or--supplies--are--provided--by--an importer,-distributor,-vintner-or-winery-to-a-retailer-as-permitted-in subsection--(2)--of--this-section,-a-charge-for-services,-equipment-or supplies-incident-to-installation-may,-upon-request--of--an--importer, distributor,--vintner--or-winery,-be-paid-by-such-retailer,-at-a-price not-less-than-the-cost-thereof-to-the-industry-member--providing--such services,-equipment-or-supplies.~~

(5) An importer, distributor, vintner or winery may furnish or give to a retailer authorized to sell wine for consumption on the licensed premises, for sampling purposes only, a container of wine, containing not more than sixty-four (64) ounces, not currently being sold by the retailer, and which container is clearly marked "NOT FOR SALE--FOR SAMPLING PURPOSES ONLY."

(~~4~~6) A licensed winery may aid or assist a licensed retail wine outlet which retails exclusively the wine product of that winery and which outlet is wholly owned and operated by that winery.

(~~5~~7) Every violation of the provisions of this section by an importer, distributor, vintner or winery in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

Approved April 7, 1994.

CHAPTER 362

(H.B. No. 752, As Amended, As Amended in the Senate)

AN ACT

RELATING TO CONFINEMENT IN A COUNTY JAIL; AMENDING SECTION 20-605, IDAHO CODE, TO PROVIDE THAT MEDICAL EXPENSES OF AN INMATE IN A COUNTY JAIL BE PAID AT THE MEDICAL REIMBURSEMENT RATE; AND AMENDING SECTION 20-612, IDAHO CODE, TO PROVIDE THAT MEDICAL EXPENSE OF

AN INMATE IN A COUNTY JAIL SHALL BE PAID AS AUTHORIZED BY THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 31-3302, IDAHO CODE, TO PROVIDE THE RATE AT WHICH COMPENSATION FOR MEDICAL EXPENSES SHALL BE PAID.

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

SECTION 1. That Section 20-605, Idaho Code, be, and the same is hereby amended to read as follows:

20-605. COSTS OF CONFINEMENT. The county wherein any court has entered an order pursuant to section 20-604, Idaho Code, shall pay all direct and indirect costs of the detention or confinement of the person to the governmental unit or agency owning or operating the jail or confinement facilities in which the person was confined or detained. The amount of such direct and indirect costs shall be determined on a per day per person basis by agreement between the county wherein the court entered the order and the county or governmental unit or agency owning or operating such jail or confinement facilities. In the absence of such agreement or order fixing the cost as provided in section 20-606, Idaho Code, the charge for each person confined or detained shall be the sum of thirty-five dollars ($35.00) per day, plus the ~~actual~~ cost of any medical or dental services paid at the unadjusted medicaid rate of reimbursement as provided in section 31-3502(4), Idaho Code, unless a rate of reimbursement is otherwise established by contract or agreement; provided, however, that the county may determine whether the detained or confined person is eligible for any local, state, federal or private program that covers dental, medical and/or burial expenses. That person will be required to apply for those benefits, and any such benefits obtained may be applied to the detained or confined person's incurred expenses, and in the event of the death of such detained or confined person, the county wherein the court entered the order shall pay all actual burial costs. Release from an order pursuant to section 20-604, Idaho Code, for the purpose of a person receiving medical treatment shall not relieve the county of its obligation of paying the medical care expenses imposed in this section. In case a person confined or detained was initially arrested by a city police officer for violation of the motor vehicle laws of this state or for violation of a city ordinance, the cost of such confinement or detention shall be a charge against such city by the county wherein the order of confinement was entered. All payments under this section shall be acted upon for each calendar month by the second Monday of the month following the date of billing.

SECTION 2. That Section 20-612, Idaho Code, be, and the same is hereby amended to read as follows:

20-612. RECEPTION AND BOARD OF PRISONERS. The sheriff must receive all persons committed to jail by competent authority except mentally ill persons not charged with a crime and juveniles. It shall be the duty of the board of county commissioners to furnish all persons committed to the county jail with necessary food, clothing and bedding, and medical care as provided in section 20-605, Idaho Code,

and the board of county commissioners is authorized to pay therefor out of the county treasury under such rules and regulations as they may prescribe.

SECTION 3. That Section 31-3302, Idaho Code, be, and the same is hereby amended to read as follows:

31-3302. COUNTY CHARGES ENUMERATED. The following are county charges:

(1) Charges incurred against the county by virtue of any provision of this title.

(2) The compensation allowed by law to constables and sheriffs for executing process on persons charged with criminal offenses; for services and expenses in conveying criminals to jail; for the service of subpoenas issued by or at the request of the prosecuting attorneys, and for other services in relation to criminal proceedings.

(3) The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail. Provided that any medical expenses shall be paid at the unadjusted medicaid rate of reimbursement as provided in section 31-3502(4), Idaho Code, unless a rate of reimbursement is otherwise established by contract or agreement.

(4) The compensation allowed by law to county officers in criminal proceedings, when not otherwise collectible.

(5) The sum required by law to be paid to grand jurors and indigent witnesses in criminal cases.

(6) The accounts of the coroner of the county, for such services as are not provided to be paid otherwise.

(7) The necessary expenses incurred in the support of county hospitals, and the indigent sick and nonmedical assistance for indigents, whose support is chargeable to the county.

(8) The contingent expenses, necessarily incurred for the use and benefit of the county.

(9) Every other sum directed by law to be raised for any county purpose, under the direction of the board of county commissioners, or declared to be a county charge.

Approved April 7, 1994.

CHAPTER 363
(H.B. No. 753, As Amended in the Senate)

AN ACT

RELATING TO AQUACULTURE; AMENDING SECTION 22-4601, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AMENDING SECTION 22-4603, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 22-4604, IDAHO CODE, TO RENAME THE COMMERCIAL FISHERIES/AQUACULTURE ACCOUNT; AND AMENDING SECTION 22-4605, IDAHO CODE, TO RENAME THE COMMERCIAL FISHERIES/AQUACULTURE ACCOUNT.

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

SECTION 1. That Section 22-4601, Idaho Code, be, and the same is hereby amended to read as follows:

22-4601. DEFINITIONS. As used in this chapter:

(1) "Aquaculture" means the husbandry of aquatic plants and animals, both public and private.

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

(3) "Aquatic life" means all types of aquatic plants and animals or wildlife (invertebrate or vertebrate), approved for importation by the director of the department of fish and game pursuant to authority granted to him by the fish and game commission pursuant to the commission's authority under section 36-104(b)(6), Idaho Code, and all life stages whether publicly or privately held.

(~~2~~4) "Department" means the Idaho department of agriculture.

(~~3~~5) "Director" means the director of the department of agriculture.

(~~4~~6) "Person" means an individual, partnership, corporation, company or other business entity and any agent or officer of any partnership, corporation, company or other business entity.

SECTION 2. That Section 22-4603, Idaho Code, be, and the same is hereby amended to read as follows:

22-4603. RULES ~~AND--REGULATIONS~~. The director is authorized to promulgate rules ~~and-regulations~~ in accordance with chapter 52, title 67, Idaho Code, for the administration and implementation of this chapter including, but not limited to, rules ~~and-regulations~~ concerning onsite inspections, standards for maintenance of fish health and standards for marketing. The director is further authorized to develop and conduct research programs addressing environmental issues and other issues related to the industry. In the development of such rules~~,-regulations~~ and programs, the director shall consult with representatives of commercial fisheries and the aquaculture industry.

SECTION 3. That Section 22-4604, Idaho Code, be, and the same is hereby amended to read as follows:

22-4604. PENALTIES. Any person violating the provisions of this chapter or any rule ~~or-regulation~~ promulgated by the director pursuant thereto shall be subject to an administrative penalty not to exceed one thousand dollars ($1,000) for each offense. In addition to or in lieu of such penalty, the director is authorized to suspend for up to one (1) year or revoke any license issued hereunder. Proceedings under this section shall be conducted in the manner provided for contested cases in chapter 52, title 67, Idaho Code. If the department is unable to collect any administrative penalty assessed hereunder, or if any person fails to pay all or a portion of the administrative penalty assessed hereunder, the department may recover such amount by action in the appropriate district court.

Penalties collected for violations under this section shall be deposited in the commercial fisheries/aquaculture account.

SECTION 4. That Section 22-4605, Idaho Code, be, and the same is hereby amended to read as follows:

22-4605. COMMERCIAL FISHERIES/AQUACULTURE ACCOUNT. License fees and penalties collected under section 22-4604, Idaho Code, and any other moneys received by the department for research or other purposes related to commercial fisheries or aquaculture shall be deposited in the commercial fisheries/aquaculture account which is hereby created in the state treasury. Moneys in the account shall be used solely for carrying out the provisions of this chapter.

Approved April 7, 1994.

CHAPTER 364
(H.B. No. 781, As Amended, As Amended in the Senate)

AN ACT

RELATING TO HIGHWAY RIGHT-OF-WAY PLATS; AMENDING SECTION 31-3205, IDAHO CODE, TO PROVIDE FEES FOR COPYING HIGHWAY RIGHT-OF-WAY PLATS; AMENDING CHAPTER 2, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-209, IDAHO CODE, TO PROVIDE FOR HIGHWAY RIGHT-OF-WAY PLATS; AMENDING SECTION 40-2301, IDAHO CODE, TO ALLOW THE SETTING OF RIGHT-OF-WAY MONUMENTS; AMENDING SECTION 50-1301, IDAHO CODE, TO DEFINE ADDITIONAL TERMS; AND AMENDING SECTION 50-1306A, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR PUBLIC HIGHWAY AGENCIES.

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

SECTION 1. That Section 31-3205, Idaho Code, be, and the same is hereby amended to read as follows:

31-3205. RECORDER'S FEES. The county recorder is allowed, and may receive for his services, the following fees, to be paid him by the party procuring his services:

For recording every instrument, paper or notice, for each page ..... $ 3.00

For copies of any record or paper, for each page ..... $ 1.00

For each certificate under seal, when required ..... $ 1.00

For release or assignment where more than one (1) document is released or assigned in the same instrument, for each additional release or assignment ..... $ 1.00

For recording every town plat or map, for first one hundred (100) lots or less $11.00

And for each additional lot ..... $ .05

For taking acknowledgments, including seal ..... $ 1.00

For recording the location notice or amended location notice, of a mining claim, or for recording and indexing each notice, for each page ..... $ 3.00

For recording affidavit of labor of mining claims for one (1) mining claim ..... $ 4.00

Plus an additional charge for each claim in excess of one (1) ..... $ .50

For filing a survey ..... $ 5.00

For making a copy of a survey or highway right-of-way plat ..... $ 4.00

For issuing marriage license, filing, recording and indexing the certificate of marriage and taking and filing affidavits required in issuance of the license $11.00

For administering an oath, including jurat ..... $ 1.00

And certifying the same when required an additional sum of ..... $ 1.00

For comparing and certifying a prepared copy of a file or record in his office, for each page ..... $ .50

For making and certifying a report of search for lien upon personal property, excluding Uniform Commercial Code, for each name searched ..... $ 5.00

For each certificate under seal there shall be an additional fee of ..... $ 1.00

All instruments delivered to the county recorder for record shall be recorded rather than filed with the exception of plats, surveys, cornerstone markers and instruments under the Uniform Commercial Code.

For all other services as recorder, not enumerated herein, the fee fixed in the statute requiring the service or the same fee as allowed the clerk of the district court for like service.

A page shall not exceed fourteen (14) inches in length nor eight and one-half (8 1/2) inches in width. The recording fee to be charged for maps, sketches, drawings or other instruments except plats larger than the size permitted above for a page shall be two cents (2¢) per square inch.

SECTION 2. That Chapter 2, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-209, Idaho Code, and to read as follows:

40-209. HIGHWAY RIGHT-OF-WAY PLATS. (1) A public highway agency may file in the office of the county recorder a highway right-of-way plat. The highway right-of-way plat shall show by outline and identify by parcel number tracts or parcels of land to be acquired and shall be prepared in conformance with chapter 19, title 55, Idaho Code. The recording of a highway right-of-way plat as provided in this section shall not excuse a county or highway district from the requirements of abandonment or validation of a public highway or public right-of-way as provided in sections 40-203 and 40-203A, Idaho Code. The highway right-of-way plat shall contain the following:

(a) Project name and number;

(b) Monuments found, set, reset, replaced or removed describing their kind, size and location and giving other data relating thereto;

(c) Bearings, basis of bearings, length of lines, scale of map and north arrow;

(d) Section, or part of section, township, range and reference to adjoining plats or surveys of record; and ties to at least two (2) public land survey corners, or in lieu of public land survey corners, to two (2) monuments recognized by the city engineer or surveyor, or county engineer or surveyor;

(e) Outline of all parcels of land to be acquired, identifying them with parcel identification numbers;

(f) Acknowledgement of authorized agent of the public highway agency filing said plat;

(g) Certificate of land surveyor under whose responsible charge the plat is prepared.

(2) The highway right-of-way plat filed with the county recorder of any county shall be assigned an instrument number and shall be bound or filed with other plats of like character in a book on file designated "Highway Right-of-Way Plats."

(3) Any amendments, alterations, rescissions or changes in a highway right-of-way plat shall comply with subsection (1) of this section and shall be filed in a like manner. The recorder may make suitable notations on the appropriate highway right-of-way plat affected by the amendment, alteration, rescission or change to direct the attention of anyone examining the record to the proper plat.

(4) Highway right-of-way plats filed under this section shall not operate to transfer title to the real property described therein but such plat shall be used for delineation purposes. Acquisition of real property for highway right-of-way by conveyance or judicial decree may refer to said highway right-of-way plat, project number and parcel identification number, together with delineation of the parcel as a valid description of the real property for all purposes.

(5) The agency making the initial filing in a county shall reimburse the county recorder the actual cost of the plat book required in subsection (2) of this section.

SECTION 3. That Section 40-2301, Idaho Code, be, and the same is hereby amended to read as follows:

40-2301. RIGHT OF ENTRY TO MAKE SURVEYS. Agents and employees of t~~T~~he board, county commissioners and highway district commissioners~~, and their agents and employees,~~ shall have the right to enter upon any land to make surveys for any of the purposes of this title in the manner provided by law. Agents and employees of the board, county commissioners and highway district commissioners who are licensed as, or under the direction of, professional land surveyors shall have the right to enter upon any land to set right-of-way monuments for the purposes of this title in the manner provided by law.

SECTION 4. That Section 50-1301, Idaho Code, be, and the same is hereby amended to read as follows:

50-1301. DEFINITIONS. The following definitions shall apply to terms used in sections 50-1301 through 50-1334, Idaho Code.

1. Easement: A right of use, falling short of ownership, and usually for a certain stated purpose;

2. Functioning street department: A city department responsible

for the maintenance, construction, repair, snow removal, sanding and traffic control of a public highway or public street system and which receives funds from the highway distribution account to local units of government pursuant to section 40-709, Idaho Code.

3. Owner: The proprietor of the land, (having legal title);

~~3~~4. Plat: The drawing, map or plan of a subdivision, cemetery, townsite or other tract of land, or a replatting of such, including certifications, descriptions and approvals;

~~4~~5. Private road: A road within a subdivision plat that is not dedicated to the public and not a part of a public highway system;

~~5~~6. Public highway agency: The state transportation department, any city, county, highway district or other public agency with jurisdiction over public highway systems and public rights of way;

~~6~~7. Public land survey corner: Any land survey corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government;

~~7~~8. Public right of way: 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;

~~8~~9. Public street: A street, road, thoroughfare, alley, highway or bridge under the jurisdiction of a public highway agency;

~~9~~10. Sanitary restriction: The requirement that no building or shelter which will require a water supply facility or a sewage disposal facility for people using the premises where such building or shelter is located shall be erected until written approval is first obtained from the state board of health by its administrator or his delegate approving plans and specifications either for public water and/or sewage facilities, or individual parcel water and/or sewage facilities;

~~10~~11. Street: A street, road, thoroughfare, alley, highway or a right of way which may be open for public use but is not part of a public highway system nor under the jurisdiction of a public highway agency;

~~11~~12. Subdivision: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of the above definition.

SECTION 5. That Section 50-1306A, Idaho Code, be, and the same is hereby amended to read as follows:

50-1306A. VACATION OF PLATS -- PROCEDURE. (1) When any person, persons, firm, association or corporation may desire to vacate a plat or any part thereof which is inside or within one (1) mile of the boundaries of any city, it shall be lawful for such person, persons, firm, association or corporation to petition the city council to

vacate. Such petition shall set forth particular circumstances of the requests to vacate; contain a legal description of the platted area or property to be vacated; the names of the persons affected thereby, and said petition shall be filed with the city clerk.

(2) Written notice of public hearing on said petition shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of public hearing to all property owners within three hundred (300) feet of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two (2) successive weeks in the official newspaper of the city, the last of which shall be not less than seven (7) days prior to the date of said hearing; provided, however, that in a proceeding as to the vacation of all or a portion of a cemetery plat where there has been no interment, or in the case of a cemetery being within three hundred (300) feet of another plat for which a vacation is sought, publication of the notice of hearing shall be the only required notice as to the property owners in the cemetery.

(3) When the procedures set forth herein have been fulfilled, the city council may grant the request to vacate with such restrictions as they deem necessary in the public interest.

(4) When the platted area lies more than one (1) mile beyond the city limits, the procedures set forth herein shall be followed with the county commissioners of the county wherein the property lies. The county commissioners shall have authority, comparable to the city council, to grant the vacation, provided, however, when the platted area lies beyond one (1) mile of the city limits, but adjacent to a platted area within one (1) mile of the city, consent of the city council of the affected city shall be necessary in granting any vacation by the county commissioners.

(5) In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and slope purposes, public notice of intent to vacate is not required. Vacation of these easements shall occur upon the recording of the new or amended plat, provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing.

When public streets or public rights of way are located within the boundary of a highway district, the highway district commissioners shall assume the authority to vacate said public streets and public rights of way as provided in subsection (4) of this section.

All publication costs shall be at the expense of the petitioner.

<u>(6) Public highway agencies acquiring real property within a platted subdivision for highway right of way purposes shall be exempt from the provisions of this section.</u>

Approved April 7, 1994.

CHAPTER 365
(H.B. No. 796, As Amended)

AN ACT

RELATING TO HEALTH INSURANCE COVERAGE; AMENDING SECTION 32-1216, IDAHO CODE, TO REQUIRE ENROLLMENT OF A CHILD IN A HEALTH INSURANCE PLAN DIRECTLY THROUGH AN EMPLOYER WITHOUT REGARD TO ENROLLMENT SEASON RESTRICTIONS, TO LIMIT THE WITHHOLDING OF INCOME FOR PREMIUMS AND TO STRIKE CERTAIN RESTRICTIONS; AMENDING SECTION 41-2140, IDAHO CODE, TO DEFINE TERMS AND TO PROHIBIT RESTRICTIONS ON COVERAGE OF AN ADOPTED DEPENDENT CHILD SOLELY ON THE BASIS OF A PREEXISTING CONDITION; AMENDING CHAPTER 21, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2145, IDAHO CODE, TO GOVERN THE REQUIREMENT OF A DISABILITY INSURANCE POLICY TO PERMIT ENROLLMENT OF A DEPENDENT CHILD WHEN COVERAGE IS THE SUBJECT OF A COURT OR ADMINISTRATIVE ORDER; AMENDING SECTION 41-2210, IDAHO CODE, TO DEFINE TERMS AND TO PROHIBIT RESTRICTIONS ON COVERAGE OF AN ADOPTED DEPENDENT CHILD SOLELY ON THE BASIS OF A PREEXISTING CONDITION; AMENDING CHAPTER 22, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2219, IDAHO CODE, TO GOVERN THE REQUIREMENT OF A GROUP DISABILITY INSURANCE CONTRACT OR A BLANKET DISABILITY INSURANCE CONTRACT TO PERMIT ENROLLMENT OF A DEPENDENT CHILD WHEN COVERAGE IS THE SUBJECT OF A COURT OR ADMINISTRATIVE ORDER; AMENDING SECTION 41-3437, IDAHO CODE, TO DEFINE TERMS AND TO PROHIBIT RESTRICTIONS ON COVERAGE OF AN ADOPTED DEPENDENT CHILD SOLELY ON THE BASIS OF A PREEXISTING CONDITION; AMENDING CHAPTER 34, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3442, IDAHO CODE, TO GOVERN THE REQUIREMENT OF A HOSPITAL OR SERVICE ORGANIZATION TO PERMIT ENROLLMENT OF A DEPENDENT CHILD WHEN COVERAGE IS THE SUBJECT OF A COURT OR ADMINISTRATIVE ORDER; AMENDING SECTION 41-3932, IDAHO CODE, TO DEFINE TERMS AND TO PROHIBIT RESTRICTIONS ON COVERAGE OF AN ADOPTED DEPENDENT CHILD SOLELY ON THE BASIS OF A PREEXISTING CONDITION; AMENDING CHAPTER 39, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3937, IDAHO CODE, TO GOVERN THE REQUIREMENT OF A HEALTH MAINTENANCE ORGANIZATION TO PERMIT ENROLLMENT OF A DEPENDENT CHILD WHEN COVERAGE IS THE SUBJECT OF A COURT OR ADMINISTRATIVE ORDER; AMENDING SECTION 41-4023, IDAHO CODE, TO DEFINE TERMS AND TO PROHIBIT RESTRICTIONS ON COVERAGE OF AN ADOPTED DEPENDENT CHILD SOLELY ON THE BASIS OF A PREEXISTING CONDITION; AMENDING CHAPTER 40, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4026, IDAHO CODE, TO GOVERN REQUIREMENTS OF A SELF-FUNDED INSURER TO PERMIT ENROLLMENT OF A DEPENDENT CHILD WHEN COVERAGE IS THE SUBJECT OF A COURT OR ADMINISTRATIVE ORDER; AND AMENDING CHAPTER 47, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4717, IDAHO CODE, TO GOVERN REQUIREMENTS OF A SMALL EMPLOYER HEALTH INSURANCE CARRIER TO PERMIT ENROLLMENT OF A DEPENDENT CHILD WHEN COVERAGE IS THE SUBJECT OF A COURT OR ADMINISTRATIVE ORDER.

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

SECTION 1. That Section 32-1216, Idaho Code, be, and the same is

hereby amended to read as follows:

32-1216. HEALTH INSURANCE COVERAGE -- ENFORCEMENT. (1) ~~Whenever an--obligor--parent-who-has-been-ordered~~ Where a person is required by court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through an employer and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section~~, except-as-provided-in-subsection-(13)-of-this-section~~.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's employer by certified mail, return receipt requested. The notice shall require the employer to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's employer by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's employer shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan;

(ii) ~~Will-be-enrolled-in-the-next-open-enrollment-period;-or~~

~~(iii)~~ Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the employer, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor parent;

(d) The employer or insurer shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of

health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor ~~shall~~ may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of the section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The employer shall withhold the amount of the premium ~~shall be withheld~~ from the income of the obligor~~'s wages~~. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the employer shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) This section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) ~~Nothing in this section shall be construed to require a health maintenance organization, or health facility, to extend coverage to a child who resides outside its service area.~~

~~(12)~~ If the amount of the obligor's income or wages which are

withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

~~(13) Nothing in this section shall be construed to require an employer to enroll a dependent in any health insurance coverage if the following circumstances exist:~~

~~(a) The insurance coverage provided by the employer does not extend coverage to dependents; or~~

~~(b) The dependent sought to be covered under the employer's plan has a medical condition which would result in an increase in premium to the employers or to other employees under the employers insurance plan.~~

(14~~2~~) The department of health and welfare is authorized to adopt reasonable rules to implement the provisions of chapter 12, title 32, Idaho Code, pursuant to chapter 52, title 67, Idaho Code.

SECTION 2. That Section 41-2140, Idaho Code, be, and the same is hereby amended to read as follows:

41-2140. REQUIRED PROVISIONS. (1) Any disability insurance contract delivered or issued for delivery in this state which provides coverage for injury or sickness for newborn dependent children of the insured, shall provide such coverage for such newborn children, including adopted newborn children that are placed with the adoptive insured within sixty (60) days of the adopted child's date of birth, from and after the moment of birth. Coverage under the contract for an adopted newborn child placed with the adoptive insured more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not attained age eighteen (18) years as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive insured, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive insured signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection (1) as to a child placed for adoption with an insured continues in the same manner as it would with respect to a naturally born child of the insured until the first to occur of the following events:

(a) Date the child is removed permanently from that placement and the legal obligation terminates; or

(b) The date the insured rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

(2) An insurer shall not restrict coverage under a disability insurance policy of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs which the par-

ticipant or beneficiary is eligible for coverage under the plan.

(3) No policy of disability insurance which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after January 1, 1977, if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions, as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the policy. If a fixed amount is specified in such policy for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the policy. Where the policy contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the policy. This section shall apply to all disability policies except individual noncancelable or guaranteed renewable policies, issued or delivered before January 1, 1977.

With respect to such individual noncancelable or guaranteed renewable policies issued or delivered before January 1, 1977, the insurer shall communicate the availability of coverage of involuntary complications of pregnancy when negotiating any changes in such policies.

For purposes of this section, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All policies subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1977, shall be construed to be in compliance with this section, and any provision in any such policy which is in conflict with this section shall be of no force or effect.

SECTION 3. That Chapter 21, 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 41-2145, Idaho Code, and to read as follows:

41-2145. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a disability insurance policy, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the

department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's insurer by certified mail, return receipt requested. The notice shall require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's insurer by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's insurer shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the insurer, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The insurer shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child

when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the insurer shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) An insurer shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the insurer's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The insurer shall not disenroll or eliminate coverage of such a child unless the insurer is provided

with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) An insurer shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) An insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent shall:

(a) Provide such information to a custodial parent or the department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) An insurer may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) The insurer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 4. That Section 41-2210, Idaho Code, be, and the same is hereby amended to read as follows:

41-2210. REQUIRED PROVISION IN GROUP AND BLANKET POLICIES. (1) Any group disability insurance contract or blanket disability insurance contract, delivered or issued for delivery in this state which provides coverage for injury or sickness for newborn dependent children of subscribers or other members of the covered group, shall provide coverage for such newborn children, including adopted newborn children that are placed with the adoptive subscriber or other member of the covered group within sixty (60) days of the adopted child's date of birth, from and after the moment of birth. Coverage under the contract for an adopted newborn child placed with the adoptive subscriber or other member of the covered group more than sixty (60) days

after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not attained age eighteen (18) years as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive subscriber or other member of the covered group, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive subscriber or other member of the covered group signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection (1) as to a child placed for adoption with a subscriber or other member of the covered group continues in the same manner as it would with respect to a naturally born child of the subscriber or other member of the covered group until the first to occur of the following events:

(a) Date the child is removed permanently from that placement and the legal obligation terminates; or

(b) The date the subscriber or other member of the covered group rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

(2) An insurer shall not restrict coverage under a group disability insurance contract or a blanket disability insurance contract of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of a child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(3) No policy of disability insurance which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after January 1, 1977, if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions, as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the policy. If a fixed amount is specified in such policy for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the policy. Where the policy contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the policy. This section shall apply to all disability policies except any group disability policy made subject to an applicable collective-bargaining agreement in effect before January 1, 1977.

For purposes of this section, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All policies subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1977, shall be construed to be in compliance with this section, and any provision in any such policy which is in conflict with this section shall be of no force or effect.

SECTION 5. That Chapter 22, 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 41-2219, Idaho Code, and to read as follows:

41-2219. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a group disability insurance contract or a blanket disability insurance contract, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's insurer by certified mail, return receipt requested. The notice shall require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's insurer by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's insurer shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such cover-

age cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the insurer, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The insurer shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the insurer shall

mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) An insurer shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the insurer's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The insurer shall not disenroll or eliminate coverage of such a child unless the insurer is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) An insurer shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) An insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) An insurer may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act)

herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) The insurer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 6. That Section 41-3437, Idaho Code, be, and the same is hereby amended to read as follows:

41-3437. REQUIRED PROVISIONS -- INFANTS. (a) A subscriber's contract, delivered or issued for delivery in this state which provides coverage for injury or sickness for newborn dependent children of subscribers or other members of the covered group, shall provide coverage for such newborn children, including adopted newborn children that are placed with the adoptive subscriber or other member of the covered group within sixty (60) days of the adopted child's date of birth, from and after the moment of birth. Coverage under the contract for an adopted newborn child placed with the adoptive subscriber or other member of the covered group more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not attained age eighteen (18) years as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive subscriber or other member of the covered group, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive subscriber or other member of the covered group signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection as to a child placed for adoption with a subscriber or other member of the covered group continues in the same manner as it would with respect to a naturally born child of the subscriber or other member of the covered group until the first to occur of the following events:

(1) Date the child is removed permanently from that placement and the legal obligation terminates; or

(2) The date the subscriber or other member of the covered group rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

(b) A service corporation shall not restrict coverage under a subscriber's contract of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adop-

tion, solely on the basis of a preexisting condition of the child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

SECTION 7. That Chapter 34, 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 41-3442, Idaho Code, and to read as follows:

41-3442. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a hospital or service organization, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's hospital or service organization by certified mail, return receipt requested. The notice shall require the hospital or service organization to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's hospital or service organization by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the hospital or service organization to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's hospital or service organization shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the hospital or ser-

vice organization, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The hospital or service organization shall provide the name of the health insurance coverage provider or hospital or service organization, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the hospital or service organization shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termi-

nation date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) A hospital or service organization shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the hospital or service organization's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through a hospital or service organization, the service organization shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The hospital or service organization shall not disenroll or eliminate coverage of such a child unless the hospital or service organization is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) A hospital or service organization shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the hospital or service organization, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) A hospital or service organization, in any case in which a child has health coverage through the hospital or service organization of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) A hospital or service organization may not consider the

availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) The insurer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 8. That Section 41-3932, Idaho Code, be, and the same is hereby amended to read as follows:

41-3932. COMPLICATIONS OF PREGNANCY. (1) Any health maintenance organization contract delivered or issued for delivery in this state, which provides coverage for injury or sickness for newborn dependent children of the subscribers or other members of the covered group, shall provide such coverage for such newborn children and infants, including adopted newborn children that are placed with the adoptive subscriber or other member of the covered group within sixty (60) days of the adopted child's date of birth, from and after the moment of birth. Coverage under the contract for an adopted newborn child placed with the adoptive subscriber or other member of the covered group more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not reached eighteen (18) years as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive subscriber or other member of the covered group, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive subscriber or other member of the covered group signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection (1) as to a child placed for adoption with a subscriber or other member of the covered group continues in the same manner as it would with respect to a naturally born child of the subscriber or other member of the covered group until the first to occur of the following events:

(a) Date the child is removed permanently from that placement and the legal obligation terminates; or

(b) The date the subscriber or other member of the covered group rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

(2) A health maintenance organization shall not restrict coverage under a health maintenance organization contract of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(3) No health maintenance organization contract which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after January 1, 1977, if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the plan. If a fixed amount is specified in such plan for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the plan. Where the plan contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the plan.

Where a plan which provides or arranges direct health care services for its members contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from prenatal care and delivery. However, expenses resulting from any delivery in excess of the deductible amount shall be treated as expenses for any other illness under the plan. If the pregnancy is interrupted, the maternity deductible charged for prenatal care and delivery shall be based on the value of the medical services received, providing that it is never more than two-thirds (2/3) of the plan's maternity deductible.

This section shall apply to all health maintenance organization contracts except any group health maintenance organization contracts made subject to an applicable collective-bargaining agreement in effect before January 1, 1977.

For purposes of this section, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All health maintenance organization contracts subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1977, shall be construed to be in compliance with this section, and any provision in any such plan which is in conflict with this section shall be of no force or effect.

SECTION 9. That Chapter 39, 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 41-3937, Idaho Code, and to read as follows:

41-3937. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a health maintenance organization, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's health maintenance organization by certified mail, return receipt requested. The notice shall require the health maintenance organization to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's health maintenance organization by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the health maintenance organization to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's health maintenance organization shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the health maintenance organization, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The health maintenance organization shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the health maintenance organization shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) A health maintenance organization shall not deny enrollment of a child under the health coverage of the child's parent for the

reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the health maintenance organization's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through a health maintenance organization, the health maintenance organization shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The health maintenance organization shall not disenroll or eliminate coverage of such a child unless the health maintenance organization is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) A health maintenance organization shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the health maintenance organization, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) A health maintenance organization, in any case in which a child has health coverage through the health maintenance organization of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) A health maintenance organization may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment

by any other party for those health care items or services.

(17) The insurer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 10. That Section 41-4023, Idaho Code, be, and the same is hereby amended to read as follows:

41-4023. COVERAGE FROM MOMENT OF BIRTH -- COMPLICATIONS OF PREGNANCY. (1) Every self-funded plan issued in this state or providing coverage to any covered family residing within this state, shall contain a provision granting immediate accident and sickness coverage, from and after the moment of birth, to each newborn child or infant of any covered family covered, including a newborn child placed with the adoptive covered family within sixty (60) days of the adopted child's date of birth. Coverage under the self-funded plan for an adopted newborn child placed with the adoptive covered family more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not reached eighteen (18) years as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive covered family, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive covered family signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection (1) as to a child placed for adoption with a covered family continues in the same manner as it would with respect to a naturally born child of the covered family until the first to occur of the following events:

(a) Date the child is removed permanently from that placement and the legal obligation terminates; or

(b) The date the covered family rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

No such plan may be issued or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn or adopted children or infants of a covered family covered from and after the moment of birth that is inconsistent with the provisions of this section.

(2) An insurer shall not restrict coverage under a self-funded plan of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(3) No self-funded plan which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after January 1, 1977, if it

contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the plan. If a fixed amount is specified in such plan for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the plan. Where the plan contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the plan. This subdivision shall apply to all self-funded plans except any such plan made subject to an applicable collective-bargaining agreement in effect before January 1, 1977.

For purposes of this subdivision, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All plans subject to this subdivision and issued, amended, delivered, or renewed in this state on or after January 1, 1977, shall be construed to be in compliance with this section, and any provision in any such plan which is in conflict with this section shall be of no force or effect.

SECTION 11. That Chapter 40, 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 41-4026, Idaho Code, and to read as follows:

41-4026. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a self-funded insurer, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's insurer by certified mail, return receipt requested. The notice shall require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor,

send a certified copy of the order requiring health insurance coverage to the obligor's insurer by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the insurer to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's insurer shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the insurer, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The insurer shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare

that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the insurer shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) An insurer shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the insurer's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The an insurer shall not disenroll or eliminate coverage of such a child unless the insurer is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) An insurer shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the insurer, that

are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) An insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) An insurer may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) An employer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

SECTION 12. That Chapter 47, 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 41-4717, Idaho Code, and to read as follows:

41-4717. HEALTH INSURANCE COVERAGE FOR DEPENDENT CHILDREN. (1) Where a person is required by a court or administrative order to provide health insurance coverage for a dependent child, that person is eligible for family health coverage through a small employer health insurance carrier, and fails to provide such coverage or lets it lapse, the department of health and welfare or other obligee may seek enforcement of the coverage order as provided under this section, except as provided in subsection (13) of this section.

(2) (a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage may result in direct enforcement of the order and orders payments through, or has been submitted to, the department of health and welfare for enforcement, then the department of health and welfare may, without further notice to the obligor, send a notice of intent to enroll to the obligor's small employer health insurance carrier by certified mail, return receipt requested. The notice shall require the small employer health insurance carrier to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(b) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the department of health and welfare:

(i) The obligee may, without further notice to the obligor, send a certified copy of the order requiring health insurance coverage to the obligor's small employer health insurance carrier by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the small employer health insurance carrier to enroll the child in the health insurance plan as provided in subsection (3) of this section without regard to any enrollment season restrictions.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of intent to enroll:

(a) The obligor's small employer health insurance carrier shall answer the party who sent the order or notice within thirty (30) days and confirm that the child:

(i) Has been submitted in the health insurance plan; or

(ii) Cannot be covered, stating the reasons why such coverage cannot be provided.

(b) The employer shall withhold any required premium for the obligor's dependents from the obligor's income or wages;

(c) If more than one (1) plan is offered by the small employer health insurance carrier, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor;

(d) The small employer health insurance carrier shall provide the name of the health insurance coverage provider or insurer, the extent of coverage available and other necessary information to the department of health and welfare or other obligee and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage may result in direct enforcement of the order, the department of health and welfare or other obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for within thirty (30) days of service of the notice, or within thirty (30) days of coverage becoming available, the department of health and welfare or other obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child when accessible coverage is otherwise available, the department of health and welfare or other obligee may serve a written notice of intent to enroll the child in health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department of health and welfare serves a notice under subsection (5) of this section, the obligor may, within thirty (30) days of the date of service:

(a) File an application for an administrative hearing; or

(b) Provide written proof to the department of health and welfare that the obligor has either applied for, or obtained coverage accessible to the child.

(7) If an obligee other than the department of health and welfare serves a notice under subsection (5) of this section, within thirty (30) days of the date of service, the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may enroll the obligor's child in the health insurance coverage specified in the notice directly. The amount of the premium shall be withheld from the income of the obligor. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section 11-207, Idaho Code. The employer shall forward the amount of premium withheld to the insurance provider.

(9) If the coverage is terminated or amended, the small employer health insurance carrier shall mail a notice of termination or amendment to the department of health and welfare or other obligee at the obligee's last known address within forty-five (45) days of the termination date.

(10) The provisions of this section shall not be construed to limit the right of the obligor or the obligee to bring an action in court at any time to enforce, modify or clarify the original support order.

(11) If the amount of the obligor's income or wages which are withheld under subsection (3)(b) of this section is insufficient to pay the premium for the dependents, the obligor shall, nevertheless, be responsible for payment of the premium.

(12) A small employer health insurance carrier shall not deny enrollment of a child under the health coverage of the child's parent for the reason that:

(a) The child was born out of wedlock; or

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the small employer health insurance carrier's service area.

(13) In any case in which a parent is required by a court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through a small employer health insurance carrier, the carrier shall permit such parent, the other parent of the child, or the department of health and welfare to enroll under such family coverage, as specified under section 32-1216, Idaho Code, any such child who is otherwise eligible for such coverage without regard to any enrollment season restrictions. The small employer health insurance carrier shall not disenroll or eliminate coverage of such a child unless the small employer health insurance carrier is provided with satisfactory evidence that:

(a) Such court or administrative order is no longer in effect; or

(b) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(14) A small employer health insurance carrier shall not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the small employer health insurance carrier, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(15) A small employer health insurance carrier, in any case in which a child has health coverage through the small employer health insurance carrier of a noncustodial parent shall:

(a) Provide such information to a custodial parent or department of health and welfare as may be necessary for the child to obtain benefits through such coverage;

(b) Permit the custodial parent, provider or department of health and welfare to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payment on claims submitted by the custodial parent, the provider or the department of health and welfare directly to the party submitting the claim.

(16) (a) A small employer health insurance carrier may not consider the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. section 1396a, (Section 1902 of the Social Security Act) herein referred to as medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under the state medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the department of health and welfare is subrogated to the rights of the individual to payment by any other party for those health care items or services.

(17) An employer may disenroll for nonpayment of premium or dues, fraud, misrepresentation, or for failure to comply with minimum participation requirements.

Approved April 7, 1994.

CHAPTER 366
(H.B. No. 825, As Amended in the Senate)

AN ACT

RELATING TO PROPERTY CONDITION DISCLOSURE; AMENDING TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 25, TITLE 55, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO STATE LEGISLATIVE INTENT, TO DEFINE TERMS, TO REQUIRE PROPERTY CONDITION DISCLOSURE, TO PROVIDE EXEMPTIONS, TO SPECIFY THAT THE FORM USED FOR DISCLOSURE MUST COMPLY

WITH THE PRESCRIBED DISCLOSURE INFORMATION FORM, TO SPECIFY MANDATORY REQUIRED DISCLOSURE STATEMENTS, TO SPECIFY THE DISCLOSURE FORM, TO PROVIDE DELIVERY OF THE DISCLOSURE FORM AND ACCEPTANCE OF THE FORM, TO PROVIDE DELIVERY REQUIREMENTS, TO GOVERN LIABILITY FOR ERRORS, INACCURACIES OR OMISSIONS AND DELIVERY OF INFORMATION BY PUBLIC AGENCIES OR EXPERTS, TO PROVIDE FOR INFORMATION SUBSEQUENTLY RENDERED INACCURATE OR REQUIRED INFORMATION UNKNOWN OR NOT AVAILABLE, TO PROVIDE FOR AMENDMENT TO THE FORM, TO PROVIDE THAT COMPLIANCE DOES NOT RELIEVE SELLER OR HIS AGENT OF OBLIGATIONS TO DISCLOSE OTHER INFORMATION, TO PROVIDE FOR RECISION BY TRANSFEREE UNDER CONDITIONS SPECIFIED, TO REQUIRE GOOD FAITH IN DISCLOSURE, TO SPECIFY ACTIONS UPON FAILURE TO COMPLY WITH THE PROVISIONS OF THIS CHAPTER AND TO PROVIDE THAT DUTIES OF REAL ESTATE LICENSEES ARE UNCHANGED.

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

SECTION 1. That Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 25, Title 55, Idaho Code, and to read as follows:

CHAPTER 25
PROPERTY CONDITION DISCLOSURE ACT

55-2501. SHORT TITLE. This chapter may be cited as the "Idaho Property Condition Disclosure Act."

55-2502. LEGISLATIVE INTENT. In order to promote the public health, safety and welfare and to protect consumers; it is the purpose of the provisions of this chapter to require sellers of residential real property as defined in this chapter to disclose certain defects in the residential real property to a prospective buyer.

55-2503. DEFINITIONS. As used in this chapter:

(1) "Political subdivision" has the same meaning as provided in section 7-1303, Idaho Code.

(2) "Residential real property" means real property that is improved by a building or other structure that has one (1) to four (4) dwelling units or an individually owned unit in a structure of any size.

(3) "Seller" means the owner of residential real property as defined in this chapter.

55-2504. PROPERTY CONDITION DISCLOSURE REQUIRED. Any person who intends to transfer any residential real property on or after July 1, 1994, by any of the methods as set forth herein shall complete all applicable items in a property disclosure form prescribed under section 55-2508, Idaho Code. Except as provided in section 55-2505, Idaho Code, this chapter applies to any transfer by sale, exchange, installment sale contract, a lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property improved with or consisting of not less than one (1) nor more than four (4) dwelling units.

55-2505. EXEMPTIONS. The provisions of this chapter do not apply to any transfer of residential real property that is any of the following:

(1) A transfer pursuant to court order including, but not limited to, a transfer ordered by a probate court during the administration of a decedent's estate, a transfer pursuant to a writ of execution, a transfer by a trustee in bankruptcy, a transfer as a result of the exercise of the power of eminent domain, and a transfer that results from a decree for specific performance of a contract or other agreement between persons;

(2) A transfer to a mortgagee by a mortgagor by deed in lieu of foreclosure or in satisfaction of the mortgage debt;

(3) A transfer to a beneficiary of a deed of trust by a trustor in default;

(4) A transfer by a foreclosure sale that follows a default in the satisfaction of an obligation secured by a mortgage;

(5) A transfer by a sale under a power of sale following a default in the satisfaction of an obligation that is secured by a deed of trust or another instrument containing a power of sale occurring within one (1) year of foreclosure on the default;

(6) A transfer by a mortgagee, or a beneficiary under a deed of trust, who has acquired the residential real property at a sale conducted pursuant to a power of sale under a mortgage or a deed of trust or who has acquired the residential real property by a deed in lieu of foreclosure;

(7) A transfer by a fiduciary in the course of the administration of a decedent's estate, a guardianship, a conservatorship, or a trust;

(8) A transfer from one (1) co-owner to one (1) or more other co-owners;

(9) A transfer made to the transferor's spouse or to one (1) or more persons in the lineal line of consanguinity of one (1) or more of the transferors;

(10) A transfer between spouses or former spouses as a result of a decree of divorce, dissolution of marriage, annulment, or legal separation or as a result of a property settlement agreement incidental to a decree of divorce, dissolution of marriage, annulment, or legal separation;

(11) A transfer to or from the state, a political subdivision of the state, or another governmental entity;

(12) A transfer that involved newly constructed residential real property that previously has not been inhabited;

(13) A transfer to a transferee who has occupied the property as a personal residence for one (1) or more years immediately prior to the transfer;

(14) A transfer from a transferor who both has not occupied the property as a personal residence within one (1) year immediately prior to the transfer and has acquired the property through inheritance or devise;

(15) A transfer by a relocation company to a transferee within one (1) year from the date that the previous owner occupied the property.

55-2506. DISCLOSURE INFORMATION. The information required in this chapter shall be set forth on the form set out in section 55-2508,

Idaho Code. Alternative forms may be substituted for those set out in section 55-2508, Idaho Code, provided that alternative forms include the disclosure information as set forth in section 55-2506, Idaho Code, and the mandatory disclosure statements set forth in section 55-2507, Idaho Code. The form must be designed to permit the transferor to disclose material matters relating to the physical condition of the property to be transferred including, but not limited to, the source of water supply to the property; the nature of the sewer system serving the property; the condition of the structure of the property including the roof, foundation, walls and floors; the known presence of hazardous materials or substances.

55-2507. MANDATORY REQUIRED DISCLOSURE STATEMENTS. To comply with the provisions of this chapter, a form shall set forth a statement of purpose of the form, including statements substantially similar to the following:

(1) The form constitutes a statement of the conditions of the property and of information concerning the property actually known by the transferor.

(2) That unless the transferee is otherwise advised in writing, the transferor, other than having lived at or owning the property possesses no greater knowledge than that which could be obtained by a careful inspection of the property by a potential transferee.

(3) That the statement is not a warranty of any kind by the transferor or by any agent or subsequent agent representing the transferor in this transaction.

(4) That the statement is not a substitute for any inspections.

(5) That the transferor is familiar with the particular residential real property and each act that may be performed in making a disclosure of an item of information shall be made and performed in good faith.

55-2508. DISCLOSURE FORM. The disclosures required by the provisions of this article pertaining to the property proposed to be transferred are set forth in and shall be made on a copy of the following disclosure form or an alternative form as provided in section 55-2506, Idaho Code:

SELLER PROPERTY DISCLOSURE FORM

SELLER'S NAME AND ADDRESS: .....

.....

Section 55-2501, et seq., Idaho Code, requires Sellers of residential real property to complete a property condition disclosure form.

PURPOSE OF STATEMENT: This is a statement of the conditions and information concerning the property known by the Seller. Unless otherwise advised, the Seller does not possess any expertise in construction, architectural, engineering or any other specific areas related to the construction or condition of the improvements on the property. Other than having lived at or owning the property, the Seller possesses no greater knowledge than that which could be obtained upon a careful inspection of the property by the potential buyer. Unless otherwise advised, the Seller has not conducted any inspection of gen-

erally inaccessible areas such as the foundation or roof. It is not a warranty of any kind by the Seller or by any agent representing any Seller in this transaction. It is not a substitute for any inspections. Purchaser is encouraged to obtain his/her own professional inspections.

1. All appliances and service systems included in the sale, (such as refrigerator/freezer, range/oven, dishwasher, disposal, hood/fan, central vacuum, microwave oven, trash compactor, smoke detectors, tv antenna/dish, fireplace/wood stove, water heater, garage door opener, pool/hot tub, etc.) are functioning properly except: (please list and explain) .....
.....
.....

2. Specify problems with the following:
   Basement water .....
   Foundation .....
   Roof condition and age .....
   Well (type) ..... problem .....
   Septic system (type) ..... problem .....
   Plumbing .....
   Drainage .....
   Electrical .....
   Heating .....

3. Describe any conditions that may affect your ability to clear title (such as encroachments, easements, zoning violations, lot line disputes, etc.): .....
.....

4. Are you aware of any hazardous materials or pest infestations on the property? .....

5. Have any substantial additions or alterations been made without a building permit? .....

6. Any other problems, including legal, physical or other not listed above that you know concerning the property: .....

The Seller certifies that the information herein is true and correct to the best of Seller's knowledge as of the date signed by the Seller. The Seller is familiar with the residential real property and each act performed in making a disclosure of an item of information is made and performed in good faith.

I/we acknowledge receipt of a copy of this statement.

Seller:	Buyer:
.....	.....
Date:	Date: .....
.....	.....
Date:	Date: .....

55-2509. DELIVERY OF DISCLOSURE FORM AND ACCEPTANCE. Every transferor shall deliver, in accordance with section 55-2510, Idaho Code, a signed and dated copy of the completed disclosure form to each prospective transferee or his agent within ten (10) days of transferor's acceptance of transferee's offer. Every prospective transferee of residential real property who receives a signed and dated copy of a com-

pleted property disclosure form as prescribed under section 55-2508, Idaho Code, shall acknowledge receipt of the form by doing both of the following:

(1) Signing and dating a copy of the form;

(2) Delivering a signed and dated copy of the form to the transferor or his agent or subagent.

55-2510. DELIVERY REQUIREMENTS. The transferor's delivery under section 55-2509, Idaho Code, of a property disclosure form as described under section 55-2508, Idaho Code, and the prospective transferee's delivery under section 55-2509, Idaho Code, of an acknowledgement of his receipt of that form shall be made by personal delivery to the other party or his agent or subagent by ordinary mail or certified mail, return receipt requested or by facsimile transmission. For the purposes of the delivery requirements of this section, the delivery of a property disclosure form to a prospective cotransferee of residential real property or his or her agent shall be deemed considered delivered to other prospective transferees unless otherwise provided by contract.

55-2511. ERRORS, INACCURACIES OR OMISSIONS -- LIABILITY OF TRANSFEROR -- DELIVERY OF INFORMATION BY PUBLIC AGENCY -- DELIVERY BY EXPERTS. (1) Neither the transferor or transferor's agents shall be liable for any error, inaccuracy or omission of any information delivered pursuant to this chapter if the error, inaccuracy or omission was not within the personal knowledge of the transferor or was based upon information timely provided by public agencies or other persons specified in subsection (3) of this section that is required to be disclosed pursuant to this chapter and ordinary care was exercised in obtaining and transmitting it.

(2) The delivery of any information required to be disclosed by this chapter to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this chapter shall be deemed to comply with the requirements of this chapter and shall relieve the transferor or transferor's agent of any further duty under this chapter with respect to that item of information.

(3) The delivery of a report or opinion prepared by any person or professional who has been hired to perform an inspection of the subject property in connection with the proposed sale shall be sufficient compliance for application of the exemption provided in subsection (1) of this section if the information is provided to the prospective transferee pursuant to a request therefore, written or oral. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of sections 55-2506 and 55-2507, Idaho Code, and if so, shall indicate the required disclosure or parts thereof to which the information being furnished is applicable. Where such a statement is furnished, the provider shall not be responsible for any items of information or parts thereof other than those expressly set forth in the statement.

55-2512. INFORMATION SUBSEQUENTLY RENDERED INACCURATE -- REQUIRED INFORMATION UNKNOWN OR NOT AVAILABLE. If information disclosed in

accordance with this chapter is subsequently rendered inaccurate as a result of any act, occurrence or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this chapter. If at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the transferor, and the transferor's agent has made a reasonable effort to ascertain it, the transferor may use an approximation of the information provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the transferor or transferor's agent and is not used for the purpose of circumventing or evading this chapter.

55-2513. AMENDMENT TO FORM. Any disclosure of an item of information in the property disclosure form described in section 55-2508, Idaho Code, may be amended in writing by the transferor of the residential real property at any time following the delivery of the form in accordance with section 55-2510, Idaho Code. The amendment shall be subject to the provisions of this chapter.

55-2514. CHAPTER DOES NOT RELIEVE SELLER OR HIS AGENT OF OBLIGATION TO DISCLOSE OTHER INFORMATION. Specification of items of information that must be disclosed in the property disclosure form as prescribed under sections 55-2506 and 55-2507, Idaho Code, does not limit and shall not be construed as limiting any obligation to disclose an item of information that is created by any other section of the Idaho Code or the common law of the state of Idaho. The disclosure requirements of this chapter do not bar and shall not be construed as barring the application of any legal equitable defense that a transferor of residential real property may assert in a civil action commenced against the transferor by a prospective or actual transferee of the property.

55-2515. RESCISSION BY TRANSFEREE. Subject to section 55-2504, Idaho Code, if a transferee of residential real property receives a property disclosure form or an amendment of that form as described in section 55-2508, Idaho Code, after the transferee has entered into a transfer agreement with respect to the property, the transferee, after his receipt of the form or amendment may rescind the transfer agreement in a written, signed and dated document that is delivered to the transferor or his agents in accordance with section 55-2510, Idaho Code, without incurring any legal liability to the transferor because of the rescission including, but not limited to, a civil action for specific performance of the transfer agreement. Upon the rescission of the transfer agreement the transferee is entitled to the return of, and the transferor shall return, any deposits made by the transferee in connection with the proposed transfer of the residential real property.

Subject to the provisions of section 55-2505, Idaho Code, a rescission of a transfer agreement may only occur if the transferee's written, signed and dated document of rescission is delivered to the transferor or his agent or subagent within three (3) business days following the date on which the transferee or his agent receives the

property disclosure form prescribed under section 55-2508, Idaho Code.

55-2516. GOOD FAITH REQUIRED. Each disclosure required in this chapter and each act which may be performed in making the disclosure shall be made in good faith. For the purposes of this chapter, good faith means honesty in fact, in the conduct of the transaction.

55-2517. FAILURE TO COMPLY. No transfer, subject to this chapter, shall be invalidated solely because of the failure of any person to comply with any provision of this chapter. However, any person who willfully or negligently violates or fails to perform any duties prescribed by any provision of this chapter shall be liable in the amount of actual damages suffered by the transferee.

55-2518. DUTIES OF REAL ESTATE LICENSEES UNCHANGED. Nothing contained in this chapter shall in any way limit or reduce the duties that a real estate licensee owes to his or her client or to the general public.

Approved April 7, 1994.

CHAPTER 367
(H.B. No. 835, As Amended in the Senate)

AN ACT

RELATING TO MINES; AMENDING SECTION 44-1104, IDAHO CODE, TO ALLOW THE DIRECTOR OF THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES TO PERMIT UNDERGROUND MINERS, UPON A SHOWING THAT A MAJORITY OF THE AFFECTED WORKFORCE APPROVES AND THAT OTHER GOOD AND SUFFICIENT NONEMERGENCY REASONS EXIST, TO WORK BELOW GROUND LEVEL FOR A MAXIMUM OF TEN HOURS A DAY AND FORTY HOURS A WEEK, FOR A PERIOD OF TIME NOT TO EXCEED ONE YEAR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 44-1104, Idaho Code, be, and the same is hereby amended to read as follows:

44-1104. MINES -- EIGHT HOURS A DAY'S WORK -- EXCEPTIONS. (1) The period of employment of workingmen in or upon all underground mines or on workings located below ground level shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger. Also, the director of the department of labor and industrial services, state of Idaho, may, upon a showing that a majority of the affected workforce approves and that other good and sufficient reasons exist, permit miners to work below ground level for a maximum of ten (10) hours per day and forty (40) hours per week for a period not to exceed one (1) year.

(2) The period of employment of workingmen in or upon all surface mines and on workings located at or above ground level shall be eight (8) hours per day but may be extended to ten (10) hours per day with-

out any requirement for payment of overtime. In surface mines or on workings located at or above ground level, work over ten (10) hours per day shall not be required except in cases of emergency where life or property is in imminent danger. Any time worked in excess of ten (10) hours shall be overtime work, and any time worked in excess of forty (40) hours per week shall be overtime work. Overtime work shall be compensated at a rate of not less than one and one-half (1 1/2) times the regular~~ly~~ hourly rate of pay.

(3) As used in this section, the term "surface mine" means an area where minerals are extracted by removing the overburden lying above and adjacent to natural deposits and mining directly from the natural deposits thereby exposed without utilizing shafts or tunnels.

As used in this section, the term "underground mine" means an excavation in the earth containing shafts or tunnels to be utilized in removing or in helping remove minerals by digging or other mining methods.

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 April 7, 1994.

CHAPTER 368
(H.B. No. 843, As Amended in the Senate)

AN ACT

RELATING TO PUBLIC RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340, IDAHO CODE, TO PROVIDE THAT CERTAIN PUBLIC RECORDS SHALL NOT BE EXEMPT FROM DISCLOSURE TO THE EXTENT THAT THOSE RECORDS ARE NECESSARY FOR A BACKGROUND CHECK ON AN INDIVIDUAL THAT IS REQUIRED BY FEDERAL LAW REGULATING THE SALE OF FIREARMS, GUNS OR AMMUNITION AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section mean information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

(4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(11) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records~~.~~;

(f) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

(i) Such information shall be available upon request to a law enforcement agency; and

(ii) The information provided pursuant to the provisions of

subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name, date of birth and social security number of the person for whom the information is requested.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(13) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(14) Any personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(15) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

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

(18) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the

extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

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

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

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

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(27) Records of a person maintained pursuant to chapter 18, title

16, Idaho Code.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision making, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

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

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

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

(34) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or

the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(37) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(38) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(39) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(40) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided, however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(4~~0~~1) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after February 28, 1994.

Approved April 7, 1994.

CHAPTER 369
(H.B. No. 850, As Amended)

AN ACT

RELATING TO REGULATION OF ACCESS TO WEAPONS BY MINORS; AMENDING SECTION 18-3302A, IDAHO CODE, TO PROVIDE THAT PERSONS SELLING A WEAPON TO A MINOR UNDER EIGHTEEN YEARS OF AGE SHALL BE SUBJECT TO FINES AND PENALTIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3302E, IDAHO CODE, TO PROHIBIT POSSESSION OF A WEAPON BY A MINOR AND TO PROVIDE PENALTIES; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3302F, IDAHO CODE, TO PROHIBIT POSSESSION OF CERTAIN WEAPONS BY A MINOR AND TO PROVIDE PENALTIES; AND AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3302G, IDAHO CODE, TO PROVIDE EXCEPTIONS.

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

SECTION 1. That Section 18-3302A, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302A. SALE OF WEAPONS TO MINORS. It shall be unlawful to directly or indirectly sell ~~or deliver, loan or barter~~ to any minor under the age of ~~sixteen (16~~ eighteen (18) years any weapon without

the written consent of the parent or guardian of the minor. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not in excess of one thousand dollars ($1,000), by imprisonment in the county jail for a term not in excess of six (6) months, or by both such fine and imprisonment. As used in this section, "weapon" shall mean any dirk, dirk knife, bowie knife, dagger, pistol, revolver~~,~~ or gun~~,--or--any-other-dangerous weapon~~.

SECTION 2. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3302E, Idaho Code, and to read as follows:

18-3302E. POSSESSION OF A WEAPON BY A MINOR. (1) It shall be unlawful for any person under the age of eighteen (18) years to possess or have in possession any weapon, as defined in section 18-3302A, Idaho Code, unless he:

(a) Has the written permission of his parent or guardian to possess the weapon; or

(b) Is accompanied by his parent or guardian while he has the weapon in his possession.

(2) Any minor under the age of twelve (12) years in possession of a weapon shall be accompanied by an adult.

(3) Any person who violates the provisions of this section is guilty of a misdemeanor.

SECTION 3. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3302F, Idaho Code, and to read as follows:

18-3302F. PROHIBITION OF POSSESSION OF CERTAIN WEAPONS BY A MINOR. (1) It shall be unlawful for any person under the age of eighteen (18) years to possess or have in possession any handgun.

(2) Except as provided by federal law, a minor under the age of eighteen (18) years may not possess the following:

(a) A sawed-off rifle or sawed-off shotgun; or

(b) A full automatic weapon.

(3) Any person who violates the provisions of subsection (2) (a) of this section is guilty of a misdemeanor.

(4) Any person who violates the provisions of subsection (2) (b) of this section is guilty of a felony.

(5) For purposes of this section:

(a) "Full automatic weapon" means any firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one (1) bullet, or other missile without reloading, by a single function of the trigger.

(b) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable, or magazine breech, does not exceed twelve (12) inches. Excluded from this

definition are handguns firing a metallic projectile, such as a BB or pellet, through the force of air pressure, CO_2 pressure, or spring action or any spot marker gun.

(6) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of the provisions of this section is guilty of a misdemeanor.

SECTION 4. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3302G, Idaho Code, and to read as follows:

18-3302G. EXCEPTIONS. The provisions of section 18-3302E, Idaho Code, regarding the possession of a weapon by a minor or section 18-3302F, Idaho Code, regarding possession of handguns by minors shall not apply to any of the following:

(1) Patrons firing at lawfully operated target concessions at amusement parks and similar locations provided that the firearms to be used are firmly chained or affixed to the counters;

(2) Any person in attendance at a hunter's safety course or a firearm's safety course;

(3) Any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law;

(4) Any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition;

(5) Any minor under eighteen (18) years of age who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of the law;

(6) Any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting; and

(7) Any person traveling to or from any activity described in subsection (2), (3), (4), (5) or (6) of this section with an unloaded firearm in his possession.

Approved April 7, 1994.

CHAPTER 370
(H.B. No. 870, As Amended)

AN ACT

RELATING TO THE TAXATION OF FOREST LANDS; AMENDING SECTION 63-1701, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-1703, IDAHO CODE, TO REVISE THE METHOD OF CALCULATING THE DEFERRED TAX AND TO PROVIDE THAT THE DEFERRED TAX SHALL BE PAYABLE ON DEMAND, TO PROVIDE FOR DELINQUENCY, TO PROVIDE PENALTIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-1706, IDAHO CODE, TO REVISE PROCEDURES FOR THE

CALCULATION OF YIELD TAX AMOUNTS 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 63-1701, Idaho Code, be, and the same is hereby amended to read as follows:

63-1701. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Average annual net wood production" means the average net usable volume of wood one (1) acre of forest land will grow in one (1) year under average current and actual forest conditions and under current and reasonable management practices for each forest value zone.

(2) "Designation period" means any one (1) ten (10) year period in a sequence of ten (10) year periods which begin January 1, 1983.

(3) "Forest" means forest land and the timber thereon.

(4) "Forest land" means privately owned land being held and used primarily for the continuous purpose of growing and harvesting trees of a marketable species. Having met the above criteria, forest land may be further identified by the consideration of any of the following criteria:

(a) Forest land is land evidenced by present use and silvicultural treatment.

(b) Forest land is land which has a dedicated use that is further evidenced by a forest land management plan that includes eventual harvest of the forest crop.

(c) Forest land is land bearing forest growth or land which has not been converted to another use.

(d) Forest land is land which has had the trees removed by man through harvest, including clear-cuts or by natural disaster, such as but not limited to fire, and which within five (5) years after harvest or initial assessment will be reforested as specified in the forest practices act (chapter 13, title 38, Idaho Code).

(5) "Forest landowner" means the legal entity which holds the property rights under law to the forest land surface.

(6) "Forest products" means any forest crop harvested from forest land.

(7) "Forest products yield tax" means a tax levied on ~~a--proportion--of~~ the value of forest products harvested from a parcel as prescribed in sections 63-1703 and 63-1706, Idaho Code.

(8) "Forest value" means the market value for assessment purposes as determined only on the basis of its ability to produce timber, other forest products, and associated agricultural products through an income approach as prescribed by section 63-1705, Idaho Code.

(9) "Stumpage value" means the value of timber, whether standing or downed by other than an intentional act of severance, expressed in terms of dollars per unit of measure.

(10) "Timber" means wood growth, of any species and of any size, standing or down on privately owned lands.

(11) "Bare land value" means the value of forest land exclusive of the value of timber and other products growing or being thereon.

(12) "Stumpage owner" means the legal entity which holds the property rights under law to the timber growing on private lands.

(13) "A substantial change of use" means any use other than as forest land as defined in subsection (4) of this section.

(14) "Deferred taxes" as used in section 63-1703, Idaho Code, means a tax levied to recapture the difference between taxes that were collected on a parcel designated under section 63-1706, Idaho Code, and what would have been collected on the parcel, had it been designated under section 63-1702 or 63-1705, Idaho Code.

SECTION 2. That Section 63-1703, Idaho Code, be, and the same is hereby amended to read as follows:

63-1703. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS. For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than two thousand (2,000), whether contiguous or not, as long as such parcels are held in common ownership, must be designated by the forest landowner to be subject to the provisions of either subsection (a) or (b) of this section. A forest landowner cannot have parcels designated under the provisions of both subsections (a) and (b) of this section at one (1) time. If the forest landowner fails to make a designation, his forest lands shall be subject to appraisal, assessment and taxation under the provisions of section 63-1702, Idaho Code. Once a designation is made by the forest landowner, such designation must remain in effect until the designation period expires, unless the forest lands are transferred to another owner using a different taxing category; in such case, the taxing category of the transferred forest lands shall be the same as that maintained by the new owner.

A forest landowner may change the designation of all forest lands in common ownership at the end of any designation period, subject to the recapture of any deferred taxes due as a result of such change. After January 1 and by December 31 of the tenth year of each designation period the forest landowner must notify the county assessor of any change in forest land designation. Failure to notify the county assessor will result in the continuation of the landowner's present designation until the end of the next designation period.

Any substantial change in the use of forest lands not conforming with the definition of forest land in section 63-1701, Idaho Code, during such ten (10) year period under the designations made in subsection (a) or (b) shall be reported by the landowner to the county assessor within thirty (30) days of the change in use. Upon notification of the change in use, the assessor shall appraise, assess and tax those acres as provided by applicable laws~~,~~ and rules ~~and regulations~~. Failure to notify the assessor of the change in use when forest lands have been designated as subject to the provisions of subsection (a) or (b) shall cause forfeiture of such designation, and cause that property to be appraised, assessed and taxed as provided in section 63-1702, Idaho Code.

Forest lands designated for assessment pursuant to the provisions of section 63-1706, Idaho Code, shall be subject to the recapture of deferred taxes upon removal of such designation, a substantial change

in use, or ownership transfer, except that there shall be no recapture initiated upon ownership transfer of forest lands designated as subject to the provisions of section 63-1706, Idaho Code, to a landowner with forest lands already designated as subject to the provisions of section 63-1706, Idaho Code, prior to the transfer, or who so designates his lands to be subject to the provisions of section 63-1706, Idaho Code.

The dollar amount of deferred taxes subject to recapture shall be determined by the county assessor by applying current tax levies against the current values that would have been in effect if the lands were subject to appraisal and assessment during the current year under the provisions of section 63-1705, Idaho Code, if there has been a change in ownership or a removal of designation, or section 63-1702, Idaho Code, if there has been a change in use with no change in ownership, which amount shall be multiplied by the number of years that the lands have been subject to the designation under section 63-1706, Idaho Code. The amount of the deferred tax shall accrue through designation periods, up to a maximum of ten (10) years, and shall apply to the most recent ten (10) years in which the parcel has been designated under the provisions of section 63-1706, Idaho Code. A credit shall be allowed for taxes actually paid under the provisions of section 63-1706, Idaho Code, for an identical ten (10) year period, up to the total amount of the deferred taxes. All deferred amounts shall be a lien against the land. ~~The county recorder shall certify the amount of any deferred taxes to the treasurer for collection~~ Deferred tax amounts shall be calculated by the county assessor on forms prescribed by the state tax commission. Deferred tax amounts shall be supplied by the county assessor to the county treasurer by May 15 of the year following conveyance or within thirty (30) days of removal of designation, or of learning of a change in use. All deferred tax amounts shall be due and payable to the county treasurer on demand and shall become delinquent if not paid by the demand due date specified by the county treasurer on the forms prescribed by the state tax commissioner. If the deferred tax is not paid as provided above, the payment becomes delinquent and subject to a penalty, and interest in the amounts provided in section 63-1102, Idaho Code, and subject to collection in the manner as set forth in section 63-1123, Idaho Code. Estimated deferred tax amounts may be held by the county treasurer in a tax anticipation account from the date of conveyance until June 1 of the year following conveyance.

The county treasurer shall cause the deferred taxes and any penalty and interest paid pursuant to the provisions of this section to be apportioned to the various taxing authorities within which the property subject to the tax is located in the same manner as property taxes.

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1706,

Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1706, Idaho Code, shall become effective the first day of January following the year of designation.

(c) All forest products or timber harvested from investment lands not designated as subject to the provisions of section 63-1702, 63-1705 or 63-1706, Idaho Code, and delivered to a point of utilization as logs or semiprocessed forest products (except those forest products harvested for the domestic use of the landowner under the provisions of section 63-1708, Idaho Code) shall be subject to the yield tax at the time of harvest in the same manner provided for in section 63-1706, Idaho Code.

SECTION 3. That Section 63-1706, Idaho Code, be, and the same is hereby amended to read as follows:

63-1706. YIELD TAX ON APPLICABLE FOREST PRODUCTS. (1) All forest lands designated by the owner to be subject to the provisions of section 63-1703(b), Idaho Code, shall be appraised, assessed and taxed according to the provisions of this section.

(2) Forest lands held in private ownership and designated by the owner to be subject to the provisions of this section for ad valorem taxation shall be valued by the county assessor as real property at rates which reflect only bare forest land value as determined under rules ~~and regulations~~ of the state tax commission.

(3) All timber severed from lands subject to the provisions of this section and delivered to a point of utilization as logs or semiprocessed forest products, shall be subject to a forest products yield tax. This tax is in lieu of and replacement for, and not in addition to, ad valorem taxes on timber.

(4) The yield tax rate shall be three percent (3%) of stumpage value as determined by the state tax commission. In establishing stumpage values, the state tax commission shall:

(a) Divide the state into appropriate stumpage value zones, with each zone designated so as to recognize the uniqueness of timber marketing areas.

(b) By November 1, set stumpage values by zone for each species and/or product, for use in the reporting and payment of yield taxes for timber severed during the following calendar year. Stumpage values shall be based on a five (5) year rolling average value of comparable timber harvested from state timber sales within the stumpage value zone and/or the best available data for the same five (5) year period.

(5) Report and payment of yield taxes is the direct liability and responsibility of the landowner at the time of severance. In the event of nonpayment, the yield taxes due shall constitute a lien on the assets of the landowner. Yield tax ~~reports and payments are due and payable on December 20 for timber severed from January 1 through June 30. If the taxes due for said period are not paid on or before December 20, the payment becomes delinquent and subject to a penalty in the amount provided in section 63-1102, Idaho Code, and interest in the amount provided in section 63-1102, Idaho Code, calculated from the following January 1. No tax, penalty or interest may be paid to the~~

~~county-treasurer-between-December-21-and-the-fourth-Monday-in--January because-the-books-are-closed-for-audit.-Yield-tax-reports-and-payments are-due-and-payable-for-timber-severed-from-July-1-through-December-31 on-or-before-June-20-in-the-year-following-severance.-If-the-taxes-due for-said-period-are-not-paid-on-or-before-June-20,-the-payment-becomes delinquent--and-subject-to-a-penalty-in-the-amount-provided-in-section 63-1102,-Idaho-Code,-and-interest-in-the-amount--provided--in--section 63-1102,--Idaho--Code,--calculated--from-the-following-July-1.-No-tax, penalty-or-interest-may-be-paid-to-the-county-treasurer--between--June 21--and--the--fourth--Monday--in-July-because-the-books-are-closed-for audit.-All-yield-tax-reports-shall-be-filed-with-the--county--assessor on--forms-prescribed-by-the-state-tax-commission~~ amounts shall be calculated by the county assessor on forms prescribed by the state tax commission. Yield tax amounts shall be supplied by the county assessor to the county treasurer on or before November 15 for timber that was severed from January 1 through June 30, with payments due and payable on or before December 20. If the taxes due for said period are not paid on or before December 20, the payment becomes delinquent and subject to a penalty and interest in the amount provided in section 63-1102, Idaho Code, calculated from the following January 1. Yield tax amounts shall be supplied by the county assessor to the county treasurer on or before May 15 for timber severed from July 1 through December 31 in the year following severance with payments due on or before June 20 in the year following severance. If the taxes due for said period are not paid on or before June 20, the payment becomes delinquent and subject to a penalty and interest in the amount provided in section 63-1102, Idaho Code, calculated from the following July 1. If December 20 or June 20 falls on a Saturday, Sunday or holiday, any payment required in the provisions of this section shall be payable on the next regular workday following December 20 or June 20.

(6) All yield tax revenues and any penalty or interest thereon shall be apportioned among the several county funds and taxing districts as provided for the apportionment of ad valorem taxes.

(7) The party utilizing logs or semiprocessed forest products as raw materials shall be required to report the quantity, species and source of all such materials to the Idaho department of lands. Such report shall be structured to comply with and act as a simultaneous report of data already required under the provisions of section 38-122, Idaho Code. The report format shall include the identification of the forest landowner at the source, legal description of the source, timber or product owner at time of severance, harvester and volume of forest products severed. The Idaho department of lands shall deliver to the various county assessors without fee, copies of these reports as they are available. In the event the point of utilization lies out of the state or a report is not required under the provisions of section 38-122, Idaho Code, the timber owner at time of severance shall be responsible for the reporting of the above-stated data to the department of lands.

(8) If reports required by this section are found to be intentionally false or when appropriate reports are not made, the assessor shall value the forest crop harvested, based on the best available estimates.

(9) Not reporting timber or forest products delivery or receipt

as required by this section shall be deemed a misdemeanor.

(10) Buildings and other improvements, other than roads, located on forest lands shall be appraised, assessed and taxed as provided by applicable laws~~,~~ and rules ~~and regulations~~.

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 passage and approval, and retroactively to January 1, 1994.

Approved April 7, 1994.

CHAPTER 371
(H.B. No. 871, As Amended)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5203, IDAHO CODE, TO STRIKE THE REQUIREMENT FOR A TOLL FREE TELEPHONE LINE; AMENDING SECTION 67-5205, IDAHO CODE, TO STRIKE CERTAIN RECIPIENTS OF FREE COPIES OF THE ADMINISTRATIVE CODE, SUPPLEMENTS AND BULLETIN; AND AMENDING SECTION 67-5221, IDAHO CODE, TO STRIKE A SPECIFIED FORM FOR LEGAL NOTICE.

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

SECTION 1. That Section 67-5203, Idaho Code, be, and the same is hereby amended to read as follows:

67-5203. PUBLICATION OF ADMINISTRATIVE BULLETIN. (1) All documents required or authorized in this chapter or by other provision of law to be published shall initially be published in the bulletin. The bulletin shall be published by the administrative rules coordinator not less frequently than the first Wednesday of each calendar month, but not more frequently than every other week.

(2) The bulletin shall contain all previously unpublished documents filed with the coordinator in compliance with a publication schedule established by the coordinator.

(3) Each issue of the bulletin shall contain a table of contents. A cumulative index shall be published at least every three (3) months.

(4) The following documents, if not required to be otherwise published, shall be published in the bulletin:

(a) all proclamations and executive orders of the governor;

(b) agency notices of intent to promulgate rules, notices of proposed rules, and the text of all proposed and final rules, together with any explanatory material supplied by the agency;

(c) all agency documents required by law to be published in the bulletin; and

(d) any legislative documents affecting a final agency rule.

(5) The text of all documents published in the bulletin shall be the official text of that document until the document has been published in the administrative code. Judicial notice shall be taken of

all documents published in the bulletin.

(6) The coordinator shall provide a process for access to the contents of the bulletin and to the administrative code by electronic means.

~~(7)--The coordinator shall provide a toll-free telephone line--for informational purposes.~~

SECTION 2. That Section 67-5205, Idaho Code, be, and the same is hereby amended to read as follows:

67-5205. FORMAT -- COSTS -- DISTRIBUTION -- FUNDS. (1) The administrative code and the permanent supplements thereto shall be published in such a manner that every agency has an opportunity to procure at reasonable cost from the coordinator, individual printed pamphlet copies of the rules and statements of policy of such agency published by authority of this chapter. No administrative rule or statement of policy published in the administrative code or the permanent supplements shall be reset or otherwise reprinted at public expense upon a format distinct from that of the administrative code without a certification by the coordinator that such special format is necessary for the effective performance by the agency of its functions.

(2) The prices to be charged for individual copies of and subscriptions to the administrative code, the permanent supplements thereto and the bulletin, for reprints and bound volumes thereof and for pamphlet rules and statements of policy, which prices may be fixed without reference to the restrictions placed upon and fixed for the sale of other publications of the state, and the number of copies which shall be distributed free for official use, in addition to those free copies required to be as provided in this section, shall be set by rules promulgated by the coordinator. The coordinator may set prices without reference to the restrictions placed upon the sale of other publications of the state. Free copies shall be distributed by the coordinator, as follows:

(a) One (1) to each county clerk for the use of the county law library.

(b) One (1) each to the senate and the house of representatives.

(c) One (1) to the attorney general.

(d) One (1) to the legislative council.

(e) One (1) each to the state universities and colleges, and one (1) to each community college.

(f) One (1) to the state law library.

(g) One (1) to the state library.

(h) One (1) each to ~~any--public--library--in this state which requests a copy from the coordinator~~ the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, Albertson College Library, Ricks College Library and Twin Falls Public Library.

~~(i)--One--(1) each to any city in this state which requests a copy from the coordinator.~~

In addition to those free copies required to be distributed by this section, the coordinator may distribute free copies for official use.

(3) Without limiting the generality of the provisions of subsection (2) of this section, the rules of the coordinator may provide for

volume discounts to be available to established law book publishers who agree to incorporate fully administrative rules, the permanent supplements thereto and the bulletin into their general scheme of promotion and distribution, and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. The provisions of this section include the authority to exchange, display, access and publish texts through electronic media.

(4) There is hereby created in the state treasury the administrative code account. All moneys received from the production of rules, the sale of the administrative code, the permanent supplements thereto, or the bulletin, and for providing electronic access, shall be deposited in the account. All agencies which have any material published in the bulletin, administrative code or supplements thereto, or newspapers, are hereby authorized and directed to pay out of their appropriations to the coordinator their respective shares of the costs of publication and distribution of such material. All moneys placed in the account are perpetually appropriated to the coordinator for the administration of the provisions of this chapter, and for the publication and distribution of the bulletin, administrative code or supplements thereto, as authorized in this chapter.

The coordinator shall allocate costs of production, publication and distribution to each participating agency in the same proportion that the amount of the costs of production, publication and distribution for that agency bears to the total costs of production, publication and distribution for all agencies, with the costs to be determined on a per page basis. A cost per page may be imposed even though less than a full page of publication is required.

The cost allocations to each participating agency shall be made monthly by the coordinator, and each participating agency shall promptly pay into the administrative code account such costs.

SECTION 3. That Section 67-5221, Idaho Code, be, and the same is hereby amended to read as follows:

67-5221. PUBLIC NOTICE OF PROPOSED RULEMAKING. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall publish notice of proposed rulemaking in the bulletin. The notice of proposed rulemaking shall include:

(a) the specific statutory authority for the rulemaking;

(b) a statement in nontechnical language of the substance of the proposed rule;

(c) the text of the proposed rule prepared in legislative format;

(d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;

(e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;

(f) the manner in which persons may request an opportunity for an oral presentation as provided in section 67-5222, Idaho Code; and

(g) the deadline for public comments on the proposed rule.

(2) (a) Coinciding with each issue of the bulletin, the coordinator shall cause the publication of an abbreviated notice with a

brief description of the subject matter, showing any agency's intent to propose a new or changed rule that is a new addition to that issue of the bulletin. The form of the notice shall be substantially as follows: typefaces used shall measure greater than seven (7) points, ~~but--less--than-twelve-(12)-points,~~ and space width shall not be less than two (2) newspaper columns. The content of the notice shall be substantially as follows:

A prominent bold typeface heading designed to alert readers to the rules and information contained in the notice. The notice shall include the agency name and address, rule number, rule subject matter as provided in paragraph (1)(b) of this section, and the comment deadline. A brief statement in a prominent bold typeface that informs citizens where they can view the administrative bulletin in hard copy or electronic form shall be included.

~~PUBLIC-NOTICE~~
~~OF-INTENT-TO-PROPOSE-OR-PROMULGATE-NEW~~
~~OR-CHANGED-AGENCY-RULES~~

~~The-following-agencies-of-the-state-of--Idaho--have published-the-complete-text-[an]d-all-related,-pertinent---information--concerning--their--intent--to change-or-make-the-following-rules-in-the-new-issue of-the-state-administrative-bulletin:~~

~~Agency-Name-and-Address---Rule-Number----Rule-Subject-Matter~~
~~Comment-Deadline~~

~~Citizens-of-(county-name)-can-view--all--issues--of the--administrative--bulletin--in--the--county--law libraries.~~

(b) The coordinator shall cause the notice required in paragraph (a) of this subsection to be published in at least the accepting newspaper of largest paid circulation that is published in each county in Idaho or, if no newspaper is published in the county, then in an accepting newspaper of largest paid circulation published in Idaho and circulated in the county. The newspaper of largest circulation shall be established by the sworn statement of average annual paid weekday issue circulation that has been filed by a newspaper with the United States post office for the calendar year immediately preceding the calendar year during which the advertisement in this section is required to be published. The coordinator is authorized to negotiate a rate or rates with any or all newspapers publishing these notices which will provide adequate exposure to the notices by the least expensive means. For the purposes of this section, the provisions of section 60-105, Idaho Code, shall not apply.

Approved April 7, 1994.

CHAPTER 372
(H.B. No. 891, As Amended)

AN ACT

RELATING TO COUNTY INITIATIVE AND REFERENDUM; AMENDING SECTION 31-717, IDAHO CODE, TO ESTABLISH PROCEDURE GOVERNING COUNTY INITIATIVE AND

REFERENDUM; AND AMENDING CHAPTER 7, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-718, IDAHO CODE, TO PROVIDE FOR A COUNTY ADVISORY BALLOT.

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

SECTION 1. That Section 31-717, Idaho Code, be, and the same is hereby amended to read as follows:

31-717. COUNTY INITIATIVE AND REFERENDUM -- SIGNATURES REQUIRED -- PRINTING OF PETITION -- REVIEW OF MEASURES -- TIME LIMITS. The board of county commissioners of each county shall provide by ordinance for direct legislation by the people through the initiative and referendum. For the purposes of this section, "initiative" means the right of the people at an election to adopt, amend or repeal legislation. "Referendum" means the right of the people at an election to approve or reject legislation adopted by the board of county commissioners. ~~Minimum r~~Requirements of the initiative and referendum ordinance adopted shall be as follows:

(1) ~~p~~Petitioners for initiative or referendum shall be equal to twenty per cent (20%) of ~~the total number of voters registered to vote at~~ the qualified electors voting in the county in the last general election ~~in the county~~;

(2) Initial petitions for referendum containing not fewer than twenty (20) signatures of qualified electors of the county shall be filed not less than ~~sixty (60)~~ thirty (30) days following the final ~~adoption~~ publication of the ordinance to be subject to referendum as provided in section 31-715, Idaho Code. After the initial filing of the petition the provisions of subsection (6) of this section shall apply. Completed petitions, with the requisite number of signatures for referendum, shall be filed with the county clerk not more than ninety (90) days after the date of approval of the form in subsection (6)(d) of this section;

(3) Completed petitions, with the requisite number of signatures for initiative, shall be filed with the county clerk not more than ninety (90) days after the date of approval of the form in subsection (6)(d) of this section;

(4) All requirements for gathering signatures shall be met by or within the time frames imposed by subsections (2) and (3) of this section;

(5) A~~a~~ special election for initiative or referendum shall be provided as prescribed in section 34-106, Idaho Code;

(~~4~~6) The following requirements for signature, verification of valid petitions, printing of petition, review of measures, and time limits, except as expressly modified herein, shall be as nearly as practicable as provided in sections ~~34-1701~~ 34-1801 through ~~34-1705~~ 34-1811 and 34-1813 through 34-1822, Idaho Code:

(a) Before beginning to circulate any petition for an initiative or for a referendum on any ordinance passed by the board of county commissioners, the person or persons or organization or organizations under whose authority the measure is to be initiated or referred shall send or deliver to the county clerk a copy of such petition duly signed by at least twenty (20) qualified electors of

the county which shall be filed by said officer in his office, and who shall immediately transmit a copy of the petition to the prosecuting attorney for the issuance of the certificate of review as provided in section 34-1809, Idaho Code.

(b) After receiving a copy of the petition from the county clerk, the county prosecuting attorney may confer with the petitioner and shall, within ten (10) working days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the prosecuting attorney shall be advisory only and the petitioner may accept or reject them in whole or in part. The prosecuting attorney shall issue a certificate of review to the county clerk certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. Within fifteen (15) working days after the issuance of a certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the ballot measure with the county clerk for assignment of a ballot title. Other requirements shall be as provided in section 34-1809, Idaho Code.

(c) Preparation of the ballot title by the prosecuting attorney shall be as prescribed in section 34-1809, Idaho Code.

(d) After the form of the initiative or referendum petition has been approved by the county clerk, the petition shall be printed by the person or persons or organization or organizations under whose authority the measure is to be initiated or referred and circulated in the county for the signatures of legal voters.

(e) Verification of petition and signatures shall be as prescribed in section 34-1807, Idaho Code.

(f) Upon final certification of the petition, the county clerk shall order an election to be held pursuant to section 34-106, Idaho Code.

(g) If the county clerk shall refuse to accept and file any petition for the initiative or for the referendum with the requisite number of signatures of qualified electors thereto attached, any citizen may apply, within ten (10) working days after such refusal, to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the county clerk shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the county clerk and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the supreme court within ten (10) working days after a decision is rendered.

(h) It shall be unlawful for any person to make any false affidavit concerning any petition in this section or to leave a petition

unattended for the purpose of gathering signatures. Any person violating any of the provisions of this subsection shall be guilty of a misdemeanor.

(7) Any measure so initiated by or referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon, and not otherwise.

SECTION 2. That Chapter 7, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-718, Idaho Code, and to read as follows:

31-718. ADVISORY BALLOT QUESTIONS. The board of county commissioners shall have the authority to place a question on the ballot pertaining to any issue before the citizens of that county during a primary or general election. The results of such an election shall be advisory only.

Approved April 7, 1994.

CHAPTER 373
(H.B. No. 892)

AN ACT

RELATING TO EXEMPTIONS FROM THE AD VALOREM PROPERTY TAX; AMENDING SECTION 63-105DD, IDAHO CODE, TO CLARIFY THE DEFINITION OF OWNER AND TO PROVIDE PROCEDURES WHEN AN OWNER IS ANY PERSON WHO AS GRANTOR CREATED A REVOCABLE TRUST AND NAMED HIMSELF OR HERSELF AS BENEFICIARY OF THAT TRUST; AMENDING SECTION 63-119, IDAHO CODE, TO PROVIDE PROCEDURES WHEN AN OWNER IS ANY PERSON WHO AS GRANTOR CREATED A REVOCABLE TRUST AND NAMED HIMSELF OR HERSELF AS BENEFICIARY OF THAT TRUST; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-105DD, Idaho Code, be, and the same is hereby amended to read as follows:

63-105DD. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS. (1) During the tax year 1983 and each year thereafter, the first fifty thousand dollars ($50,000) of the market value for assessment purposes of residential improvements, or fifty percent (50%) of the market value for assessment purposes of residential improvements, whichever is the lesser, shall be exempt from ad valorem taxation.

(2) The exemption allowed by this section may be granted only if:

(a) The residential improvements are owner-occupied and used as the primary dwelling place of the owner as of January 1;

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised

uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the residential improvements are his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other residential improvements in the county.

(d) For the purpose of this section, the definition of owner shall be the same definition set forth in subsection (g)(i) of section 63-117, Idaho Code.

When an "owner" is any person who as grantor created a revocable trust and named himself or herself as beneficiary of that trust, he or she may provide proof of the revocable trust with an affidavit stating: (i) the name of the grantor; (ii) a statement that the grantor is the beneficiary of the trust; (iii) the trust is revocable during the grantor's lifetime and (iv) the grantor is the owner-occupier of the residential property and uses the property as the primary dwelling place of the owner as of January 1.

The affidavit shall include the attaching of the copies of those portions of the trust which sets forth the grantor, the grantor as beneficiary, the revocable character of the trust and the signature page of the trust.

(e) Any owner may request in writing the return of all copies of any revocable trust created by the owner that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit set forth in subsection (2)(d) of this section in proper form.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

(b) The owner still occupies the same residential improvements for which he made application.

(c) The residential improvements described in subsection (3)(b) of this section are owner-occupied and used as the primary dwelling place of the owner as of January 1.

(4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-117 through 63-125, Idaho Code, is applied.

(5) The legislature declares that this exemption is necessary and just.

(6) Residential improvements having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's absence in the current year by reason of active military service in a designated combat zone, as defined in section 112 of the internal revenue code. If an owner fails

to timely apply for exemption as required in this section solely by reason of active duty in a designated combat zone, as defined in section 112 of the internal revenue code, and such improvements would have otherwise qualified under this section, then the board of county commissioners of the county in which the residential improvements are located shall refund ad valorem taxes, if previously paid, in an amount equal to the exemption which would otherwise have applied.

SECTION 2. That Section 63-119, Idaho Code, be, and the same is hereby amended to read as follows:

63-119. PROCEDURE FOR FILING CLAIMS. (1) Any claim filed shall be signed by the claimant. By signing such claim, the claimant shall attest to the truth of such claim, and shall be subject to the penalties provided by section 18-5401, Idaho Code, for stating as true any material fact known to be false. All claims shall be made on forms prescribed by the tax commission and shall be in triplicate. One (1) copy of the form shall be provided to the claimant, one (1) copy shall be kept for all county purposes, and one (1) copy shall be forwarded to the tax commission with the property tax reduction roll.

(2) By filing a claim under the provisions of sections 63-117 through and including 63-125, Idaho Code, a claimant does not relinquish any right he or any member of his household may have to tax exemption under section 63-105BB, Idaho Code. A county board of equalization may grant any such claimant, or any member of his household, an exemption under such section, if a claim has been filed under the provisions of sections 63-117 through and including 63-125, Idaho Code.

(3) If two (2) or more individuals of a household are able to meet the qualifications of a claimant, they may decide between themselves who may obtain a reduction in taxes under the provisions of sections 63-117 through and including 63-125, Idaho Code, but if they do not decide between themselves, then the reduction shall be divided equally among or between the claimants in the household.

(4) A claimant who requests nonhousehold member status for any nonspouse residing in the dwelling must provide a statement from the attending physician, verifying that the claimant would not be able to maintain residency in the dwelling in the absence of the nonhousehold member. To establish nonhousehold member status for any disabled nonspouse for whom the claimant provides care, the claimant must provide proof of disability from the recognizing agency.

(5) When an "owner" is any person who as grantor created a revocable trust and named himself or herself as beneficiary of that trust, he or she may provide proof of the revocable trust with an affidavit stating: (i) the name of the grantor, (ii) a statement that the grantor is the beneficiary of the trust, (iii) the trust is revocable during the grantor's lifetime, and (iv) the grantor is the owner-occupier of the residential property and uses the property as the primary dwelling place of the owner as of January 1.

The affidavit shall include the attaching of the copies of those portions of the trust which sets forth the grantor, the grantor as beneficiary, the revocable character of the trust and the signature page of the trust.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1994.

Approved April 7, 1994.

CHAPTER 374
(H.B. No. 910, As Amended, As Amended in the Senate)

AN ACT

RELATING TO AN IDAHO RANGELAND RESOURCES COMMISSION; AMENDING TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 58, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY, TO DEFINE TERMS, TO CREATE A RANGELAND RESOURCES COMMISSION AND TO PROVIDE FOR MEMBERSHIP, TO PROVIDE FOR QUALIFICATIONS OF MEMBERS AND COMPOSITION OF THE COMMISSION, TO PROVIDE FOR COMPENSATION OF MEMBERS, TO PROVIDE FOR A CHAIRMAN AND STAFF OF THE COMMISSION, TO PROVIDE FOR MEETINGS, TO PROVIDE POWERS AND DUTIES, TO PROVIDE LIMITATIONS TO THE POWERS OF THE COMMISSION, TO PROVIDE FOR ACCEPTANCE OF GRANTS, DONATIONS AND GIFTS, TO PROVIDE FOR THE BONDS OF AGENTS AND EMPLOYEES, TO PROVIDE FOR APPOINTMENT OF STAFF, TO PROVIDE FOR ESTABLISHMENT OF AN OFFICE, TO PROVIDE FOR LIABILITY OF THE STATE, TO PROVIDE FOR DEPOSIT AND DISBURSEMENT OF FUNDS AND TO PROVIDE FOR DISSOLUTION OF THE COMMISSION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

SECTION 1. That Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 14, Title 58, Idaho Code, and to read as follows:

CHAPTER 14
IDAHO RANGELAND RESOURCES COMMISSION

58-1401. DECLARATION OF POLICY. It is in the interest of all the people of Idaho that the abundant rangeland resources of the counties and the state be properly managed to produce multiple resources and values along with sustained yields of forage and fiber to support the economic welfare of the counties and the state. Because rangeland management, on both public and private lands, is important to each citizen of the state, it is the purpose by the enactment of this chapter to promote the economic and environmental welfare of the counties and the state by providing a means for the collection and dissemination of information and research regarding the management and uses of the county's and the state's public and private rangeland resources and the livestock grazing industry.

58-1402. DEFINITIONS. As used in this chapter:

(1) "Rangelands" means land on which the native vegetation is

predominately grasses, grass-like plants, forbs, or shrubs, including lands revegetated naturally or artificially when routine management of that vegetation is accomplished mainly through manipulation of grazing. Rangelands include natural grasslands, savannas, shrublands, most deserts, tundra, alpine communities, coastal marshes and wet meadows.

(2) "Private rangelands" means rangelands not owned by the federal government, state government, an Indian tribe or a political subdivision of the state.

58-1403. RANGELAND RESOURCES COMMISSION CREATED -- MEMBERS. (1) There is hereby created and established in the department of self-governing agencies the Idaho rangeland resources commission, to be composed of five (5) voting members appointed by the governor from a list of names, with at least two (2) names for each appointive office submitted to the governor. The Idaho cattle association shall nominate and submit the required number of names for two (2) seats on the commission, the Idaho wool growers association shall nominate and submit the required number of names for one (1) seat on the commission, and the Idaho rangeland committee shall nominate and submit the required number of names for two (2) seats on the commission. Members of the commission shall serve five (5) year terms. Initially, one (1) member of the commission will serve a one (1) year term, one (1) member of the commission will serve a two (2) year term, one (1) member of the commission will serve a three (3) year term, one (1) member of the commission will serve a four (4) year term, and one (1) member of the commission will serve a five (5) year term. For the initial commission members, the duration of each member's term shall be determined by lot. Vacancies to the board shall be filled through nominations to the governor by the entity who originally submitted names for the position. Only the remainder of the term shall be served. No commissioner can serve more than two (2) consecutive five (5) year terms. No two (2) commissioners may reside in the same county.

(2) The governor shall also name as permanent advisory members to the commission, the state director of the bureau of land management, a representative of the U.S. forest service, the state conservationist from the soil conservation service, the director of the Idaho department of lands, the director of the Idaho department of agriculture, the chairman of the Idaho rangeland committee or his designee, the current president of the Idaho section of the society of range management, the deans of the University of Idaho colleges of agriculture and forestry, wildlife and range sciences or their designees. No advisory member of the commission shall have a vote on the commission.

58-1404. QUALIFICATIONS OF THE MEMBER AND COMPOSITION OF THE COMMISSION. Each member of the commission shall be nominated and appointed because of their knowledge of the state's rangelands, rangeland management and the livestock grazing industry, or because they possess communications skills which would enhance the ability of the commission to carry out its duties. Members of the commission shall be residents of the state who derive a substantial part of their income from the use of rangelands, own private rangelands, own private dry grazing land or is a licensed permittee on state or federal lands, within the state of Idaho. Corporations, firms, or other organiza-

tions may not, as such, serve as a member of the commission. Representatives, however, of corporations, firms, or other organizations that meet the requirements of membership to the commission may serve as commissioners.

58-1405. COMPENSATION OF MEMBERS. Members of the commission may be compensated as provided in section 59-509(b), Idaho Code.

58-1406. CHAIRMAN AND STAFF OF THE COMMISSION. The commission shall elect a chairman and may employ clerical or other staff who are not members of the commission.

58-1407. MEETINGS OF THE COMMISSION. The commission shall meet not less than one (1) time in every three (3) month period and at such times as may be determined by either the chairman or a majority of the commission members. Any meeting may be held at any location within the state, and at any time.

58-1408. DUTIES AND POWERS OF THE COMMISSION. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of the provisions of this chapter, the commission shall, in conjunction and cooperation with other entities which represent the livestock grazing industry, have the following duties, authorities and powers.

(a) Conduct research and surveys to determine public attitudes and levels of knowledge regarding rangeland management and the livestock grazing industry;

(b) Design educational campaigns and other needed efforts to provide the public with accurate information regarding the management of Idaho's rangelands and the livestock grazing industry;

(c) Be an advocate for the proper management of Idaho's rangelands and for a healthy livestock grazing industry in the state;

(d) Be a source of accurate and timely data regarding the rangeland resource and the livestock grazing industry;

(e) Make projections regarding availability of forage, new or existing products and markets, and other biological or social trends which might affect rangeland management or the livestock grazing industry in Idaho; and

(f) Cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity.

(3) The commission shall also have the duty, power and authority:

(a) To take such actions as the commission deems necessary or advisable to stabilize and protect the livestock grazing industry of the state and the health and welfare of the public;

(b) To enter into such contracts as may be necessary or advisable;

(c) To appoint and employ officers, agents and other personnel,

including experts in publicizing rangeland management or the livestock grazing industry, and to prescribe their duties and fix their compensation;

(d) To sue and be sued as a board, without individual liability of the board members, when the board is acting within the scope of the powers of the board;

(e) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within the state;

(f) To lease, purchase or own the real or personal property deemed necessary in the administration of the provisions of this chapter;

(g) To prosecute in the name of the state of Idaho any suit or action for collection of any assessment provided for in this chapter;

(h) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties;

(i) To incur indebtedness and carry on all business activities; and

(j) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to the inspection and audit by the state auditor and public at all times.

58-1409. LIMITATIONS TO THE POWERS OF THE COMMISSION. Irrespective of such actions as may be taken by individual members of the commission, the commission itself shall not use any funds or other resources of the commission to influence the outcome of any election for public office, be it state or federal, or to influence the enactment or defeat of any specific piece of legislation; provided however, the commission may, in the course of implementation of this chapter, generally and objectively inform the public of legislative or regulatory proposals which may affect the management of public or private rangelands in Idaho or the livestock grazing industry.

58-1410. COMMISSION ACCEPTING GRANTS, DONATIONS AND GIFTS. The commission may accept grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this chapter shall be paid into a bank account in the name of the Idaho rangeland resources commission and such moneys are hereby continuously appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this chapter.

58-1411. BONDS OF AGENTS AND EMPLOYEES. Any agent or employee appointed by the commission shall be bonded to the state of Idaho in the time, form, and manner as prescribed in chapter 8, title 59, Idaho Code. The cost of the bond is an administrative expense under this chapter.

58-1412. APPOINTMENT OF STAFF, DUTIES, SALARY. The commission may appoint clerical or other staff, on either a full or part-time basis,

who shall devote their time to the administration of the provisions of this chapter. The staff shall be paid reasonable salaries as fixed by the commission, commensurate with their duties and experience.

58-1413. ESTABLISHMENT OF THE COMMISSION'S OFFICE. For the convenience of the majority of those most likely to be affected by the administration of this act, the commission shall establish and maintain an office within the state of Idaho.

58-1414. STATE NOT LIABLE FOR ACTS OR OMISSIONS OF THE COMMISSION OR OF ITS EMPLOYEES. The state of Idaho is not liable for the acts or omissions of the commission or any member thereof or any officer, agent or employee thereof.

58-1415. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all moneys received by the commission shall be deposited in one (1) or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. The commission shall designate such banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such account signed by two (2) officers designated by the commission when the amount of such payments exceeds two thousand dollars ($2,000). Such designees may include the members of the staff of the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at anytime.

(4) On or before January 15 of each year, the commission shall file with the senate and house committees responsible for natural resources, the legislative budget office, the state auditor, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission for the preceding year. The report shall also include an estimate of income of the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next fiscal year. From and after January 15, 1994, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding year.

(5) All moneys received or expended by the commission shall be audited annually by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the state auditor. 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.

58-1416. DISSOLUTION OF THE COMMISSION. (1) Subject to the conditions set forth in this section, the commission may be dissolved upon a majority vote by the commission. No such vote may take place at anytime prior to three (3) years from the date of enactment of this chapter. No such vote may be taken unless first approved by a majority vote of those entities responsible for nominating commission members.

(2) Should such dissolution as described in this section occur, any unencumbered funds held by the commission shall be distributed by the commission or as prescribed by state law.

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

Approved April 7, 1994.

CHAPTER 375
(H.B. No. 911)

AN ACT

RELATING TO ANNEXATION OF TERRITORY BY CITIES; AMENDING SECTION 50-222, IDAHO CODE, AS ADDED BY SECTION 3, CHAPTER 55, LAWS OF 1993, TO PROVIDE CONDITIONS FOR ANNEXATION OF ADJACENT TERRITORY BY CITIES.

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

SECTION 1. That Section 50-222, Idaho Code, as added by Section 3, Chapter 55, Laws of 1993, be, and the same is hereby amended to read as follows:

50-222. ANNEXATION OF ADJACENT TERRITORY. (1) On and after January 1, 1995, any land lying contiguous or adjacent to any city in the state of Idaho, or to any addition or extension thereof may be annexed by the city only if the land is lying in the area of city impact as determined by procedures contained in section 67-6526, Idaho Code, and the land is laid off into blocks containing not more than five (5) acres of land each, whether the same shall have been or shall be laid off, subdivided or platted in accordance with any statute of this state or otherwise, or whenever the owner or proprietor or any person by or with his authority, has sold or begun to sell off such contiguous or adjacent lands by metes and bounds in tracts not exceeding five (5) acres. An owner of land of any size may request that the tract of land be annexed by the city whether the land is or is not contained in the city's area of impact by submitting such request in writing to the city council. If the tract of land is surrounded by or borders the city, the council may, by ordinance, declare the land by proper legal description thereof to be a part of such city. In any annexation of adjacent territory, the annexation shall include all portions of highways lying wholly or partially within the annexed area.

(2) Railroad right of way property may be annexed when property within the city adjoins both sides of the right of way notwithstanding any other provision of this section. Provided, that the city may annex only those areas which can be reasonably assumed to be used for orderly development of the city. Provided further, that said council shall not have the power to declare such land, lots or blocks a part

of said city, if they will be connected to such city only by a shoestring or strip of land upon a public highway.

(3) Notwithstanding any other provision of law, no city council shall have authority to annex property owned by a county or any entity within the county which property is used as a fairgrounds area under the provisions of chapter 8, title 31, or chapter 2, title 22, Idaho Code, without the consent of a majority of the board of county commissioners of the county in which said property lies.

(4) Notwithstanding any other provision of law, no city council shall have authority to annex property owned by a nongovernmental entity used to provide outdoor recreational activities to the public which has been designated as a planned unit development of fifty (50) acres or more and does not require or utilize any city services without the express written permission of the nongovernmental entity whose property is subject to annexation.

Approved April 7, 1994.

CHAPTER 376
(H.B. No. 920)

AN ACT

RELATING TO THE DEFINITION OF USE UNDER THE IDAHO SALES TAX ACT; AMENDING SECTION 63-3615, IDAHO CODE, TO EXEMPT THE USE OF MOTOR VEHICLES IN PUBLIC SCHOOL DRIVER EDUCATION PROGRAMS FROM THE USE TAX.

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

SECTION 1. That Section 63-3615, Idaho Code, be, and the same is hereby amended to read as follows:

63-3615. STORAGE -- USE. (a) The term "storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(b) The term "use" includes the exercise of any right or power over tangible personal property incident to the ownership or the leasing of that property or the exercise of any right or power over tangible personal property by any person in the performance of a contract, or to fulfill contract or subcontract obligations, whether the title of such property be in the subcontractor, contractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to the sales or use tax, unless such property would be exempt to the titleholder under section 63-3622D, Idaho Code, except that the term "use" does not include the sale of that property in the regular course of business, and does not include the exercise of any right or power over a motor vehicle temporarily donated to a driver's education program sponsored by an Idaho public school.

(c) "Storage" and "use" do not include the keeping, retaining, or

exercising of any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside the state, and thereafter used solely outside the state.

Approved April 7, 1994.

CHAPTER 377
(H.B. No. 926, As Amended)

AN ACT

RELATING TO PROCEDURES NECESSARY TO ESTABLISH AN INSTANT BACKGROUND CHECK IN COMPLIANCE WITH THE REQUIREMENTS OF THE BRADY HANDGUN VIOLENCE PREVENTION ACT; AMENDING TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 54, TITLE 19, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR A RECORDS CHECK UPON THE TRANSFER OF A HANDGUN, TO PROVIDE FOR A DEALER IDENTIFICATION NUMBER AND FEE, TO PROVIDE PROOF OF IDENTITY, TO PROVIDE FOR TRANSMITTAL OF A STATEMENT OF INTENT, TO PROVIDE A TOLL-FREE NUMBER, TO PROVIDE A RECORDS CHECK, TO PROVIDE FOR A RESPONSE FROM THE DEPARTMENT OF LAW ENFORCEMENT, TO PROVIDE PROCEDURES IN THE EVENT OF CERTAIN PROCESSING DELAYS, TO PROVIDE REVIEW OF DISAPPROVAL, TO PROVIDE FOR CONFIDENTIALITY, TO PROVIDE PENALTIES FOR A WRONGFUL REQUEST OR WRONGFUL DISSEMINATION OF INFORMATION, TO PROVIDE PENALTIES FOR FALSE STATEMENTS AND IDENTIFICATION, TO PROVIDE FOR WRONGFUL TRANSFER, TO PROVIDE FOR A WRONGFUL PURCHASE OR RECEIPT, TO PROVIDE FOR LIABILITY, TO PROVIDE DEFENSES AND TO PROVIDE EXEMPTIONS; APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE DEPARTMENT OF LAW ENFORCEMENT; TO PROVIDE FOR REPAYMENT BY THE DEPARTMENT OF LAW ENFORCEMENT OF APPROPRIATED MONEYS; DECLARING AN EMERGENCY; AND PROVIDING FOR CONDITIONAL REPEAL OF THE ACT.

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

SECTION 1. That Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 54, Title 19, Idaho Code, and to read as follows:

CHAPTER 54
RECORDS CHECKS FOR TRANSFERS OF HANDGUNS

19-5401. LEGISLATIVE INTENT. It is the intent of the legislature to establish a state-designed procedure that will provide an alternative to the general requirements of the Brady handgun violence prevention act (Public Law 103-159, 103d Congress) for local and state records checks before transfer of a handgun. The legislature finds the procedure imposed in the federal act to be unworkable and burdensome. This act will better serve the interests of the citizens of this state

while fulfilling the basic purposes of the federal act.

19-5402. DEFINITIONS. As used in this chapter:

(1) "Department" means the Idaho department of law enforcement.

(2) "Firearms dealer" means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer of firearms issued by the United States department of treasury.

(3) "Handgun" means:

(a) A firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

(b) Any combination of parts from which a firearm described in paragraph (a) of this section can be assembled.

(4) "Statement of intent" means ATF form 5300.35 (statement of intent to obtain a handgun(s)) or an equivalent form prescribed by regulations administered by the bureau of alcohol, tobacco and firearms of the United States department of treasury for compliance with the Brady handgun violence prevention act.

(5) "Transfer" and the various derivatives thereof shall include the sale, delivery or other transfer of a handgun.

(6) "Working day" means each day except Saturday, Sunday or a legal state holiday.

19-5403. TRANSFER OF A HANDGUN -- RECORDS CHECK. No firearms dealer shall transfer any handgun unless the dealer has:

(1) Obtained a completed statement of intent from the potential buyer or transferee and inspected proof of identity presented by the buyer to verify information provided on the form;

(2) Requested, by means described in this chapter, that the department conduct a records check;

(3) Obtained a unique approval number from the department and has recorded the date and approval number on the statement of intent.

19-5404. DEALER IDENTIFICATION NUMBER -- FEE. (1) A firearms dealer must obtain annually a dealer identification number from the department to be eligible to request the records check required in section 19-5403(2), Idaho Code. The dealer identification number is confidential and shall be used for requesting a records check only by the firearms dealer to which it is assigned. If the confidentiality of the number is compromised or the dealer's address or place of business changes, the firearms dealer shall notify the department.

(2) The department shall establish by rule an annual dealer identification number fee not to exceed one hundred dollars ($100) to be paid by a firearms dealer who intends to transfer any handgun subject to the provisions of this chapter. The fee shall be for the purpose of establishing and maintaining the operation of the records check system established in this chapter and shall be remitted to the instacheck fund which is hereby created. The interest earned on the investment of moneys in the fund shall be returned to the fund.

19-5405. PROOF OF IDENTITY. To establish proof of identity as required in section 19-5403(1), Idaho Code, a potential buyer or transferee shall present a photo identification issued by a governmen-

tal agency. The photo identification, which may be, but is not limited to, an Idaho driver's license, shall include the transferee's name, date of birth and residence address.

19-5406. STATEMENT OF INTENT TRANSMITTAL. The firearms dealer shall maintain the original copy of the statement of intent as required by federal regulations administered by the bureau of alcohol, tobacco, and firearms. The firearms dealer shall mail a duplicate copy of the completed statement of intent to the department within five (5) working days after: (i) requesting the records check for a prospective buyer whose records check results in the issuance of a nonapproval number as described in section 19-5409(2), Idaho Code, and (ii) transferring a handgun without an approval or disapproval number as permitted in sections 19-5409(3) and 19-5410, Idaho Code.

19-5407. TOLL-FREE TELEPHONE NUMBER. The director of the department shall establish a toll-free telephone number for the purpose of responding to requests for criminal history records checks from firearms dealers required under the provisions of this chapter. The telephone service will be in operation seven (7) days a week, with the exception of Easter, Thanksgiving and Christmas days, with hours of service determined by rule. The director shall employ, train and equip such personnel as are necessary to administer the provisions of this chapter.

19-5408. RECORDS CHECK. Upon receipt of a request for a records check, the department shall immediately review its records, those of the federal bureau of investigation, national crime information center (NCIC), interstate identification index; records made available by the Idaho department of health and welfare; and any other applicable and accessible records to determine if the buyer or transferee is prohibited from receiving or purchasing a handgun under state or federal law.

19-5409. RESPONSE. The department shall provide its response to the requesting dealer immediately or by return call. The response may be:

(1) A unique approval number indicating that the potential buyer or transferee is not prohibited from receiving a handgun; or

(2) A unique disapproval number indicating that the potential buyer or transferee is prohibited from receiving a handgun; or

(3) If the records are incomplete so as to preclude a determination that the purchaser or transferee is disqualified from obtaining a handgun, the department may have up to three (3) working days to obtain this information. By the close of business at the end of the third working day following the request, without regard to whether the dealer has received a reply from the department, the dealer may complete the transaction and shall not be deemed in violation of this chapter with respect to such transaction.

19-5410. DELAY. In the event of scheduled computer downtime, electronic failure, or similar emergency beyond the control of the department, the department shall immediately notify the dealer of the

reason for, and estimated length of, such delay. After such notification, the department shall, in no event later than the end of the next working day after such notification, either inform the requesting dealer that its records demonstrate that the buyer is prohibited from purchasing a handgun pursuant to state and federal law or provide the dealer with a unique approval number. Unless notified by the end of the next working day that the transfer is prohibited, and without regard to whether the dealer has received a unique approval number, the dealer may complete the transfer and shall not be deemed in violation of this law with respect to such transaction.

19-5411. REVIEW OF DISAPPROVAL. (1) The department shall promulgate rules providing for a review of disapproved handgun transfers. Under the rules, any person who is denied the right to receive or purchase a handgun because the firearms dealer received a disapproval number as the result of the department's records check may request a review of the process as performed by the department under these rules.

(2) The department shall respond to the request for a review within ten (10) working days of its receipt. If the person disagrees with the results of the review, the person may petition the district court in the county of his residence for a writ of mandamus directing the department to issue an approval. If the record as reviewed indicates that the petitioner is not prohibited from receipt or possession of a firearm under Idaho or federal law, the department shall destroy any records it maintains which contain any information derived from the records check described in section 19-5408, Idaho Code.

19-5412. CONFIDENTIALITY. The department shall promulgate rules to ensure the confidentiality and security of all information provided and recorded pursuant to this act. Statements of intent received by the department are classified as law enforcement records and, as such, are confidential information and are exempt from public disclosure under chapter 3, title 9, Idaho Code. Statements of intent received by the department pursuant to section 19-5406, Idaho Code, and determined by the department to pertain to a potential buyer or transferee who is qualified to receive a handgun shall be destroyed within five (5) working days of receipt as shall records, in any form, containing information derived from the statement. The department shall maintain NCIC transactions logs to the extent required by federal law.

19-5413. WRONGFUL REQUEST -- WRONGFUL DISSEMINATION. Any firearms dealer or any other person who willfully and intentionally requests a records check from the department for any purpose other than compliance with this act, or willfully and intentionally disseminates any records information to any person other than the subject of such information shall be guilty of a misdemeanor.

19-5414. FALSE STATEMENT -- FALSE IDENTIFICATION. Any person who, in connection with the transfer or attempted transfer of a firearm pursuant to this chapter, willfully and intentionally makes any materially false oral or written statement or willfully and intentionally furnishes or exhibits any false identification intended or likely to

deceive a firearms dealer shall be guilty of a misdemeanor.

19-5415. WRONGFUL TRANSFER. Any firearms dealer who willfully and intentionally transfers a handgun in violation of the provisions of this section or uses another firearms dealer's identification number to request a records check shall be guilty of a misdemeanor.

19-5416. WRONGFUL PURCHASE OR RECEIPT. Any buyer or transferee who obtains a handgun for the purpose of transferring it to a person who is prohibited from possession of a firearm by Idaho or federal law shall be guilty of a felony.

19-5417. LIABILITY. The department and its personnel responsible for providing records information shall not be liable criminally or in an action at law for damages: (i) for failure to prevent the transfer of a handgun to a person whose receipt of the handgun is unlawful; or (ii) for preventing a transfer to a person who may lawfully receive a handgun, provided they act in good faith and without malice.

19-5418. COMPLETE DEFENSE. Compliance by a firearms dealer with the provisions of this act shall be a complete defense to any claim or cause of action under the laws of this state for liability or damages arising from the subsequent transfer to any person who is not qualified under state or federal law from receipt of a handgun.

19-5419. EXEMPTIONS. This act does not apply to any of the following:

(1) Transfers of any handgun (including any handgun with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured on or before 1898;

(2) Transfers of any replica of a handgun described in subsection (1) of this section, if the replica is not designed or redesigned to use rim fire or conventional centerfire fixed ammunition, or uses rim fire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

(3) Transfers of any handgun between persons who both hold valid federal firearm licenses;

(4) Transfers of any handgun to employees of sheriff's offices, municipal police departments, correctional facilities or agencies, or other criminal justice or governmental agencies when the transfers are made on behalf of an employing agency for official law enforcement purposes.

SECTION 2. There is hereby transferred the sum of $150,000 from the General Fund to the Miscellaneous Revenue Fund in the Police Services Program in the Department of Law Enforcement to be expended as provided in sections 19-5407 and 19-5408, Idaho Code.

SECTION 3. The moneys appropriated in Section 2 of this act shall be repaid to the General Fund on or before June 30, 1996, from moneys accruing to the Instacheck Fund in the Department of Law Enforcement as created in section 19-5404, 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.

SECTION 5. The provisions of this act shall be null, void and of no force and effect on and after the date on which 18 U.S.C. 922(s) is no longer in effect.

Approved April 7, 1994.

CHAPTER 378
(H.B. No. 934, As Amended)

AN ACT
EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1995; AND TO PROVIDE FOR THE EMPLOYMENT OF TWO WILDLIFE BIOLOGISTS IN A CERTAIN AREA.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Fish and Game not exceed the following amount for the period July 1, 1994, through June 30, 1995:

FOR:	
Personnel Costs	$26,501,600
Operating Expenditures	16,361,000
Capital Outlay	6,209,600
Trustee and Benefit Payments	700,000
TOTAL	$49,772,200
FROM:	
Fish and Game Fund	$23,688,700
Fish and Game Set-aside Fund	3,725,300
Depredation Claim Fund	300,000
Fish and Game Federal Fund	21,687,600
Fish and Game Expendable Trust Fund	334,200
Fish and Game Nonexpendable Trust Fund	36,400
TOTAL	$49,772,200

SECTION 2. There is hereby appropriated to the Department of Fish and Game the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Fund	$ 1,805,500	$ 1,263,800	$ 561,000	$400,000	$ 4,030,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Set-aside Fund	15,400	12,500			27,900
Fish and Game Federal Fund	1,851,300	1,334,400	370,100		3,555,800
TOTAL	$ 3,672,200	$ 2,610,700	$ 931,100	$400,000	$ 7,614,000
II. ENFORCEMENT:					
FROM:					
Fish and Game Fund	$ 4,987,000	$ 942,800	$ 571,300		$ 6,501,100
Fish and Game Federal Fund	231,200	153,200			384,400
TOTAL	$ 5,218,200	$ 1,096,000	$ 571,300		$ 6,885,500
III. FISHERIES:					
FROM:					
Fish and Game Fund	$ 2,947,700	$ 2,059,000	$ 750,200		$ 5,756,900
Fish and Game Set-aside Fund	38,400	110,200	501,100		649,700
Fish and Game Federal Fund	6,144,600	4,972,900	1,435,700		12,553,200
Fish and Game Expendable Trust Fund	174,800	33,400	114,000		322,200
Fish and Game Nonexpendable Trust Fund		31,400			31,400
TOTAL	$ 9,305,500	$ 7,206,900	$2,801,000		$19,313,400
IV. WILDLIFE:					
FROM:					
Fish and Game Fund	$ 2,552,700	$ 1,527,500	$ 102,900		$ 4,183,100
Fish and Game Set-aside Fund	55,900	98,600	38,500		193,000
Fish and Game Federal Fund	2,183,600	1,057,300	233,500		3,474,400
Fish and Game Expendable Trust Fund		12,000			12,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Nonexpendable Trust Fund	3,100	1,900			5,000
TOTAL	$ 4,795,300	$ 2,697,300	$ 374,900		$ 7,867,500
V. INFORMATION AND EDUCATION:					
FROM:					
Fish and Game Fund	$ 889,500	$ 551,500	$ 48,100		$ 1,489,100
Fish and Game Federal Fund	298,100	238,200	20,000		556,300
TOTAL	$ 1,187,600	$ 789,700	$ 68,100		$ 2,045,400
VI. ENGINEERING:					
FROM:					
Fish and Game Fund	$ 678,000	$ 50,400	$ 180,400		$ 908,800
Fish and Game Federal Fund	24,200	18,800			43,000
TOTAL	$ 702,200	$ 69,200	$ 180,400		$ 951,800
VII. NATURAL RESOURCE POLICY:					
FROM:					
Fish and Game Fund	$ 432,700	$ 61,800	1,300		$ 495,800
Fish and Game Federal Fund	832,900	266,100	21,500		1,120,500
TOTAL	$ 1,265,600	$ 327,900	$ 22,800		$ 1,616,300
VIII. WINTER FEEDING, DEPREDATION CONTROL, AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game Fund	$ 323,600				$ 323,600
Depredation Claim Fund				$300,000	300,000
Fish and Game Set-aside Fund	31,400	$ 1,563,300	$1,260,000		2,854,700
TOTAL	$ 355,000	$ 1,563,300	$1,260,000	$300,000	$ 3,478,300
GRAND TOTAL	$26,501,600	$16,361,000	$6,209,600	$700,000	$49,772,200

SECTION 3. Of the moneys appropriated in Section 2 to the Wildlife Program, two wildlife biologists shall be employed full time solely to monitor the effects that the United States Air Force Training Range located south of Bruneau has on wildlife in the area.

Approved April 7, 1994.

CHAPTER 379
(H.B. No. 946)

AN ACT

RELATING TO CAMPAIGN FINANCING; AMENDING SECTION 67-6602, IDAHO CODE, AS AMENDED BY SENATE BILL NO. 1295 OF THE SECOND REGULAR SESSION OF THE FIFTY-SECOND IDAHO LEGISLATURE, TO REVISE THE DEFINITION OF POLITICAL COMMITTEE; AMENDING SECTION 67-6607, IDAHO CODE, TO REVISE CERTAIN TIMING REQUIREMENTS FOR REPORTS OF CONTRIBUTIONS AND EXPENDITURES; AMENDING CHAPTER 66, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6606, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR REPORTS BY A NONBUSINESS ENTITY DOMICILED IN THE STATE OF IDAHO; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6602, Idaho Code, as amended by Senate Bill No. 1295 of the Second Regular Session of the Fifty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

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

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

(1) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

(2) Announces publicly or files for office.

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

(c) "Contribution" includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of "part-time" personal services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess

of twenty-five dollars ($25.00) personally paid for by any volunteer campaign worker. "Part-time" services for the purposes of this definition, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions, other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution.

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

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

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

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

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

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

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

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

(1) Does not have as its principal purpose the conduct of business activities for profit; and

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

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

(m) "Political committee" means:

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

(2) Any person who receives contributions and makes expenditures

in an amount exceeding five hundred dollars ($500) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures.~~;or~~

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

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

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

SECTION 2. That Section 67-6607, Idaho Code, be, and the same is hereby amended to read as follows:

67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES. (a) The political treasurer for each candidate and the political treasurer of each political committee shall file with the secretary of state:

(1) Not more than fourteen (14) days and not less than seven (7) days before the date of a primary election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee prior to the fifteenth day before the primary election;

(2) Not more than thirty (30) days after the date of a primary election in which a candidate or a political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the primary election to and including the tenth day after the primary election;

(3) For all political committees supporting or opposing measures, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the measure or made by or against the measure shall be filed on April 30 and July 30 of each year to cover the period since the preceding report, if any, has been filed. Such committees shall also file the statements required in subsections (4), (5) and (6) of this section; provided, that the statement required in subsection (4) shall cover the period from July 1 to and including ~~the sixteenth day before the general election~~ September 30;

(4) Not later than October 10 immediately preceding a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including the eleventh day after the date of the primary election and to and including September 30;

(5) Not more than fourteen (14) days and not less than seven (7) days before the date of a general election in which the candidate

or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including October 1 and to and including the sixteenth day before the general election, together with a cumulative statement showing all such contributions and expenditures or encumbrances to and including the ~~fifteenth~~ sixteenth day before the general election; and

(6) Not more than thirty (30) days after the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the general election to and including the tenth day after the general election.

(b) For the first report under this section the reporting period shall cover the period beginning with the first contribution, expenditure, or encumbrance.

(c) Notwithstanding any other reports required under this section, the political treasurer for each candidate and any political committee supporting or opposing a measure shall notify the secretary of state, in writing, of any contribution of one thousand dollars ($1,000) or more, received by the political treasurer after the sixteenth day before, but more than forty-eight (48) hours before, any primary or general election. This notification shall be made within forty-eight (48) hours after the receipt of such contribution and shall include the name of the candidate or measure, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions in the post election report.

(d) For all reports required pursuant to this section the secretary of state shall accept the date of a postmark as the date of receipt except for the seven (7) day pre-election reports which must be received by no later than 5:00 p.m. on the seventh day preceding the primary or general election.

(e) Any reports required to be filed under the provisions of this section may also be filed by means of an electronic facsimile transmission machine.

SECTION 3. That Chapter 66, 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 67-6606, Idaho Code, and to read as follows:

67-6606. EXPENDITURES BY NONBUSINESS ENTITY. (1) Any nonbusiness entity, domiciled in the state of Idaho, which makes expenditures in an amount exceeding one thousand dollars ($1,000) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures shall file a statement with the secretary of state. The statement shall include:

(a) The name and address of the nonbusiness entity and the name and address of its principal officer or directors.

(b) The name and address of each person whose fees, dues, payments or other consideration paid to such nonbusiness entity dur-

ing either of the prior two (2) calendar years has exceeded five hundred dollars ($500) or who is obligated to or has agreed to pay fees, dues, payments or other consideration exceeding five hundred dollars ($500) to such entity during the current year.

(2) This statement shall be filed within thirty (30) days of when the one thousand dollar ($1,000) threshold mentioned in subsection (1) of this section is exceeded.

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 April 7, 1994.

CHAPTER 380
(H.B. No. 956)

AN ACT

APPROPRIATING MONEYS FOR THE CENTER FOR BUSINESS DEVELOPMENT AND RESEARCH FOR FISCAL YEARS 1995 AND 1996.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Center for Business Development and Research within the College of Business the following amount from the General Fund, for the period July 1, 1994, through June 30, 1996:

FROM:

General Fund $100,000

Approved April 7, 1994.

CHAPTER 381
(H.B. No. 966)

AN ACT

RELATING TO THE LOCAL ECONOMIC DEVELOPMENT ACT; AMENDING SECTION 50-2902, IDAHO CODE, TO INCLUDE COMPETITIVELY DISADVANTAGED BORDER COMMUNITY AREAS WITHIN THE PURPOSE OF THE ACT; AMENDING SECTION 50-2903, IDAHO CODE, TO DEFINE ADDITIONAL TERMS AND FURTHER DEFINE TERMS; AMENDING SECTION 50-2904, IDAHO CODE, TO AUTHORIZE REVENUE ALLOCATION FINANCING PROVISION FOR COMPETITIVELY DISADVANTAGED BORDER COMMUNITY AREAS; AND AMENDING SECTION 50-2906, IDAHO CODE, TO INCLUDE CREATION OF COMPETITIVELY DISADVANTAGED BORDER COMMUNITY AREAS WITHIN REQUIREMENTS OF PUBLIC HEARING AND ORDINANCE.

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

SECTION 1. That Section 50-2902, Idaho Code, be, and the same is

hereby amended to read as follows:

50-2902. FINDINGS AND PURPOSE. It is hereby found and declared that there exists in municipalities a need to raise revenue to finance the economic growth and development of urban renewal areas and competitively disadvantaged border community areas. The purpose of this act is to provide for the allocation of a portion of the property taxes levied against taxable property located in a revenue allocation area for a limited period of time to assist in the financing of urban renewal plans, to encourage private development in urban renewal areas and competitively disadvantaged border community areas, to prevent or arrest the decay of urban areas due to the inability of existing financing methods to promote needed public improvements, to encourage taxing districts to cooperate in the allocation of future tax revenues arising in urban areas and competitively disadvantaged border community areas in order to facilitate the long-term growth of their common tax base, and to encourage private investment within urban areas and competitively disadvantaged border community areas. The foregoing purposes are hereby declared to be valid public purposes for municipalities.

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 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) "Clerk" means the city clerk of the municipality.

(6) "Competitively disadvantaged border community area" means a parcel of land consisting of at least forty (40) acres which is situated within the boundaries of an incorporated city and within twenty-five (25) miles of a state or international border, which the governing body of such 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) "Deteriorated area" means:

(a) Any area, including 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.

(~~7~~8) "Facilities" mean land, rights in land, buildings, struc-

tures, machinery, landscaping, extension of utility services, approaches, roadways and parking, handling and storage areas, and similar auxiliary and related facilities.

(8~~9~~) "Local governing body" means the city council of a municipality.

(9~~10~~) "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~~0~~1) "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 facilities, 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.

(1~~1~~2) "Project costs" include, but are 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.

(1~~2~~3) "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.

(1~~3~~4) "State" means the state of Idaho.

(1~~4~~5) "Tax" or "taxes" mean all ad valorem tax levies upon taxable property.

(1~~5~~6) "Taxable property" means taxable real property, personal property, operating property, or any other tangible or intangible property included on the equalized assessment rolls.

(1~~6~~7) "Taxing district" means a taxing district as defined in section 63-621, Idaho Code, as that section now exists or may hereafter be amended.

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.

SECTION 4. That Section 50-2906, Idaho Code, be, and the same is hereby amended to read as follows:

50-2906. PUBLIC HEARING AND ORDINANCE REQUIRED. (1) To adopt a new urban renewal plan or create a competitively disadvantaged border community area containing a revenue allocation financing provision, the local governing body of an authorized municipality must enact an ordinance in accordance with chapter 9, title 50, Idaho Code, and section 50-2008, Idaho Code. To modify an existing urban renewal plan, to add or change a revenue allocation, an authorized municipality must enact an ordinance in accordance with chapter 9, title 50, Idaho Code, and conduct a public hearing as provided in section 50-2008(c), Idaho Code. No urban renewal project, plan, competitively disadvantaged border community area or modification thereto shall be held ineffective for failure to comply with the requirements of this section if compliance with the section is substantial and in good faith.

(2) A revenue allocation financing provision adopted in accordance with this chapter shall be effective retroactively to January 1 of the year in which the local governing body of the authorized municipality enacts such ordinance.

(3) The local governing body of an authorized municipality shall prepare a notice stating (a) that an urban renewal plan or modification thereto or a competitively disadvantaged border community area has been proposed and is being considered for adoption, and that such plan or modification thereto contains a revenue allocation financing provision that will cause property taxes resulting from any increases in equalized assessed valuation in excess of the equalized assessed valuation as shown on the base assessment roll to be allocated to the agency for urban renewal and competitively disadvantaged border community area purposes; and (b) that a public hearing on such plan or modification will be held by the local governing body pursuant to section 50-2008(c), Idaho Code. The notice shall also state the time, date, and place of the hearing. At least thirty (30) days but not more than sixty (60) days prior to the date set for final reading of the ordinance, the local governing body shall publish the notice in a newspaper of general circulation and transmit the notice, together with a copy of the plan and recommendation of the urban renewal agency or the municipality which by ordinance created the competitively disadvantaged border community area, to the governing body of each taxing district which levies taxes upon any taxable property in the revenue allocation area and which would be affected by the revenue allocation financing provision of the urban renewal plan proposed to be approved by the local governing body.

Approved April 7, 1994.

CHAPTER 382
(H.B. No. 968)

AN ACT

RELATING TO DUTIES OF THE DEPARTMENT OF FISH AND GAME REGARDING THE ENDANGERED SPECIES ACT; AMENDING SECTION 36-715, IDAHO CODE, TO AUTHORIZE THE DEPARTMENT TO WORK IN CONJUNCTION WITH THE WOLF OVERSIGHT COMMITTEE IN THE DEVELOPMENT AND PREPARATION OF AN IDAHO WOLF MANAGEMENT PLAN, TO PROVIDE THAT THE DEPARTMENT MAY RECEIVE FUNDS FROM THE U.S. FISH AND WILDLIFE SERVICE TO DEVELOP A PLAN, TO PROVIDE FOR REVIEW OF A WOLF MANAGEMENT PLAN AND TO PROVIDE FOR A REPORT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 36-715, Idaho Code, be, and the same is hereby amended to read as follows:

36-715. DUTIES OF THE DEPARTMENT OF FISH AND GAME REGARDING THE ENDANGERED SPECIES ACT. (1) Since wolf/dog hybridizations are known to exist within Idaho and these hybrids are not protected by the United States endangered species act, a biological evaluation shall be required of the animal to determine species priority before the department of fish and game may take any action in accordance with the United States endangered species act.

(2) The department of fish and game shall not be authorized to expend funds, transfer assets or enter into a cooperative agreement with any agency, department or entity of the United States government concerning wolves unless expressly authorized by state statute except that the department is authorized to provide a representative to participate on the northern rocky mountain wolf recovery team and to participate in activities regarding nuisance wolves.

(3) If a wolf is sighted, the burden of proof concerning the reported presence of the wolf within Idaho shall rest with the observer and the department of fish and game shall take no action to enforce the United States endangered species act regarding wolves in absence of that proof.

(4) From the effective date of this act through ~~May 13, 1994, the department of fish and game is authorized to enter into cooperative agreements with the United States fish and wildlife service and the United States forest service to receive and expend federal funds for the purpose of participating in the preparation of an environmental impact statement regarding wolf recovery in Idaho per the wolf environmental impact statement participation plan dated February, 1992~~ June 1, 1996, the department of fish and game is authorized to work in conjunction with the wolf oversight committee, as established by the wolf EIS participation plan dated February, 1992, in the development and implementation of an Idaho wolf management plan, provided that:

(a) The department is authorized to receive up to fifteen thousand dollars ($15,000) from the U.S. fish and wildlife service for the sole use in the development of said plan. If additional funding for the development of the plan is required, said funding

shall come primarily from federal sources, but may also come from the department's nongame wildlife management fund. Receipt and expenditures of all moneys used in the development of the plan shall be done in coordination with the wolf oversight committee.

(b) Any plan so developed by the department and wolf oversight committee shall take into consideration local economies, custom, culture, and private property rights. The department and the wolf oversight committee may consult with federal entities and coordinate with state and local government entities in the development of the plan.

(c) Upon completion of an Idaho wolf management plan, the department and the wolf oversight committee shall provide a report to the senate resources and environment committee and to the house resources and conservation committee and shall provide written copies to all interested parties. When the plan is complete, the speaker of the house of representatives and the president pro tempore of the senate may authorize a joint meeting of the senate resources and environment committee and the house resources and conservation committee to be held during the interim to review the Idaho wolf management plan.

(d) Members of the wolf oversight committee shall serve without compensation, but shall be reimbursed actual expenses for attending meetings of the committee from funds provided by the department of fish and game at prevailing state rates.

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 April 7, 1994.

CHAPTER 383
(H.B. No. 973)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-402, IDAHO CODE, TO REDUCE THE PREMIUM TAX IN INSURANCE, NOT INCLUDING TITLE INSURANCE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-403, IDAHO CODE, TO REDUCE THE PREMIUM TAX ON INSURANCE COMPANIES WITH A SPECIFIED RATE OF IDAHO INVESTMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-1229, IDAHO CODE, TO REDUCE THE TAX ON SURPLUS LINES INSURANCE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 41-402, Idaho Code, be, and the same is hereby amended to read as follows:

41-402. PREMIUM TAX. (1) Each authorized insurer, and each formerly authorized insurer with respect to insurance transacted while an authorized insurer, shall file with the director on or before the

dates in each year set forth in subsections (3) and (4) of this section, a statement (on forms as prescribed and furnished by the director) under oath for the period set forth in subsections (3) and (4) of this section, and pay the director a tax at the rate set forth in subsection (2) of this section, on the following amounts:

(a) As to life insurers, the amount of all gross premiums received by the insurer on direct risks resident in this state, and also, if a domestic insurer, on direct risks resident in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned coupons and dividends paid to or credited to ~~policy-holders~~ policyholders.

(b) As to all insurers other than life insurers, the amount of gross direct premiums written on policies covering subjects of insurance resident, located or performed in this state, and also, if a domestic insurer, on such premiums in any other jurisdiction or jurisdictions in which the insurer is not licensed and upon which no premium tax is otherwise paid or payable, less returned premiums, premiums on policies not taken and dividends paid or credited to ~~policy-holders~~ policyholders. As to title insurance "gross premium" means the insurance risk portion of the amount charged for title insurance.

(2) Subject to section 41-403, Idaho Code, the rate of tax shall be as follows:

(a) As to title insurance, the rate of tax shall be one and five-tenths per cent (1.5%).

(b) As to all other kinds of insurance, the rate of tax shall be ~~three~~ two and seventy-five hundredths per cent (~~3.0~~2.75%).

(3) (a) Every insurer with a tax obligation under this section shall make prepayment of the tax obligations for the current calendar year's business, if the sum of the tax obligations for the preceding calendar year's business is four hundred dollars ($400) or more.

(b) The director shall credit the prepayments toward the appropriate tax obligations of the insurer for the current calendar year.

(c) The minimum amounts of the prepayments shall be percentages of the insurer's tax obligation based on the preceding calendar year's business and the current year's rate, and shall be paid to the director's office by the due dates and in the following amounts:

(i) On or before June 15, sixty per cent (60%);

(ii) On or before September 15, twenty per cent (20%); and

(iii) On or before December 15, fifteen per cent (15%).

(4) On or before March 1, any balance of tax due for the preceding calendar year shall be paid to the director.

(5) The effect of transferring policies of insurance from one insurer to another insurer is to transfer the tax prepayment obligation with respect to the policies.

(6) This section shall not apply as to any domestic reciprocal insurer doing exclusively a workmen's compensation business and complying with the provisions of the workmen's compensation law of this state and writing workmen's compensation only for members under that

law, if its representatives or agents or the attorney in fact executing such contracts are not compensated on a commission basis.

(7) This section shall not apply as to life insurance policies issued under pension plans or profit-sharing plans exempt or qualified under sections 401(a), 403, 404, 408, or 501(a) of the United States internal revenue code, as hereafter amended or renumbered from time to time, nor to annuity contracts in general.

(8) This section shall not apply to any domestic reciprocal insurer which exclusively insures members who are governmental entities, as defined by section 6-902(1), (2) and (3), Idaho Code.

(9) The amount of tax due for the current year shall be paid in full in the manner and at the times required in this section without any credit or offset for refunds or other amounts due or claimed to be due by the insurer.

SECTION 2. That Section 41-403, Idaho Code, be, and the same is hereby amended to read as follows:

41-403. REDUCED TAX BASED ON IDAHO INVESTMENTS. Provided that it shall comply with rules and standards duly promulgated by the director of insurance for the purposes of assuring the establishment and maintenance in this state of services and facilities consistent with the nature and extent of its operations, any insurer, other than a life insurance company, having at all times throughout the year with respect to which the tax is payable twenty-five per cent (25%) or more of its assets invested in the investments set forth below, shall, with respect to premiums on which taxes are to be computed under section 41-402, Idaho Code, compute and pay such tax at the rate of one and ~~six~~ four-tenths per cent (1.64%) instead of at any higher rate provided for under ~~such~~ section 41-402, Idaho Code; and provided further, any life insurance company, in order to qualify for a tax rate of one and ~~six~~ four-tenths per cent (1.64%) instead of any higher rate provided for under section 41-402, Idaho Code, shall maintain throughout the year with respect to which tax is payable at least twenty-five per cent (25%) of the reserve required under section 41-706 (4), Idaho Code, invested in the designated investments set forth below:

(1) Bonds or warrants of this state, or of any county, city or incorporated town or district within this state authorized by law to be issued, or

(2) Taxable real estate within this state, or

(3) First mortgages upon improved, unencumbered real estate situated within this state, or

(4) Stocks or bonds of corporations organized under the laws of, or maintaining their home office and principal administrative records in this state if such stocks or bonds are lawful investments of the insurer under chapter 7 (investments) of this code, or

(5) Bonds authorized by law to be issued against the revenues derived from the operation in this state of domestic water and sewage systems or off-street parking facilities, or

(6) Time deposits with Idaho banks, or trust companies, or savings and loan associations, or building and loan associations or on deposit for interest income purposes with any legally organized and approved financial institution domiciled within this state and insured

by any instrumentality of the United States government.

SECTION 3. That Section 41-1229, Idaho Code, be, and the same is hereby amended to read as follows:

41-1229. TAX ON SURPLUS LINES. (1) On or before the first day of March of each year each broker shall remit to the director a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him with unauthorized insurers during the preceding calendar year as shown by his annual statement filed with the director, and at the following rates:

BEGINNING EFFECTIVE DATE OF POLICY	RATE
January 1, 1987 through July 31, 1987	3%
August 1, 1987 through July 31, 1988	3.663%
August 1, 1988 ~~and thereafter~~ through December 31, 1994	3%
January 1, 1995, and thereafter	2.75%

Such tax shall be in lieu of all other taxes upon such insurers with respect to the business so reported.

(2) If a surplus line policy covers risks or exposures only partially in this state, the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

SECTION 4. This act shall be in full force and effect on and after January 1, 1995.

Approved April 7, 1994.

CHAPTER 384
(H.B. No. 975)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1995; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Office of the Governor the following amounts, to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. GOVERNOR'S OFFICE ADMINISTRATION:					
FROM:					
General Fund	$ 874,300	$ 271,400			$1,145,700
II. GOVERNOR'S RESIDENCE:					
FROM:					
General Fund		$ 10,000			$ 10,000
III. GOVERNOR'S EXPENSE ALLOWANCE:					
To be expended pursuant to Section 67-808d, Idaho Code:					
FROM:					
General Fund		$ 8,200			$ 8,200
IV. SOCIAL SERVICES:					
FROM:					
Federal Grant Fund	$ 5,900	$ 5,100		$ 96,800	$ 107,800
V. JUVENILE JUSTICE AND DELINQUENCY PREVENTION:					
FROM:					
General Fund	$ 60,800	$ 8,400			$ 69,200
Federal Grant Fund	36,100	93,200		$254,300	383,600
TOTAL	$ 96,900	$ 101,600		$254,300	$ 452,800
VI. EARLY CHILDHOOD:					
FROM:					
General Fund		$ 103,000			$ 103,000
Federal Grant Fund	$ 85,500	279,300		$4,804,600	5,169,400
Miscellaneous Revenue Fund	140,200	60,000		695,800	896,000
TOTAL	$ 225,700	$ 442,300		$5,500,400	$6,168,400
VII. ENERGY:					
FROM:					
Federal Grant Fund	$ 13,800	$ 17,900			$ 31,700
VIII. STATE EMERGENCY RESPONSE COMMISSION:					
FROM:					
Water Pollution Control Fund		$ 3,300			$ 3,300
Hazardous Waste Training, Emergency and Monitoring Fund	$ 124,800	157,600	$143,000		425,400
Federal Grant Fund	15,600	46,300		71,100	133,000
TOTAL	$ 140,400	$ 207,200	$143,000	$ 71,100	$ 561,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IX. ACTING GOVERNOR PAY:					
FROM:					
General Fund	$ 6,700				$ 6,700
X. GOVERNOR-ELECT TRANSITION:					
FROM:					
General Fund	$ 15,000				$ 15,000
GRAND TOTAL	$1,378,700	$1,063,700	$143,000	$5,922,600	$8,508,000

SECTION 2. There is hereby reappropriated to the Office of the Governor, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Office of the Governor for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 3. The reappropriation granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriation in Section 2 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the proportion that the reappropriation for the Office of the Governor bears to the total General Fund reapporpriation authority granted to all state agencies.

Approved April 7, 1994.

CHAPTER 385
(H.B. No. 976)

AN ACT

DIRECTING THE STATE AUDITOR TO TRANSFER $9,364,500 FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND; APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PROJECTS 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; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO INMATE LABOR; DIRECTING THE DEPARTMENT OF

CORRECTION TO OBTAIN A PROFESSIONAL ANALYSIS OF THE SYSTEM NEEDS; APPROPRIATING $75,000 FROM THE GENERAL FUND TO THE DEPARTMENT OF CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. The State Auditor is hereby directed to transfer $9,364,500 from the General Fund to the Permanent Building Fund.

SECTION 2. There is hereby appropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, named and listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Fund for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work thereunder will be undertaken.

PROJECT NO. 1. Department of Correction for necessary infrastructure improvements in conjunction with the addition to the Maximum Security Institution. $1,519,500

PROJECT NO. 2. Department of Correction for a 96-bed addition to the Idaho Maximum Security Institution. $7,845,000

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

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

SECTION 5. It is legislative intent that the Permanent Building Fund Advisory Council allow the use of inmate labor on the projects approved in Section 2 of this act to the extent possible and practical.

SECTION 6. The Department of Correction is hereby directed to obtain a professional analysis of the department's short-term and long-term system capacity needs, including cell space, alternatives to

traditional incarceration for nonviolent offenders, and an analysis of the department's inmate classification system. The department shall report the findings and recommendations to the Joint Finance-Appropriations Committee no later than January 9, 1995.

SECTION 7. There is hereby appropriated from the General Fund to the Department of Correction for the Administration Program, the amount of $75,000, or so much as may be necessary, to conduct the study authorized in Section 6 of this act.

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

Approved April 7, 1994.

CHAPTER 386
(H.B. No. 977, As Amended in the Senate)

AN ACT

RELATING TO THE DEPARTMENT OF WATER RESOURCES; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES; 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 355, Laws of 1993, there is hereby appropriated to the Department of Water Resources the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 1993, through June 30, 1994:

I. MANAGEMENT AND SUPPORT SERVICES:

FROM:	
General Fund	$40,000
FOR:	
Operating Expenses	$40,000

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 April 7, 1994.

CHAPTER 387
(H.B. No. 979)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1995; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Correction not exceed the following amount for the period July 1, 1994, through June 30, 1995:

FROM:	
General Fund	$50,053,500
Miscellaneous Revenue Fund	86,500
Parolee Supervision Fund	1,201,200
Penitentiary Endowment Fund	1,050,500
Work Crews - Inmate Labor Fund	2,460,800
Community Work Centers - Inmate Labor Fund	190,900
Federal Grant Fund	444,700
TOTAL	$55,488,100

SECTION 2. There is hereby appropriated to the Department of Correction the following amounts, to be expended for designated programs according to designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Fund	$ 2,878,500	$1,820,500	$ 67,900	$1,650,100	$ 6,417,000
Parolee Supervision Fund	39,200	13,300			52,500
Miscellaneous Revenue Fund		5,600			5,600
TOTAL	$ 2,917,700	$ 1,839,400	$ 67,900	$1,650,100	$ 6,475,100
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 7,537,500	$ 1,005,000	$ 98,900		$ 8,641,400
Penitentiary Endowment Fund		1,050,500			1,050,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	116,900	1,600			118,500
Miscellaneous Revenue Fund	51,200				51,200
TOTAL	$ 7,705,600	$ 2,057,100	$ 98,900		$ 9,861,600
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 2,994,700	$ 849,100	$ 65,400	$ 49,700	$ 3,958,900
Miscellaneous Revenue Fund		800			800
TOTAL	$ 2,994,700	$ 849,900	$ 65,400	$ 49,700	$ 3,959,700
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 1,691,800	$ 647,200	$ 87,700		$ 2,426,700
Work Crews - Inmate Labor Fund	88,500	94,300	2,400		185,200
TOTAL	$ 1,780,300	$ 741,500	$ 90,100		$ 2,611,900
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 2,822,700	$ 943,500			$ 3,766,200
Work Crews - Inmate Labor Fund	505,000	501,900	$ 237,100		1,244,000
TOTAL	$ 3,327,700	$ 1,445,400	$ 237,100		$ 5,010,200
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 5,043,900	$ 1,147,600	$ 37,500		$ 6,229,000
G. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,092,300	$ 258,100	$ 61,400		$ 1,411,800
Federal Grant Fund		22,800			22,800
Work Crews - Inmate Labor Fund	220,300	352,500	141,700		714,500
TOTAL	$ 1,312,600	$ 633,400	$ 203,100		$ 2,149,100
H. POCATELLO WOMENS CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 2,106,600	$ 670,400			$ 2,777,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Fund	$ 6,644,900	$ 1,086,100	$ 242,300		$ 7,973,300
Parolee Supervision Fund	1,033,900	110,800	4,000		1,148,700
Federal Grant Fund	140,400	12,100			152,500
Miscellaneous Revenue Fund	12,500	16,400			28,900
Community Work Centers - Inmate Labor Fund		190,900			190,900
TOTAL	$ 7,831,700	$ 1,416,300	$ 246,300		$ 9,494,300
J. PAROLE COMMISSION:					
FROM:					
General Fund	$ 306,800	$ 112,000	$ 4,200		$ 423,000
K. INSTITUTIONAL SUPPORT:					
FROM:					
General Fund	$ 3,612,400	$ 2,263,100	$ 153,700		$ 6,029,200
Federal Grant Fund	130,400	20,500			150,900
Work Crews - Inmate Labor Fund	218,600	98,500			317,100
TOTAL	$ 3,961,400	$ 2,382,100	$ 153,700		$ 6,497,200
GRAND TOTAL	$39,289,000	$13,295,100	$1,204,200	$1,699,800	$55,488,100

SECTION 3. There is hereby reappropriated to the Department of Correction for the Administration Program, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Department of Correction for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures for the Department's Offender Information System only for the period July 1, 1994, through June 30, 1995.

SECTION 4. The reappropriation granted in Section 3 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the General Fund reappropriation in Section 3 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the General Fund reappropriated in Section 3 of this act shall be in the proportion that the General Fund reappropriation for the Department of Correction bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 7, 1994.

CHAPTER 388
(H.B. No. 980)

AN ACT
DIRECTING THE STATE AUDITOR TO TRANSFER MONEYS FROM THE LIQUOR FUND TO THE BUDGET RESERVE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding the provisions of Section 23-404, Idaho Code, the State Auditor is hereby directed to transfer $3,000,000 from the Liquor Fund to the Budget Reserve Fund during the month of April, 1994, as coordinated with the State Liquor Dispensary.

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 April 7, 1994.

CHAPTER 389
(H.B. No. 991)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE PAROLE COMMISSION; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated to the Department of Correction for the Parole Commission the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 1994 through June 30, 1995:

FOR:	
Personnel Costs	$18,000
FROM:	
General Fund	$18,000

SECTION 2. It is legislative intent that the Department of Correction shall pay all bills for housing state prisoners in county jails and other facilities from its operating budget in the event

funds appropriated to the department for this purpose are expended prior to the time the Legislature can act on a supplemental appropriation request.

Approved April 7, 1994.

CHAPTER 390
(H.B. No. 992)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Legislative Council for the legislative interim committee studying the juvenile justice system the following amount from the listed fund for the period from the effective date of this act through June 30, 1995:

FROM:

Budget Reserve Fund	$100,000

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

Approved April 7, 1994.

CHAPTER 391
(H.B. No. 993)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1995.

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

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation the following amounts, to be expended for the designated programs according to the designated expense class from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:

OPERATING EXPENSES:

I. ADMINISTRATION:

FROM:

General Fund	$60,000

II. PARK DEVELOPMENT:

FROM:

General Fund	$30,000
TOTAL	$90,000

Approved April 7, 1994.

CHAPTER 392
(H.B. No. 994)

AN ACT

EXPRESSING LEGISLATIVE INTENT REGARDING ELECTED OFFICIALS AND STATE TAX COMMISSIONER SALARIES; AND APPROPRIATING MONEYS TO THE GOVERNOR, THE LIEUTENANT GOVERNOR, THE SECRETARY OF STATE, THE STATE AUDITOR, THE STATE TREASURER, THE ATTORNEY GENERAL, THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE DEPARTMENT OF REVENUE AND TAXATION.

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

SECTION 1. It is legislative intent that the amounts appropriated in the following Sections shall be used to pay for elected officials salary increases as approved in Senate Bill No. 1602, Second Regular Session, Fifty-second Idaho Legislature and for tax commissioner salary increases as approved in Senate Bill No. 1601, Second Regular Session, Fifty-second Idaho Legislature. The appropriations are summarized as follows:

FROM:

General Fund	$51,100
Administration and Accounting Services to Transportation Fund	3,600
TOTAL	$54,700

SECTION 2. There is hereby appropriated from the General Fund to the Governor the amount of $5,700, to be expended for personnel costs, for the period July 1, 1994, through June 30, 1995.

SECTION 3. There is hereby appropriated from the General Fund to the Lieutenant Governor the amount of $1,500, to be expended for personnel costs, for the period July 1, 1994, through June 30, 1995.

SECTION 4. There is hereby appropriated from the General Fund to the Secretary of State the amount of $2,900, to be expended for personnel costs, for the period July 1, 1994, through June 30, 1995.

SECTION 5. There is hereby appropriated from the General Fund to the State Auditor the amount of $2,900, to be expended for personnel costs, for the period July 1, 1994, through June 30, 1995.

SECTION 6. There is hereby appropriated from the General Fund to the State Treasurer the amount of $2,900, to be expended for personnel costs, for the period July 1, 1994, through June 30, 1995.

SECTION 7. There is hereby appropriated from the General Fund to the Attorney General the amount of $4,300, to be expended for personnel costs, for the period July 1, 1994, through June 30, 1995.

SECTION 8. There is hereby appropriated from the General Fund to the Superintendent of Public Instruction the amount of $2,900, to be

expended for personnel costs, for the period July 1, 1994, through June 30, 1995.

SECTION 9. There is hereby appropriated $28,000 from the General Fund and $3,600 from the Administration and Accounting Services to Transportation Fund, to the Department of Revenue and Taxation for the Management Services Program to be expended for personnel costs, for the period July 1, 1994, through June 30, 1995.

Approved April 7, 1994.

CHAPTER 393
(S.B. No. 1301, As Amended in the House)

AN ACT

RELATING TO CONSENT OF PUTATIVE FATHERS IN TERMINATION AND ADOPTION PROCEEDINGS; AMENDING SECTION 16-1504, IDAHO CODE, TO PROVIDE THAT A WRITTEN CONSENT TO ADOPTION SHALL NOT BE NECESSARY FROM A PUTATIVE FATHER WHO HAS NOT ESTABLISHED PATERNITY; AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE THAT IN ALL DISPUTED MATTERS UNDER THE LAW RELATING TO ADOPTION OF CHILDREN AND TO TERMINATION OF THE PARENT AND CHILD RELATIONSHIP, THE PARAMOUNT CRITERION FOR CONSIDERATION AND DETERMINATION BY THE COURT SHALL BE THE BEST INTERESTS OF THE CHILD; AMENDING SECTION 16-1513, IDAHO CODE, TO REVISE PROCEDURES REGARDING ACTIONS ON CLAIMS OF PATERNITY AND TO MAKE A TECHNICAL CORRECTION REGARDING THE PUBLIC RECORDS ACT; AND AMENDING SECTION 16-2005, IDAHO CODE, TO PROVIDE THAT A COURT MAY GRANT AN ORDER TERMINATING THE PARENTAL RIGHTS OF A PUTATIVE FATHER WHERE HIS CONSENT TO SUCH TERMINATION IS IMPLIED BY REASON OF HIS FAILURE TO ESTABLISH PATERNITY IN THE MANNER PRESCRIBED IN SECTION 16-1513, IDAHO CODE, AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 16-1504, Idaho Code, be, and the same is hereby amended to read as follows:

16-1504. CONSENT OF PARENTS, GUARDIAN, NEAREST RELATIVE, OR NEXT FRIEND OF CHILD -- EXCEPTIONS. A child cannot be adopted without the consent of its parents, if living, <u>except that the consent of a putative father whose paternity has not been legally established by order of a court of competent jurisdiction shall be implied as provided in section 16-1513, Idaho Code,</u> nor without the consent of its guardian if one has been legally appointed or, if no living parents or guardian, then of its nearest relative; if no relative, then by the consent of some person appointed by the judge to act in the proceedings as the next friend to such child. The consent of a parent who is a minor shall not be voidable because of that minority. No consent shall be required of, nor notice given to, any person whose parental relationship to such child shall have been terminated in accordance with the provisions of either chapter 16 or 20, title 16, Idaho Code,

or by a court of competent jurisdiction of a sister state under like proceedings; or in any other manner authorized by the laws of a sister state. Where a voluntary child placement agency licensed by the state in which it does business is authorized to place a child for adoption and to consent to such child's adoption under the laws of such state, the consent of such agency to the adoption of such child in a proceeding within the state of Idaho shall be valid and no further consents or notices shall be required.

SECTION 2. That Section 16-1506, Idaho Code, be, and the same is hereby amended to read as follows:

16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child shall be commenced by the filing of a petition together with a copy thereof. Said petition shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the county in which said person or persons reside. The petitioners shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the name and address of the petitioner or petitioners, the name of the child proposed to be adopted and the name by which it shall be known if and when adopted, the degree of relationship of the child, if any, to the petitioner or petitioners and the names of any person or agency whose consent to said adoption is necessary. At the time fixed for hearing such petition the person adopting a child, and the child adopted, and the spouse of petitioner if a natural parent of the child, must appear before the court of the county wherein the petition was filed. Petitioner shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated.

(2) Any person or persons whose consent is required shall execute such consent in writing, in a form consistent with the provisions of subsection f. of section 16-2005, Idaho Code, which consent being filed in the court where the application is made, shall be deemed a sufficient appearance on the part of such person or persons. If any adoptive parent, or a person not a minor being adopted by a resident adult under the provisions of section 16-1501, Idaho Code, is a member of the armed services and is unable to attend the hearing, his appearance and testimony shall be received by means of deposition, which shall be filed in the court at the time of the hearing.

(3) Prior to the placement for adoption of any child in the home of prospective adoptive parents, it shall be required that a thorough social investigation of the prospective adoptive family and all of its members, consistent with the rules regarding such investigations promulgated by the department of health and welfare, shall be completed and that a positive recommendation for adoptive placement shall have been made. In those instances where the prospective adoptive parent is married to the birth parent of the child to be adopted, such social investigation shall be completed with regard to the prospective adoptive parent upon order of the court. In exigent circumstances where the prospective adoptive parents are determined by the court to have been unable to complete a social investigation of the family with a

positive recommendation prior to the time the child is placed in the home, the child shall remain in the home unless the court determines the best interests of the child are served by other placement. If exigent circumstances exist, a social investigation shall be initiated within five (5) days of placement. Once initiated, all studies shall be completed within sixty (60) days. Upon the filing of a petition to adopt a minor child by a person unrelated to the child or unmarried to a natural parent of the child and at the discretion of the court upon the filing of any other petition for adoption, a copy of such petition, together with a statement containing the full names and permanent addresses of the child and the petitioners, shall be served by the court receiving the petition within five (5) days on the director of the department of health and welfare by registered mail or personal service. It shall then be the duty of the said director, through the personnel of the department or through such qualified child-placing children's adoption agency incorporated under chapter 3, title 30, Idaho Code, as the director may designate, to verify the allegations of the petition, and as soon as possible not exceeding thirty (30) days after service of the petition on the director to make a thorough investigation of the matter to include in all cases information as to the alleged date and place of birth and as to parentage of the child to be adopted as well as the source of all such information and report his findings in writing to the court. The investigative report shall include reasonably known or available medical and genetic information regarding both natural parents and sources of such information as well as reasonably known or available providers of medical care and services to the natural parents. A copy of all medical and genetic information compiled in the investigation shall be made available to the adopting family by the department or other investigating children's adoption agency prior to entry of the final order of adoption. The petition, statement and all other papers, records or files relating to the adoption, including the preplacement investigation and recommendation, shall be returned to the court with the investigative report. The department of health and welfare or other children's adoption agency may require the petitioner to pay all or any part of the costs of the investigation. If the report disapproves of the adoption of the child, motion may be made to the court to dismiss the petition.

(4) Proceedings for termination of parent-child relationship in accordance with chapter 20, title 16, Idaho Code, and proceedings for adoption may be consolidated and determined at one (1) hearing provided that all of the requirements of this chapter as well as chapter 20, title 16, Idaho Code, be fully complied with. <u>In all disputed matters under this chapter or chapter 20, title 16, Idaho Code, the paramount criterion for consideration and determination by the court shall be the best interests of the child.</u>

SECTION 3. That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

16-1513. CLAIM OF PATERNITY. (1) A person who is the father or claims to be the father of a child born out-of-wedlock may claim rights pertaining to his paternity of the child by registering with the vital statistics unit of the department of health and welfare, a

notice of his claim of paternity to the child born out-of-wedlock and his willingness and intent to support the child to the best of his ability. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of registering the notice, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. When making a claim of paternity, a person who is the father or claims to be the father of a child born out-of-wedlock, shall mail to the vital statistics unit of the department of health and welfare, the completed form prescribed by the vital statistics unit of the department of health and welfare. Said form will be filled out completely, signed by the person claiming paternity, and witnessed before a notary public.

(2) The claim of paternity may be registered prior to the birth of the child, but must be registered prior to the date of any termination proceeding, or proceeding wherein the child is placed with an agency licensed to provide adoption services. The claim of paternity shall be signed by the registrant and shall include his name and address, the name and last address of the mother, and either the birthdate of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a registry for this purpose which shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

(3) Any father of such child who fails to file and register his notice of claim to paternity and willingness to assume responsibility for the child shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Failure of such filing or registration shall constitute an abandonment of said child and shall be prima facie evidence of sufficient grounds to support termination of such father's parental rights in accordance with section 16-2005, Idaho Code, and to adoption for the purposes of section 16-1504, Idaho Code. The filing and registering of a notice of claim to paternity and willingness to assume responsibility for the child by a putative father shall also constitute prima facie evidence of the fact of his paternity in any contested proceeding under chapter 11, title 7, Idaho Code, but shall not be a bar to an action for termination of his parental rights under chapter 20, title 16, Idaho Code. The filing of an action under chapter 11, title 7, Idaho Code, by such putative father at any time prior to the date scheduled for hearing of a petition for termination of his parental rights, as shown in the notice thereof duly served upon such putative father pursuant to section 16-2007, Idaho Code, shall constitute an automatic stay of such termination proceeding until a final order of the court has been entered in the paternity action. If the court in the paternity action establishes the paternity of such putative father, the court in the termination proceeding may dismiss the termination proceeding. If the court in the paternity action does not establish the paternity of such putative father, or if such putative father fails to commence a paternity action in the manner set forth in section 7-1111, Idaho Code, and to request, but at his own expense, the blood tests provided for in section 7-1116, Idaho Code, prior to the date set for the hearing on the petition for termination of parental rights, he shall be barred

from thereafter bringing or maintaining any action to establish his paternity of the child and such failure shall also constitute an abandonment of the child and shall be prima facie evidence of sufficient grounds to support and shall constitute an implied consent to termination of such father's parental rights in accordance with section 16-2005, Idaho Code, and to adoption for the purposes of section 16-1504, Idaho Code.

(4) The department of health and welfare, division of family and children's services, private adoption agencies or attorneys and/or their representatives involved in adoptions shall notify all putative fathers by personal service at least ten (10) days prior to the date of any termination proceeding or proceeding wherein the child is placed with an agency licensed to provide adoption services, of their need to register their intent to support and exercise their rights and responsibilities toward the child born out-of-wedlock, whether born or unborn.

(5) If personal service cannot be obtained, then service by publication, notifying the father of the requirement to register his claim of paternity with the vital statistics unit of the department of health and welfare prior to the date of any termination proceeding or proceeding wherein the child is placed with an agency licensed to provide adoption services, shall be sufficient. Service by publication shall include sending of notice by registered or certified mail to the last known address of the person to be notified and publication of the notice once a week for three (3) successive weeks in a newspaper of general circulation within the county where the court is located. Notification by publication must be completed at least ten (10) days prior to any termination proceeding, or proceeding wherein the child is placed with an agency licensed to provide adoption services.

(6) Notice of the requirement to register, as provided in this section, may be combined with a notice of termination of parental rights, as provided in chapter 20, title 16, Idaho Code.

(7) In any termination proceeding pertaining to a child born out-of-wedlock, if there is no showing that the putative father has consented to termination prior to the granting of a decree allowing the termination, a certificate shall be obtained from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of notices from putative fathers, of a child born out-of-wedlock, and that the putative father involved is not registered.

(8) Identities of putative fathers can only be released pursuant to procedures contained in chapter 3, title 9, Idaho Code.

~~(8) Identities of putative fathers can only be released, whether in or out of state, to the department of health and welfare, organizational units for family and children's services and child support enforcement, licensed private adoption agencies, or attorneys involved in adoptions of the children related to the registrant.~~

(9) To cover the cost of implementing and maintaining said registry, the vital statistics unit of the department of health and welfare shall charge a registration fee of ten dollars ($10.00) at the time the putative father registers his intent to exercise his parental rights. It is the intent of the legislature that the fee shall cover

all direct and indirect costs incurred pursuant to this section. The board of health and welfare shall annually review the fees and expenses incurred pursuant to administering the provisions of this section.

(10) Consistent with its authority denoted in the vital statistics act, section 39-242(c), Idaho Code, the board of health and welfare shall adopt, amend and repeal regulations for the purpose of carrying out the provisions of this section.

SECTION 4. That Section 16-2005, Idaho Code, be, and the same is hereby amended to read as follows:

16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. The court may grant an order terminating the relationship where it finds one or more of the following conditions exist:

a. The parent has abandoned the child by having failed to maintain a normal parental relationship, including but not limited to reasonable support or regular personal contact; failure of the parent to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment under this section.

b. The parent has neglected or abused the child. Neglect as used herein shall mean a situation in which the child lacks parental care necessary for his health, morals and well-being.

c. The presumptive parent is not the natural parent of the child.

d. The parent is unable to discharge parental responsibilities because of mental illness or mental deficiency, and there are reasonable grounds to believe the condition will continue for a prolonged indeterminate period and will be injurious to the health, morals or well-being of the child.

e. If termination is found to be in the best interest of the parent and child, where the petition has been filed by a parent or through an authorized agency, or interested party.

f. Where a consent to termination in the manner and form prescribed by this act has been filed by the parent(s) of the child in conjunction with a petition for adoption initiated by the person or persons proposing to adopt the child, or where the consent to termination has been filed by a licensed adoption agency, no subsequent hearing on the merits of the petition shall be held. Consents required by this act must be witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person consenting resides or is present, whether within or without the county, and shall be substantially in the following form:

IN THE DISTRICT COURT OF THE .... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ....

In the Matter of the termination)
of the parental rights of)
.....)
.....)

I (we), the undersigned, being the .... of ...., do hereby give my (our) full and free consent to the complete and absolute termination of my (our) parental right(s), to the said ...., who was born ...., 19.., unto ...., hereby relinquishing completely and forever, all

legal rights, privileges, duties and obligations, including all rights of inheritance to and from the said ...., and I (we) do hereby expressly waive my (our) right(s) to hearing on the petition to terminate my (our) parental relationship with the said ...., and respectfully request the petition be granted.

DATED: ...., 19...

.....

STATE OF IDAHO)
) ss.
COUNTY OF ....)

On this .... day of ...., 19.., before me, the undersigned ...., ... (Judge or magistrate) of the District court of the .... Judicial District of the state of Idaho, in and for the county of ...., personally appeared ...., known to me (or proved to me on the oath of ....) to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he (she, they) executed the same.

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

..... (District Judge or Magistrate)

~~(g)~~. Where consent to termination of parental rights is implied by reason of the failure of a putative father to establish paternity in the manner prescribed in section 16-1513, Idaho Code.

h. Unless a consent to termination signed by the parent(s) of the child has been filed by an adoption agency licensed in the state of Idaho, or unless the consent to termination was filed in conjunction with a petition for adoption of the child, the court shall hold a hearing.

Approved April 7, 1994.

CHAPTER 394
(S.B. No. 1309)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 1995; CONTINUING RULES APPROVED, MODIFIED OR AMENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE SECOND REGULAR SESSION OF THE FIFTY-SECOND IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 1995; PROVIDING THAT RULES REJECTED BY CONCURRENT RESOLUTION SHALL BE NULL, VOID AND OF NO FORCE AND EFFECT; AUTHORIZING AGENCIES TO AMEND 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 and 3 of this act, every rule, as that term is defined in Section 67-5201, Idaho Code, that would expire on July 1, 1994, pursuant to the provisions of Sub-

sections (1) and (2) of Section 67-5292, Idaho Code, shall continue in full force and effect until July 1, 1995, 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, modified or amended by the adoption of a Concurrent Resolution by both the Senate and House of Representatives in the Second Regular Session of the Fifty-second Idaho Legislature shall continue in full force and effect in such approved, modified or amended language until July 1, 1995, at which time they shall expire as provided in Section 67-5292, Idaho Code.

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-second 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 rules which have been continued in full force and effect until July 1, 1995, pursuant to Section 1 and 2 of this act, according to the procedures contained in Chapter 52, Title 67, Idaho Code. 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 has been extended hereunder are consistent with the legislative intent of the statute(s) pursuant to which they were promulgated.

SECTION 5. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Approved April 7, 1994.

CHAPTER 395
(S.B. No. 1332)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2744A, IDAHO CODE, TO ALLOW THE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT TO SELL PROPERTY FORFEITED UNDER THE ACT IN A COMMERCIALLY REASONABLE MANNER AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 37-2744A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744A. REAL PROPERTY SUBJECT TO FORFEITURE. (a) Any real property, including any interest therein and any appurtenances thereto or improvements thereon, which is used in any manner or part, to commit or to facilitate the commission of a violation of the provisions of this chapter punishable by more than one (1) year of imprisonment, shall be subject to forfeiture under the provisions of this section.

(b) Property subject to forfeiture under the provisions of this section may be seized by the director upon determining that a parcel of property is subject to forfeiture, by filing a notice of forfeiture with the recorder of the county in which the property or any part thereof is situated. The notice must contain a legal description of the property sought to be forfeited; provided, however, that in the event the property sought to be forfeited is part of a greater parcel, the director may, for the purposes of this notice, use the legal description of the greater parcel. The director shall also send by certified mail a copy of the notice of forfeiture to any persons holding a recorded interest or of whose interest the director has actual knowledge. The director shall post a similar copy of the notice conspicuously upon the property and publish a copy thereof once a week for three (3) consecutive weeks immediately following the seizure in a newspaper published in the county. The owner or party in lawful possession of the property sought to be forfeited may retain possession and use thereof and may collect and keep income from the property while the forfeiture proceedings are pending.

(c) In the event of a seizure pursuant to subsection (a) of this section, a complaint instituting forfeiture proceedings under subsection (d) of this section shall be filed in the district court in the county in which the real property is situated within ninety (90) days of the date of seizure. The complaint shall be served in the same manner as other complaints subject to the Idaho rules of civil procedure on all persons having an interest in the real property sought to be forfeited.

(d) Real property sought to be forfeited under the provisions of this section shall not be subject to an action for detainer or any other collateral action, but is deemed to be in the custody of the director subject only to the orders and decrees of the district court having jurisdiction over the forfeiture proceedings. Forfeiture proceedings shall be civil proceedings in which the burden of proof shall be on the director to prove by a preponderance of the evidence that the property sought to be forfeited is subject to forfeiture. Upon being satisfied that an owner or claimant as defined in paragraph (4) of this subsection should not be subjected to forfeiture because that person had no knowledge or reason to believe that the real property was being used or had been used for the purposes alleged by the department, the director shall release the property to the owner or other claimant. The procedure applicable to such cases shall be the same as that prescribed by the Idaho rules of civil procedure. Following service the director may, where appropriate, seek default judgment

pursuant to the Idaho rules of civil procedure. If an answer is filed the court shall proceed to set the case for hearing before the court without a jury.

(1) Following the hearing, if the court finds that the property is subject to forfeiture pursuant to subsection (a) of this section the court shall order the property forfeited to the director and title shall vest as of the date of the original seizure.

(2) Following the hearing, if the court finds that the property is not subject to forfeiture pursuant to subsection (a) of this section, the court shall order the property released to the owner or owners thereof.

(3) Any owner who has an answer on file may show by competent evidence that his interest in the property sought to be forfeited is not subject to forfeiture because he could not have known in the exercise of reasonable diligence that the real property was being used, or had been used in any manner in violation of the provisions of this section. If the court finds that the property was not used in violation of the provisions of this section or is not subject to forfeiture under the provisions of this section, the court shall order the property released to the owner.

(4) An owner, co-owner or claimant of any right, title or interest in the real property sought to be forfeited may prove that his right, title or interest, whether under a lien, mortgage, or otherwise, was created without any knowledge or reason to believe that the real property was being used or had been used for the purposes alleged by the department;

(A) In the event of such proof, the court shall order the real property released to the innocent owner, purchaser, ~~lien holder~~ lienholder or mortgagee.

(B) If the amount due to such person is less than the value of the real property, the real property may be sold ~~at public auction~~ in a commercially reasonable manner by the director. ~~The director shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city or county where the sale is to take place at least one (1) week prior to sale of the real property.~~ The proceeds from such sale shall be distributed as follows in the order indicated:

(i) To the innocent owner, purchaser or mortgagee of the real property, if any, up to the value of his interest in the real property.

(ii) The balance, if any, in the following order:

1. To the director for all expenditures made or incurred by the department in connection with the sale, including expenditure for any necessary repairs or maintenance of the real property, and for all expenditures made or incurred by the department in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, travel, investigation, title company fees and insurance premiums.

2. The remainder, if any, to the director for

credit to the drug enforcement donation account.

(C) In any case, the director may, within thirty (30) days after judgment, pay the balance due to the innocent owner, purchaser, ~~lien-holder~~ lienholder or mortgagee and thereby purchase the real property for use in the enforcement of this act.

(e) In issuing any order under the provisions of this section, the court shall make a determination that the property, or a portion thereof, was actually used in violation of the provisions of this act. The size of the property forfeited shall not be unfairly disproportionate to the size of the property actually used in violation of the provisions of this section.

(f) When property is forfeited under the provisions of this section the director may:

(1) Retain it for official use; or

(2) Sell the property ~~at public auction~~ in a commercially reasonable manner. The proceeds shall be distributed by the director as follows:

(A) To reimburse for all expenditures made or incurred in connection with the sale, including expenditures for any necessary repairs or maintenance, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited to, expenditures for attorneys' fees, title company fees, insurance premiums, recording costs, witnesses' fees, reporters' fees, transcripts, printing, travel and investigation.

(B) The remainder, if any, shall be credited to the drug enforcement donation account.

(3) Recommend to the court that the property, or proceeds thereof, be forfeited in whole or in part to a city or county, the law enforcement agency of which participated in the events leading to the seizure of the property or proceeds. Property distributed pursuant to this recommendation shall be used by the city or county for purposes consistent with the provisions of this chapter.

Approved April 7, 1994.

CHAPTER 396
(S.B. No. 1334)

AN ACT

RELATING TO DISTRICT MAGISTRATES COMMISSIONS; AMENDING SECTION 1-2203, IDAHO CODE, TO PROVIDE FOR NOMINATION AND APPOINTMENT OF TEMPORARY ATTORNEY MEMBERS TO FILL ANY POTENTIAL ATTORNEY MEMBER VACANCY ON A DISTRICT MAGISTRATES COMMISSION, TO PROVIDE ADDITIONAL GROUNDS FOR A VACANCY OF AN ATTORNEY MEMBER OF A DISTRICT MAGISTRATES COMMISSION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 1-2203, Idaho Code, be, and the same is hereby amended to read as follows:

1-2203. DISTRICT MAGISTRATES COMMISSION -- MEMBERS. (1) There is hereby established in each judicial district of the state of Idaho a district magistrates commission to be known as the "district magistrates commission of the .... judicial district," the members of which shall consist of the chairman of the board of county commissioners of each county in the district or member of such board designated by the chairman, the mayors of three (3) municipalities, one (1) of whom shall be from a city of over ten thousand (10,000) population, in the district to be appointed by the governor, two (2) qualified electors residing within the district to be appointed by the governor, the administrative judge of the district or district judge of the district designated by him, and two (2) attorneys nominated by the district bar associations in each district and appointed by the Idaho state bar. Temporary attorney members may be nominated in such number as the bar association in each district deems appropriate at any time by the respective district bar association and appointed by the Idaho state bar to fill any temporary attorney member vacancy on the district magistrates commissions. Each of the members shall be over the age of majority and shall be and remain a citizen of the United States, a bona fide resident of the state and district and of good moral character.

(2) Forthwith after making any appointments to such commissions the respective appointing authorities shall duly certify in writing to the administrative director of the courts and to the secretary of state the following facts with respect to each appointee:

(a) Full name,

(b) Age,

(c) Residence address,

(d) If employed, the nature of his occupation and business address,

(e) The name of the district magistrate commission to which appointed,

(f) The date of expiration of term for which appointed,

(g) Except for the initial appointees under this act, the name of the person he succeeds on the commission, and,

(h) If a voting member other than a mayor or district judge or magistrate, his political party.

(3) No voting member, other than the persons appointed while serving as mayor or county commissioner and district judge shall hold any city, county or state elective office or be employed by the state or any city or county while he is a member of the commission.

(4) The two (2) attorney members shall serve for a term of two (2) years and may succeed themselves for two (2) additional terms. The qualified elector members shall serve terms of six (6) years each and may succeed themselves. The mayors shall serve terms of six (6) years and may succeed themselves, provided that their terms will end when they cease to hold the office which entitles them to membership on the commission. Appointments to fill vacancies shall be made by the initial appointing authority for the unexpired term.

(5) A vacancy on the commission shall be caused by a voting mem-

ber dying, resigning, moving his residence outside the district, moving his residence to another county and, in the case of a mayor, district judge or county commissioner member, losing his status as such official for any reason; provided, however, that except in the case of death or resignation of a voting member he shall continue to serve until his successor is duly appointed and qualified. A vacancy on the commission shall be caused by an attorney ~~advisory~~ member dying, resigning, moving his residence to without the district or being suspended or disbarred from the practice of law. A temporary vacancy shall be caused by an attorney member having been engaged in the practice of law as a partner of an applicant or currently practicing law in the same firm as an applicant seeking a magistrate judge's position in the judicial district of the attorney member. It shall be the duty of any member who has become disqualified for any reason promptly to report that fact in writing to the chairman and secretary of the commission. It shall be the duty of the chairman or secretary promptly to report in writing to the appropriate appointing authority, the existence of any vacancy on the commission.

Approved April 7, 1994.

CHAPTER 397
(S.B. No. 1335)

AN ACT

RELATING TO LEGISLATIVE DISTRICTS; AMENDING SECTION 67-202, IDAHO CODE, TO ADOPT THE FREMONT COUNTY PRECINCT BOUNDARIES ADOPTED IN JANUARY 1994, TO BE EFFECTIVE JANUARY 1995.

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

SECTION 1. That Section 67-202, Idaho Code, be, and the same is hereby amended to read as follows:

67-202. LEGISLATIVE DISTRICTS -- SENATORS ELECTED -- REPRESENTATIVES ELECTED. The state is divided into thirty-five (35) legislative districts. One (1) senator shall be elected from each legislative district. Two (2) representatives shall be elected from each legislative district. The names, numbers and boundaries of the precincts and counties herein referred to in describing the area included within the legislative districts shall be as the same existed for the general election of 1988; except that precincts in Fremont County shall be those adopted in January 1994, to become effective January 1995. The counties and precincts constituting the legislative district areas follow:

(1) Legislative District No. 1 shall include all the area contained within Boundary County; and all the area contained within the following precincts of Bonner County: No. 1, No. 2, No. 3, that portion of No. 4 lying east of Lake Pend Oreille, No. 5, No. 7, No. 8, No. 9, that portion of No. 10 lying north of the Pend Oreille River, No. 12, No. 14, No. 15, No. 16, No. 17, No. 18, No. 20, No. 21, No.

23, No. 24, that portion of No. 25 lying north of the Pend Oreille River, No. 26, No. 27, No. 28, No. 29, No. 30, No. 32, No. 33, that portion of No. 34 lying north and east of a line beginning at the intersection of Westmond Road with S. Sagle Road, west and south on Westmond Road to U.S. Highway 95, north on U.S. Highway 95 to Cocolalla Loop Road, then on Cocolalla Loop Road to Cocolalla Creek, then along Cocolalla Creek to the intersection with the western boundary of the precinct, No. 35 and No. 36.

(2) Legislative District No. 2 shall include all the area contained within the following precincts of Bonner County: that portion of No. 4 lying west of Lake Pend Oreille, No. 6, that portion of No. 10 lying south of the Pend Oreille River, No. 11, No. 13, No. 22, that portion of No. 25 lying south of the Pend Oreille River, No. 31, and that portion of No. 34 lying south and west of a line beginning at the intersection of Westmond Road with S. Sagle Road, west and south on Westmond Road to U.S. Highway 95, north on U.S. Highway 95 to Cocolalla Loop Road, then on Cocolalla Loop Road to Cocolalla Creek, then along Cocolalla Creek to the intersection with the western boundary of the precinct; and all the area contained within the following precincts of Kootenai County: that portion of No. 12 lying south of a line beginning at the intersection of East Pole Line Avenue and N. Heutter Road, west to N. Meyer Road, then south and west on N. Meyer Road and E. 16th Avenue to the Ross Point Rathdrum Highway, No. 13, No. 14, No. 15, No. 16, No. 17, No. 18, No. 19, No. 21, No. 22 and No. 30.

(3) Legislative District No. 3 shall include all the area contained within the following precincts of Kootenai County: No. 1, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 10, No. 11, that portion of No. 12 lying north of a line beginning at the intersection of East Pole Line Avenue and N. Heutter Road, then west to N. Meyer Road, then south and west on N. Meyer Road and E. 16th Avenue to the Ross Point Rathdrum Highway, that portion of No. 20 lying west of a line beginning at the intersection of Lancaster Road and N. Strahorn Road, south on N. Strahorn Road to E. Miles Road, east on E. Miles Road to N. Lakeview Drive, southwest on N. Lakeview Drive to E. Hayden Avenue, east on E. Hayden Avenue to the intersection with the city boundary of Hayden Lake before reaching East Street, then north and east following the city boundary to its extension into Hayden Lake, following a nonvisible line through Hayden Lake to the mouth of Windy Bay, following Windy Creek and its extension to its intersection with the boundary of Precinct 31, and No. 32.

(4) Legislative District No. 4 shall include all the area contained within Shoshone County; all the area contained within the following precincts of Benewah County: Plummer and Tensed; and all of the area contained within the following precincts of Kootenai County: No. 2, No. 9, that portion of No. 20 lying east of a line beginning at the intersection of Lancaster Road and N. Strahorn Road, south on N. Strahorn Road to E. Miles Road, east on E. Miles Road to N. Lakeview Drive, southwest on N. Lakeview Drive to E. Hayden Avenue, east on E. Hayden Avenue to the intersection with the city boundary of Hayden Lake before reaching East Street, then north and east following the city boundary to its extension into Hayden Lake, following a nonvisible line through Hayden Lake to the mouth of Windy Bay, follow-

ing Windy Creek and its extension to its intersection with the boundary of Precinct 31, No. 23, No. 24, No. 25, No. 26, No. 27, No. 28, No. 29 and No. 31.

(5) Legislative District No. 5 shall include all the area contained within the following precincts of Latah County: No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, No. 13, No. 14, No. 15, No. 16, No. 17, No. 18, No. 19, No. 20, No. 21, No. 23, No. 24, No. 26, No. 27, No. 28, No. 29, No. 30 and No. 31.

(6) Legislative District No. 6 shall include all the area contained within the following precincts of Nez Perce County: Hatwai, Lewiston No. 1, Lewiston No. 2, Lewiston No. 3, Lewiston No. 4, Lewiston No. 5, Lewiston No. 6, Lewiston No. 7, Lewiston No. 8, Lewiston No. 9, Lewiston No. 10, Lewiston No. 11, Lewiston No. 12, Lewiston No. 13, Lewiston No. 14, Lewiston No. 15, Lewiston No. 16, Lewiston No. 17, Lewiston No. 18, Lewiston No. 19, Lewiston No. 20, Lewiston No. 21, Lewiston No. 22, Lewiston No. 23, Lewiston No. 24, Lewiston No. 25, Lewiston No. 26, Rimrock, Tammany and Webb.

(7) Legislative District No. 7 shall include all the area contained within Clearwater and Lewis Counties; all the area contained within the following precincts of Benewah County: Benewah, Center, College, Emida, Fernwood, Santa, St. Joe, St. Maries and Townsite; all the area contained within the following precincts of Idaho County: Big Butte, Clearwater, Cottonwood No. 1, Cottonwood No. 2, Elk City, Ferdinand, Glover, Harpster, Joseph, Kamiah, Keuterville, Kooskia, Lowell, Stites and Woodland; all the area contained within the following precincts of Latah County: No. 22, No. 25 and No. 32; and all the area contained within the following precincts of Nez Perce County: Culdesac, Gifford, Lapwai, Leland, Lenore, Peck and Spaulding.

(8) Legislative District No. 8 shall include all the area contained within Adams, Boise and Valley Counties; all the area contained within the following precincts of Gem County: Bench, Brick, Butte, Central Emmett, Emerson, Montour/Sweet, North Emmett, Ola, South Emmett and West Emmett; and all the area contained within the following precincts of Idaho County: Fenn, Grangeville No. 1, Grangeville No. 2, Grangeville No. 3, Grangeville No. 4, Grangeville No. 5, Greencreek, Pollock, Riggins, Slatecreek and Whitebird.

(9) Legislative District No. 9 shall include all the area contained within Payette and Washington Counties; and all the area contained within the following precincts of Gem County: Hanna, Letha and Lincoln.

(10) Legislative District No. 10 shall include all the area contained within the following precincts of Canyon County: No. 1, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 12, No. 15, No. 27, No. 29, No. 51, No. 52, No. 57 and No. 62.

(11) Legislative District No. 11 shall include all the area contained within the following precincts of Canyon County: No. 3, No. 18, No. 20, No. 22, No. 28, No. 32, No. 33, No. 34, No. 35, No. 36, No. 42, No. 54, No. 56, No. 58 and all of No. 59 except that block bounded by Crestview and New York Avenue and that block of No. 59 bounded by S. Florence Street.

(12) Legislative District No. 12 shall include all the area contained within the following precincts of Canyon County: No. 19, No.

21, No. 23, No. 25, No. 30, No. 38, No. 40, No. 44, No. 45, No. 46, No. 47, No. 49, No. 50, No. 55, that block of No. 59 bounded by Crestview and New York Avenue, and that block of No. 59 bounded by S. Florence Street, No. 60 and No. 61.

(13) Legislative District No. 13 shall include all the area contained within the following precincts of Ada County: No. 3, No. 4, No. 9, that portion of No. 12 lying east and north of Gowen Road and Pleasant Valley Road, No. 26, No. 27, No. 33, No. 35, No. 37, No. 45, No. 61, No. 62, No. 64, that portion of No. 69 lying east of Pleasant Valley Road, that portion of No. 79 lying east of Owyhee Street, No. 111, No. 113, No. 114 and No. 121.

(14) Legislative District No. 14 shall include all the area contained within the following precincts of Ada County: No. 29, No. 52, that portion of No. 63 lying west of Cloverdale Road, No. 65, No. 67, No. 71, No. 72, No. 73, No. 74, No. 88, that portion of No. 90 lying north of Amity Road, No. 94, No. 95, No. 96, No. 97, No. 98, No. 100, No. 105, No. 106, and that portion of No. 122 lying west of Eagle Road.

(15) Legislative District No. 15 shall include all the area contained within the following precincts of Ada County: No. 15, No. 16, No. 55, that portion of No. 63 lying east of Cloverdale Road, No. 75, No. 76, No. 86, No. 87, No. 104, No. 119, No. 120, that portion of No. 122 lying east of Eagle Road and No. 123.

(16) Legislative District No. 16 shall include all the area contained within the following precincts of Ada County: No. 8, that portion of No. 17 lying east of N. Milwaukee Street, No. 20, No. 23, No. 32, No. 38, No. 42, No. 49, No. 50, No. 54, No. 58, No. 59, No. 82, No. 89, No. 107, No. 117 and No. 118.

(17) Legislative District No. 17 shall include all the area contained within the following precincts of Ada County: No. 2, No. 10, No. 13, No. 14, that portion of No. 17 lying west of N. Milwaukee Street, No. 36, No. 39, No. 40, No. 43, No. 44, No. 48, No. 51, No. 53, No. 56, No. 57, No. 60, No. 78, that portion of No. 79 lying west of Owyhee Street, No. 81 and No. 84.

(18) Legislative District No. 18 shall include all the area contained within the following precincts of Ada County: that portion of No. 12 lying west of Gowen Road and Pleasant Valley Road, No. 66, No. 68, that portion of No. 69 lying west of Pleasant Valley Road, No. 70, No. 85, that portion of No. 90 lying south of Amity, No. 91, No. 92, No. 93, No. 99, No. 101, No. 102, No. 103, No. 109, No. 112 and No. 116.

(19) Legislative District No. 19 shall include all the area contained within the following precincts of Ada County: No. 1, No. 5, No. 6, No. 7, No. 11, No. 18, No. 19, No. 21, No. 22, No. 24, No. 25, No. 28, No. 30, No. 31, No. 34, No. 41, No. 46, No. 47, No. 77, No. 80, No. 83, No. 108, No. 110 and No. 115.

(20) Legislative District No. 20 shall include all the area contained within Owyhee County; and all the area contained within the following precincts of Elmore County: Chattin Flats, Glenns Ferry No. 1, Glenns Ferry No. 2, Hammett, Mayfield, Mountain Home No. 1, Mountain Home No. 2, Mountain Home No. 3, Mountain Home No. 4, Mountain Home No. 5, Mountain Home No. 6, Mountain Home No. 7 and Mountain Home No. 8.

(21) Legislative District No. 21 shall include all the area contained within Blaine, Camas and Lincoln Counties; all the area contained within the following precincts of Elmore County: Atlanta, Camas, King Hill, Pine and Prairie; and all the area contained within the following precincts of Gooding County: Bliss, Gooding East, Gooding Northeast, Gooding Northwest, Gooding West, Tuttle, Wendell East, Wendell Rural and Wendell West.

(22) Legislative District No. 22 shall include all the area contained within the following precincts of Gooding County: Hagerman, Orchard Valley and West Point; and all the area contained within the following precincts of Twin Falls County: Buhl No. 1, Buhl No. 2, Buhl No. 3, Buhl No. 4, Buhl No. 5, Buhl No. 6, Buhl No. 7, Castleford, Clover, Deep Creek, Filer No. 1, Filer No. 2, Filer No. 3, Maroa, Twin Falls No. 3, Twin Falls No. 4, Twin Falls No. 5, Twin Falls No. 7, Twin Falls No. 18, Twin Falls No. 20, Twin Falls No. 23 and Twin Falls No. 24.

(23) Legislative District No. 23 shall include all the area contained within the following precincts of Twin Falls County: Hansen, Hollister, Kimberly No. 1, Kimberly No. 2, Kimberly No. 3, Twin Falls No. 1, Twin Falls No. 2, Twin Falls No. 6, Twin Falls No. 8, Twin Falls No. 9, Twin Falls No. 10, Twin Falls No. 11, Twin Falls No. 12, Twin Falls No. 13, Twin Falls No. 14, Twin Falls No. 15, Twin Falls No. 16, Twin Falls No. 17, Twin Falls No. 19, Twin Falls No. 21 and Twin Falls No. 22.

(24) Legislative District No. 24 shall include all the area contained within Jerome County; and all the area contained within the following precincts of Minidoka County: Acequia, Emerson, Paul, Pioneer, Rupert No. 1, Rupert No. 3, that portion of Rupert No. 4 lying north of a line beginning at the intersection of State Highway No. 25 with the eastern boundary (the Snake River), then west on State Highway No. 25 to 100 East Road, then north on 100 East Road to 100 North Road, then west on 100 North Road to the precinct boundary, and Rupert No. 5.

(25) Legislative District No. 25 shall include all the area contained within Cassia County; all the area contained within the following precincts of Minidoka County: Heyburn No. 1, Heyburn No. 2, Rupert No. 2, and that portion of Rupert No. 4 lying south of a line beginning at the intersection of State Highway No. 25 and the eastern precinct boundary (the Snake River), then west on State Highway No. 25 to 100 East Road, then north on 100 East Road to 100 North Road, then west on 100 North Road to the precinct boundary; and all the area contained within the following precinct of Twin Falls County: Murtaugh.

(26) Legislative District No. 26 shall include all the area contained within Clark, Custer, Jefferson and Lemhi Counties.

(27) Legislative District No. 27 shall include all the area contained within Madison County; and all the area contained within the following precincts of Fremont County: Egin, Island Park, Newdale, Parker, Teton and Wilford.

(28) Legislative District No. 28 shall include all the area contained within Teton County; all the area contained within the following precincts of Fremont County: Ashton No. 1, Ashton No. 2, Chester, Drummond, Lamont, St. Anthony No. 1, St. Anthony No. 2, St. Anthony No. 3, Squirrel, Twin Groves and Warm River/Green Timber; and all the

area contained within the following precincts of Bonneville County: No. 21, No. 23, No. 40, No. 43, No. 44, No. 45, No. 46, No. 47, No. 52, No. 53, No. 54 and No. 55.

(29) Legislative District No. 29 shall include all the area contained within the following precincts of Bonneville County: No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 13, No. 14, No. 22, No. 36, No. 37, No. 38, No. 39 and No. 41.

(30) Legislative District No. 30 shall include all the area contained within the following precincts of Bonneville County: No. 10, No. 11, No. 12, No. 15, No. 16, No. 17, No. 18, No. 19, No. 20, No. 24, No. 25, No. 26, No. 42, No. 48, No. 49, No. 50, No. 51, No. 56 and No. 57.

(31) Legislative District No. 31 shall include all the area contained within Butte County; and all the area contained within the following precincts of Bingham County: that portion of Blackfoot No. 1 lying outside the Fort Hall Indian Reservation, that portion of Blackfoot No. 2 lying north of Mitchell Street, Fisher Avenue and E. Alice Street, Blackfoot No. 5, that portion of East Firth lying outside the Fort Hall Indian Reservation, East Shelley, Groveland, Jameston, Moreland, Pingree, Riverside, Rockford, Shelley, Wapello, West Shelley and West Firth.

(32) Legislative District No. 32 shall include all the area contained within Bear Lake, Caribou, Franklin and Oneida Counties; and all the area contained within the following precincts of Bannock County: that portion of Arimo lying west of a line beginning at the intersection of Smith Canyon Road with the railroad tracks and a road running parallel to the tracks on the west, north on this road into Arimo on S. Front Street to Woodland Avenue, west on Woodland Avenue to Old Highway 91 and north on Old Highway 91 to the precinct boundary, and Downey.

(33) Legislative District No. 33 shall include all the area contained within the following precincts of Bannock County: No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, No. 21, No. 22, that portion of No. 28 lying outside the Pocatello City limits, No. 29, No. 33, that portion of No. 34 lying outside the Chubbuck City limits, No. 50, that portion of Arimo lying east of a line beginning at the intersection of Smith Canyon Road with the railroad tracks and a road running parallel to the tracks on the west, north on this road into Arimo on S. Front Street to Woodland Avenue, west on Woodland Avenue to Old Highway 91 and north on Old Highway 91 to the precinct boundary, Inkom, Lava Hot Springs and McCammon.

(34) Legislative District No. 34 shall include all the area contained within the following precincts of Bannock County: No. 13, No. 14, No. 15, No. 16, No. 17, No. 18, No. 19, No. 20, No. 23, No. 24, No. 25, No. 26, No. 27, that portion of No. 28 lying within the Pocatello City limits, No. 30, No. 31, No. 32, No. 51, No. 52, No. 53, No. 82, that portion of No. 85 lying east of U.S. Highway 91, and that portion of No. 87 lying east of U.S. Highway 91 and south of Reservation Road.

(35) Legislative District No. 35 shall include all the area contained within Power County; all the area contained within the following precincts of Bannock County: that portion of No. 34 lying within the Chubbuck City limits, No. 81, No. 83, No. 84, that portion of No.

85 lying west of U.S. Highway 91, No. 86 and that portion of No. 87 lying west of U.S. Highway 91 and north of Reservation Road; and all the area contained within the following precincts of Bingham County: Aberdeen, that portion of Blackfoot No. 1 lying within the Fort Hall Indian Reservation, that portion of Blackfoot No. 2 lying south of Mitchell Street, Fisher Avenue and E. Alice Street, Blackfoot No. 3, Blackfoot No. 4, Blackfoot No. 6, that portion of East Firth lying within the Fort Hall Indian Reservation, Fort Hall and Sterling/Springfield.

Approved April 7, 1994.

CHAPTER 398
(S.B. No. 1337)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-348, IDAHO CODE, TO ALLOW THE DISTRIBUTION OF MAILING AND TELEPHONE NUMBER LISTS TO UTILITY COMPANIES FOR NORMAL UTILITY PURPOSES, NOT INCLUDING MARKETING OR MARKETING RESEARCH USES.

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

SECTION 1. That Section 9-348, Idaho Code, be, and the same is hereby amended to read as follows:

9-348. PROHIBITION ON DISTRIBUTION OR SALE OF MAILING OR TELEPHONE NUMBER LISTS -- PENALTY. (1) Except as provided in subsections (2), (3), (4), (5), ~~and~~ (6) <u>and (7)</u> of this section, in order to protect the privacy of those who deal with public agencies:

(a) No agency may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list; and

(b) No list of persons prepared by the agency may be used as a mailing list or a telephone number list except by the agency or another agency without first securing the permission of those on the list.

(2) Except as may be otherwise provided in this chapter, this section does not prevent an individual from compiling a mailing list or a telephone number list by examination or copying of public records, original documents or applications which are otherwise open to public inspection.

(3) The provisions of this section do not apply to the lists of registered electors compiled pursuant to title 34, Idaho Code, or to lists of the names of employees governed by chapter 53, title 67, Idaho Code.

(4) The provisions of this section shall not apply to agencies which issue occupational or professional licenses.

(5) This section does not apply to the right of access either by Idaho law enforcement agencies or, by purchase or otherwise, of public records dealing with motor vehicle registration.

(6) This section does not apply to a corporate information list

developed by the office of the secretary of state containing the name, address, registered agent, officers and directors of corporations authorized to do business in this state or to a business information list developed by the department of commerce containing the name, address, telephone number or other relevant information of Idaho businesses or individuals requesting information regarding the state of Idaho or to business lists developed by the department of agriculture, division of marketing and development, used to promote food and agricultural products produced in Idaho.

(7) This section does not apply to lists to be used for ordinary utility purposes which are requested by a person who supplies utility services in this state. Ordinary utility purposes, as used in this chapter only, do not include marketing or marketing research.

(8) If a court finds that a person or public official has deliberately and in bad faith violated the provisions of subsection (1)(b) of this section, the person or public official shall be liable for a civil penalty assessed by the court in an amount not in excess of one thousand dollars ($1,000) which shall be paid into the general account.

Approved April 7, 1994.

CHAPTER 399
(S.B. No. 1354, As Amended in the House)

AN ACT

RELATING TO TAXIDERMIST LICENSE FEES; AMENDING SECTION 36-602, IDAHO CODE, TO PROVIDE FOR A NONRESIDENT TAXIDERMIST LICENSE, TO PROVIDE THAT NONRESIDENT TAXIDERMIST LICENSE FEES BE EQUAL TO FEES CHARGED TO IDAHO FUR BUYERS IN THE APPLICANT'S STATE OF RESIDENCE, TO PROVIDE A MINIMUM FEE AND TO PROVIDE FOR RULES.

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

SECTION 1. That Section 36-602, Idaho Code, be, and the same is hereby amended to read as follows:

36-602. LICENSE FEES -- EXPIRATION. (a) Resident Taxidermist License. A fee of ten dollars ($10.00) shall be charged for a resident taxidermist license.

(b) Nonresident Taxidermist License. Nonresidents shall pay an amount equal to that charged Idaho residents in the state of the applicant for a nonresident fur buyer's license. In no case shall this amount be less than forty dollars ($40.00). The department shall promulgate rules implementing the provisions of this section.

(c) Resident Fur Buyers License. A fee of five dollars ($5.00) shall be charged for a resident fur buyers license.

(~~c~~d) Nonresident Fur Buyers License. A fee of twenty dollars ($20.00) shall be charged for a nonresident fur buyers license.

(~~d~~e) The expiration date for such licenses shall be June 30 next following the date of issuance.

Approved April 7, 1994.

CHAPTER 400
(S.B. No. 1361)

AN ACT

RELATING TO REVIEW OF INITIATIVE AND REFERENDUM MEASURES BY THE ATTORNEY GENERAL; AMENDING SECTION 34-1809, IDAHO CODE, TO INCREASE THE TIME PERIOD IN WHICH THE ATTORNEY GENERAL HAS TO REVIEW PETITIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 34-1809, Idaho Code, be, and the same is hereby amended to read as follows:

34-1809. REVIEW OF INITIATIVE AND REFERENDUM MEASURES BY ATTORNEY GENERAL -- CERTIFICATE OF REVIEW PREREQUISITE TO ASSIGNMENT OF BALLOT TITLE -- BALLOT TITLE. After receiving a copy of the petition from the secretary of state as provided in section 34-1804, Idaho Code, the attorney general may confer with the petitioner and shall, within ~~ten~~ twenty (~~1~~20) working days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the attorney general shall be advisory only and the petitioner may accept or reject them in whole or in part. The attorney general shall issue a certificate of review to the secretary of state certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. The certificate of review shall be available for public inspection in the office of the secretary of state. Within fifteen (15) working days after the issuance of the certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the measure, as herein provided, with the secretary of state for assignment of a ballot title and the secretary of state shall thereupon submit to the attorney general two (2) copies of the measure filed. Within ten (10) working days after receiving said copies the attorney general shall provide a ballot title therefor and return one of said copies to the secretary of state, together with the ballot title so prepared by him. A copy of the ballot title as prepared by the attorney general shall be furnished by the secretary of state with his approved form of any~~,~~ initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred. Said ballot title shall be used and printed on the covers of the petition when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures. The ballot title shall contain: (1) Distinctive short title in not exceeding twenty (20) words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition. (2) A general title expressing in not more than two hundred (200) words the purpose of the

measure. The ballot title shall be printed with the numbers of the measure on the official ballot. In making such ballot title the attorney general shall to the best of his ability give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure. Any person who is dissatisfied with the ballot title or the short title provided by the attorney general for any measure, may appeal from his decision to the Supreme Court by petition, praying for a different title and setting forth the reason why the title prepared by the attorney general is insufficient or unfair. No appeal shall be allowed from the decision of the attorney general on a ballot title unless the same is taken within twenty (20) days after said ballot title is filed in the office of the secretary of state. A copy of every such ballot title shall be served by the secretary of state upon the person offering or filing such initiative or referendum petition, or appeal. The service of such decision may be by mail or telegraph and shall be made forthwith when it is received from the attorney general by the secretary of state. Said Supreme Court shall thereupon examine said measure, hear argument, and in its decision thereon certify to the secretary of state a ballot title and a short title for the measure in accord with the intent of this section. The secretary of state shall print on the official ballot the title thus certified to him.

Approved April 7, 1994.

CHAPTER 401
(S.B. No. 1364)

AN ACT

RELATING TO THE ASSESSMENT OF PROPERTY; AMENDING SECTION 63-202, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT THE RULES OF THE STATE TAX COMMISSION PROVIDE FOR THE UTILIZATION OF A METHOD WHICH ASSESSES THE VALUE OF SIX OR MORE LOTS IN A SUBDIVISION BY RECOGNIZING THE TIME PERIOD OVER WHICH THE LOTS MUST BE SOLD; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-202, Idaho Code, be, and the same is hereby amended to read as follows:

63-202. RULES PERTAINING TO MARKET VALUE -- DUTY OF ASSESSORS. It shall be the duty of the state tax commission to prepare and distribute to each county assessor and each board of county commissioners within the state of Idaho, rules prescribing and directing the manner in which market value for assessment purposes is to be determined for the purpose of taxation. The rules promulgated by the state tax commission shall require each assessor to find market value for assessment purposes of all property within his county according to recognized appraisal methods and techniques as set forth by the state tax

commission; provided, that the actual and functional use shall be a major consideration when determining market value for assessment purposes.

To maximize uniformity and equity in assessment of different categories of property, such rules shall, to the extent practical, require the use of reproduction or replacement cost less depreciation as opposed to historic cost less depreciation whenever cost is considered as a single or one of several factors in establishing the market value of depreciable property. The state tax commission shall also prepare and distribute from time to time amendments and changes to the rules as shall be necessary in order to carry out the intent and purposes of this act. The rules shall be in the form as the commission shall direct, and shall be made available upon request to other public officers and the general public in reasonable quantities without charge. In ascertaining the market value for assessment purposes of any item of property, the assessor of each county shall, and hereby is required to, abide by, adhere to and conform with rules hereinabove required to be promulgated by the state tax commission.

~~The--rules--shall--provide-that-if-property-consists-of-six-(6)-or more-lots-within-one-(1)-subdivision,-and-the-lots-are-held-under--one (1)--ownership--and--which-lots-are-held-for-resale,-the-lots-shall-be valued-under-a-method-which-recognizes--the--time--period--over--which those--lots-must-be-sold-in-order-to-realize-current-market-values-for those-lots-until-such-time-as-a-building-permit--is--issued--for--each lot.~~

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

Approved April 7, 1994.

CHAPTER 402
(S.B. No. 1388)

AN ACT

RELATING TO INVESTMENT OF IDLE PUBLIC FUNDS; AMENDING SECTION 67-1210, IDAHO CODE, TO PROVIDE FOR DISPOSITION OF INTEREST EARNED ON CERTAIN FEDERAL FUNDS RECEIVED BY THE STATE, TO AUTHORIZE THE STATE TREASURER TO CHARGE AN INVESTMENT ADMINISTRATION FEE AND TO PROVIDE FOR THE DETERMINATION OF SUCH FEE.

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 for the purpose of financing the addition to or retrofit of an underground storage tank or underground storage tank system with items including, but not limited to, cathodic protection, lining or spill and overfill controls to improve the ability of an underground storage tank or tank system to prevent the release of petroleum or petroleum products, which additions or retrofit are necessary to bring the tank or tank system into compliance with underground storage tank upgrade regulations promulgated by the United States environmental protection agency pursuant to subtitle I of the solid waste disposal act, as amended by the resource conservation and recovery act.

(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 pro-

vided 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.

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 classified in the agency asset fund provided by section 57-811, Idaho Code. Any 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, ~~to partially compensate for the amount of interest the general account would otherwise receive if such separate investment were not required,~~ the state treasurer shall charge the account an investment administration fee. ~~equal to one-quarter of one percent (.25%) per year of~~ 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 ~~may~~ shall be charged monthly in an amount approximately one-twelfth 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.

~~To partially compensate for the interest the general account has lost when such interest was diverted to certain state funds or accounts by statute authorizing them to be invested individually and receive their own interest, t~~The state treasurer shall charge an investment administration fee to each such state fund or account, ~~other than~~ including the general account, which receives investment income from investments administered by the office of state treasurer. The investment administration fee shall be ~~equal to one-quarter of one percent (.25%) per year of the average daily balance of the fund or account, including separate investments, if any, of that fund or account~~ 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 ~~may~~ shall be charged monthly in an amount approximately one-twelfth of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the fund or account for which the investment administration services are rendered.

The term "to invest" means to use the idle moneys in the state treasury to buy, sell, including selling before maturity at either a gain or a loss, retain, or exchange any of the investments described in this section, considering the probable safety of the capital, the probable income to be derived, and the liquidity of the assets.

Approved April 7, 1994.

CHAPTER 403
(S.B. No. 1398, As Amended in the House)

AN ACT

RELATING TO MEDICARE SUPPLEMENT INSURANCE; AMENDING CHAPTER 44, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4407, IDAHO CODE, TO PROVIDE PROHIBITED PRACTICES REGARDING MEDICARE SUPPLEMENT INSURANCE.

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

SECTION 1. That Chapter 44, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-4407, Idaho Code, and to read as follows:

41-4407. ATTAINED AGE RATING PROHIBITED. With respect to medicare supplement policies initially sold to residents of this state on or after January 1, 1995, it is an unfair practice and an unfair method of competition for any issuer, insurer or licensee to use the increasing age of an insured, subscriber, or participant as the basis for increasing premiums or prepayment charges.

Approved April 7, 1994.

CHAPTER 404
(S.B. No. 1399, As Amended in the House)

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING CHAPTER 21, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2145, IDAHO CODE, TO REQUIRE CERTAIN DISABILITY INSURERS TO PROVIDE COVERAGE TO PERSONS INSURED WITH THE INSURER AND TO PROVIDE FOR BENEFITS ON THE NEW

INSURANCE; AMENDING CHAPTER 22, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2219, IDAHO CODE, TO REQUIRE CERTAIN GROUP DISABILITY INSURERS TO PROVIDE COVERAGE TO PERSONS INSURED WITH INSURER AND TO PROVIDE BENEFITS ON THE NEW INSURANCE; AMENDING SECTION 41-3434, IDAHO CODE, TO PROVIDE THAT THE PROVISIONS OF SECTIONS 41-2145 AND 41-2219, IDAHO CODE, ARE APPLICABLE TO HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS 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 Chapter 21, 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 41-2145, Idaho Code, and to read as follows:

41-2145. COVERAGE PROVIDED TO PERSONS HAVING INSURANCE. An insurer providing individual disability insurance coverage in this state shall make available to citizens of this state major medical disability policies under the terms set forth in this section. An insurer providing only accident-only, credit, dental, vision, long-term care of disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation, or automobile medical payment insurance is not required to comply with the provisions of this section. An insurer providing only specified disease or hospital confinement indemnity insurance in this state shall not be required to comply with the provisions of this section, provided the insurance is marketed as supplemental health insurance and not as a substitute for hospital or major medical expense insurance, and the insurer certifies annually to the director that the insurance is being marketed in a manner consistent with the provisions of this subsection.

(2) As used in this section, the term "major medical disability policies" means policies which are issued to provide hospital and medical-surgical coverage, and which are not subject to the provisions of chapter 47, title 41, Idaho Code.

(3) Each insurer offering or maintaining individual major medical disability policies in this state shall make current individual policies available to an individual or dependent of an individual currently insured by the insurer, without imposition by the insurer of underwriting criteria whereby coverage of an individual or a dependent of an individual is denied or subject to cancellation or nonrenewal, in whole or in part because of the individual's age, health or medical history or employment status, or, if employed, industry or job classification if the individual is insured with that insurer and wishes to convert coverage to another policy, plan or contract. When offering benefits pursuant to this section, the insurer shall be required to offer equal or lesser benefits than the insured has under the existing policy or plan. If the insurer provides benefits in excess of what was included in the insured's contract to the insured, the insurer may impose a preexisting condition clause which will waive all or a portion of benefits offered for the first twelve (12) months of the policy for a condition which has occurred during the preceding twelve

(12) months. As used herein, "benefits in excess of what was included in the insured's contract" shall include but not be limited to lower deductibles, lower coinsurance or copayments or lower maximum out-of-pocket expenditure for health care. The addition of pharmacy cards to replace existing prescription drug benefits, supplemental accident insurance, chiropractic services or vision services shall not constitute "benefits in excess of what was included in the insured's contract."

In implementing the provisions of this section, the director shall provide that insurers shall provide insureds with a simplified application that shall not exceed one (1) page in length and which shall not exceed six (6) medical questions.

SECTION 2. That Chapter 22, 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 41-2219, Idaho Code, and to read as follows:

41-2219. COVERAGE PROVIDED TO PERSONS HAVING INSURANCE. An insurer providing group disability insurance coverage in this state shall make available to citizens of this state current major medical disability benefit policies under the terms set forth in this section. An insurer providing only accident-only, credit, dental, vision, long-term care of disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation, or automobile medical payment insurance is not required to comply with the provisions of this section. An insurer providing only specified disease or hospital confinement indemnity insurance in this state shall not be required to comply with the provisions of this section, provided the insurance is marketed as supplemental health insurance and not as a substitute for hospital or major medical expense insurance, and the insurer certifies annually to the director that the insurance is being market in a manner consistent with the provisions of this subsection.

(2) As used in this section, the term "major medical disability policies" means policies which are issued to provide hospital and medical-surgical coverage, and which are not subject to the provisions of chapter 47, title 41, Idaho Code.

(3) Each insurer offering or maintaining group major medical disability policies in this state shall make a current group or individual policy available to an individual or dependent of an individual currently under group coverage by the insurer following expiration or the insured's declination of COBRA benefit coverage, if applicable, or otherwise upon termination of group coverage, without imposition by the insurer of underwriting criteria whereby coverage of an individual or a dependent of an individual is denied subject to cancellation or nonrenewal, in whole or in part because of the individual's age, health or medical history or employment status, or, if employed, industry or job classification if the individual is insured with that insurer and wishes to convert coverage to another policy, plan or contract. When offering benefits pursuant to this section, the insurer shall be required to offer equal or lesser benefits than the insured has under the existing policy with the company. If the insurer provides benefits in excess of what was included in the insured's con-

tract to the insured, the insurer may impose a preexisting condition clause which will waive all or a portion of benefits offered for the first twelve (12) months of the policy for a condition which has occurred during the preceding twelve (12) months. As used herein, "benefits in excess of what was included in the insured's contract" shall include but not limited to lower deductibles, lower coinsurance or copayments, or lower maximum out-of-pocket expenditure for health care. The addition of pharmacy cards to replace existing prescription drug benefits, supplemental accident insurance, chiropractic services or vision services shall not constitute "benefits in excess of what was included in the insured's contract."

In implementing the provisions of this section, the director shall provide that insurers shall provide insureds with a simplified application that shall not exceed one (1) page in length and which shall not exceed six (6) medical questions.

SECTION 3. That Section 41-3434, Idaho Code, be, and the same is hereby amended to read as follows:

41-3434. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this chapter, the following chapters and provisions of this code shall also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of such express provisions, and for the purposes of such application such corporations shall be deemed to be mutual "insurers":

(1) Chapter 1 (scope of code);

(2) Chapter 2 (the director of insurance);

(3) Section 41-308(2) (general eligibility for certificate of authority -- competence, affiliations of management);

(4) Section 41-601 ("assets" defined);

(5) Section 41-603 (assets not allowed);

(6) Section 41-604 (disallowance of "wash" transactions);

(7) Section 41-613 (valuation of bonds);

(8) Section 41-731 (prohibited investments and investment underwriting);

(9) Chapter 13 (trade practices and frauds);

(10) Section 41-2840 (vouchers for expenditures);

(11) Section 41-2841 (borrowed surplus);

(12) Sections 41-2857 (mergers and consolidations, mutual insurers), 41-2858 (bulk reinsurance, mutual insurers), and 41-2859 (mutual member's share of assets on liquidation);

(13) Chapter 33 (supervision, rehabilitation and liquidation);

(14) Sections 799 to 809 of chapter 330 of Session Laws of 1961 (transitory provisions);

(15) Section 41-2106(3) (health history application for disability insurance);

(16) Section 41-2141 (coordination with social security benefits);

(17) Section 41-1839 (attorney fees);

(18) ~~Section~~ Chapter 46 (long-term care insurance); ~~and~~

(19) Section 41-1844 (prescription drug benefit restrictions prohibited);

(20) Section 41-2145 (coverage provided to person having insur-

ance); and

(21) Section 41-2219 (coverage provided to person having insurance).

SECTION 4. The provisions of this act shall be in full force and effect on and after January 1, 1995.

Approved April 7, 1994.

CHAPTER 405
(S.B. No. 1402)

AN ACT

RELATING TO LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIPS; AMENDING SECTION 30-1-8, IDAHO CODE, TO PROVIDE FOR RESERVATION OF THE NAME OF A LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-1-10, IDAHO CODE, TO PROVIDE FOR REGISTRATION OF THE NAME OF A LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY; AMENDING SECTION 30-1-129, IDAHO CODE, TO INCREASE THE CHARGE FOR A CERTIFIED DOCUMENT FURNISHED BY THE SECRETARY OF STATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 53-202, IDAHO CODE, TO PROHIBIT USE OF A NAME FOR A LIMITED PARTNERSHIP WHICH IS THE SAME AS OR SIMILAR TO A LIMITED LIABILITY COMPANY AND TO PROHIBIT THE USE OF CERTAIN WORDS OR ABBREVIATIONS IN THE PARTNERSHIP'S NAME; AMENDING CHAPTER 2, TITLE 53, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 53-251A, IDAHO CODE, TO PROVIDE FOR REVOCATION OF A CERTIFICATION OF REGISTRATION OF A FOREIGN LIMITED PARTNERSHIP; AMENDING SECTION 53-262, IDAHO CODE, TO PROVIDE FOR AN ADDITIONAL CHARGE FOR A CERTIFICATE OF LIMITED PARTNERSHIP NOT TYPED ON THE STANDARD FORM OR WHICH INCLUDES ATTACHMENTS; REPEALING SECTION 53-267, IDAHO CODE; AND AMENDING SECTION 53-504, IDAHO CODE, TO EXEMPT LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIPS FROM THE ASSUMED BUSINESS NAMES STATUTE, CHAPTER 5, TITLE 53, IDAHO CODE.

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

SECTION 1. That Section 30-1-8, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-8. CORPORATE NAME. The corporate name:

(a) Shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain an abbreviation of one of such words; provided, however, that if the word "company" or its abbreviation is used, it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the word "and."

(b) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one (1) or more of the purposes contained in its articles of incorporation.

(c) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or

any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this act, or the name of a corporation which has in effect a registration of its corporate name as provided in this act, or the name of any limited partnership or limited liability company which is organized under the laws of this state or registered to do business in this state, except that this provision shall not apply if the applicant files with the Secretary of State either of the following: (1) the written consent of such other corporation, or holder of a reserved or registered name, limited partnership or limited liability company to use the same or deceptively similar name and one (1) or more words are added to make such name distinguishable from such other name, or (2) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of such name in this state.

A corporation with which another corporation, domestic or foreign, is merged, or which is formed by the reorganization or consolidation of one (1) or more domestic or foreign corporations or upon a sale, lease or other disposition to or exchange with, a domestic corporation of all or substantially all the assets of another corporation, domestic or foreign, including its name, may have the same name as that used in this state by any of such corporations if such other corporation was organized under the laws of, or is authorized to transact business in, this state.

Nothing in this section shall abrogate or limit the law as to unfair competition or unfair practice in the use of trade names, nor derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect trade names.

The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation in violation from doing business under any name assumed in violation of this section.

SECTION 2. That Section 30-1-10, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-10. REGISTERED NAME. Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this act, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this act, or the name of any limited partnership or limited liability company organized under the laws of this state or registered to do business in this state.

Such registration shall be made by:

(a) Filing with the secretary of state (1) an application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under

the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (2) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations; and

(b) Paying to the secretary of state a registration fee in the amount of five dollars ($5.00) for each month, or fraction thereof, between the date of filing such application and December 31 of the calendar year in which such application is filed.

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

Any foreign corporation which applies for a certificate of authority while its name is registered under this section or section 30-1-11, Idaho Code, shall receive credit on its filing fee for the application for certificate of authority at the rate of five dollars ($5.00) for each whole month remaining in the calendar year.

SECTION 3. That Section 30-1-129, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-129. MISCELLANEOUS CHARGES. The ~~S~~secretary of ~~S~~state shall charge and collect for furnishing a certified copy of any document, instrument, or paper relating to a corporation, twenty-five cents ($.25) per page and ~~two~~ ten dollars ($~~2~~10.00) for the certificate and affixing the seal thereto.

SECTION 4. That Section 53-202, Idaho Code, be, and the same is hereby amended to read as follows:

53-202. NAME. The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain without abbreviation the words "limited partnership";

(2) May not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) May not be the same as, or deceptively similar to, the name of any corporation, limited liability company or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation, limited liability company or limited partnership in this state; and

(4) May not contain the following words or abbreviations: "corporation," "incorporated," "corp.," ~~and~~ "inc.," "limited liability company," "limited company," "L.L.C." and "L.C."

SECTION 5. That Chapter 2, Title 53, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 53-251A, Idaho Code, and to read as

follows:

53-251A. REVOCATION OF CERTIFICATE OF REGISTRATION. The certificate of registration of a foreign limited partnership to transact business in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The limited partnership has failed to appoint and maintain a registered agent in this state as required in this chapter; or

(b) The limited partnership has failed, after change of its registered office or registered agent, to file in the office of the secretary of state a statement of such change as required in this chapter.

No certificate of registration of a foreign limited partnership shall be revoked by the secretary of state unless: (1) he shall have given the limited partnership not less than sixty (60) days' notice thereof by mail addressed to its registered office in this state; and (2) the limited partnership shall fail, prior to revocation, to file the required statement of change of registered agent or registered office.

SECTION 6. That Section 53-262, Idaho Code, be, and the same is hereby amended to read as follows:

53-262. FILING FEES. The secretary of state shall charge and collect for:

(a) Filing a certificate of limited partnership, one hundred dollars ($100) <u>if typed on the standard form, or one hundred twenty dollars ($120) if not typed or if attachments are included;</u>

(b) Filing a certificate of amendment or a restated certificate of limited partnership, thirty dollars ($30.00);

(c) Filing a certificate of cancellation, thirty dollars ($30.00);

(d) Filing a judicial decree of amendment or cancellation, thirty dollars ($30.00);

(e) Filing an application for registration as a foreign limited partnership, one hundred dollars ($100) if the form is typed and has no attachments, and otherwise one hundred twenty dollars ($120);

(f) Filing a certificate of change or correction of an application for registration of a foreign limited partnership, thirty dollars ($30.00);

(g) Filing a statement of change of registered agent of a foreign limited partnership or its address, twenty dollars ($20.00);

(h) Filing an application for withdrawal of a foreign limited partnership from the state, twenty dollars ($20.00);

(i) Filing an application for a name reservation, or transfer thereof, twenty dollars ($20.00);

(j) Filing any other statement, twenty dollars ($20.00);

(k) Filing any document relating to a limited partnership, when the filing party requires the evidence thereof to be returned within eight (8) working hours, a surcharge of twenty dollars ($20.00).

SECTION 7. That Section 53-267, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 53-504, Idaho Code, be, and the same is hereby amended to read as follows:

53-504. FIRMS EXCEPTED FROM ACT. This chapter shall in no way affect or apply to any corporation, limited liability company or limited partnership duly organized under the laws of this state, or to any corporation, limited liability company or limited partnership organized under the laws of another state and lawfully doing business in this state, nor shall this chapter be deemed or construed to prevent the lawful use of a general partnership designation, name or style: provided, that such partnership designation, name, or style shall include the true and real name or names of all the parties conducting such business or having an interest therein.

Approved April 7, 1994.

CHAPTER 406
(S.B. No. 1421)

AN ACT

RELATING TO THE FISH AND GAME COMMISSION; AMENDING SECTION 36-102, IDAHO CODE, TO REDUCE THE LENGTH OF TERM OF MEMBERS OF THE COMMISSION TO FOUR YEARS AND TO PROVIDE A LIMIT ON THE NUMBER OF CONSECUTIVE TERMS A MEMBER MAY SERVE ON THE COMMISSION.

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

SECTION 1. That Section 36-102, Idaho Code, be, and the same is hereby amended to read as follows:

36-102. IDAHO FISH AND GAME COMMISSION. (a) Creation. There is hereby created the Idaho fish and game commission. The department of fish and game of the state of Idaho is hereby placed under the supervision, management and control of said Idaho fish and game commission, hereinafter referred to as the commission or as said commission.

(b) Membership -- Appointment -- Qualifications. The commission shall consist of six (6) members, to be appointed by the governor of the state of Idaho, who shall hold office during the pleasure of the governor and who shall be subject to removal by him. The selection and appointment of said members shall be made solely upon consideration of the welfare and best interests of fish and game in the state of Idaho, and no person shall be appointed a member of said commission unless he shall be well informed upon, and interested in, the subject of wildlife conservation and restoration. No member shall hold any other elective or appointive office, state, county or municipal, or any office in any political party organization. Not more than three (3) of the members of said commission shall at any time belong to the same political party. Each of the members of said commission shall be a citizen of the United States, and of the state of Idaho, and a bona fide resident of the district from which he is appointed as hereinafter set forth. Said members so appointed shall act and assume full

powers and duties upon appointment, as herein provided, but such appointments shall be subject to confirmation by the senate at its next session.

(c) Creation of Districts -- Terms of Office. For the purpose of this act, the state of Idaho is divided into six (6) districts, numbered from one (1) to six (6) respectively.

District No. 1 shall consist of the counties of Boundary, Bonner, Kootenai, Shoshone, and Benewah;

District No. 2 shall consist of the counties of Latah, Clearwater, Nez Perce, Lewis, and Idaho;

District No. 3 shall consist of the counties of Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, and Owyhee;

District No. 4 shall consist of the counties of Lemhi, Custer, Clark, Fremont, Jefferson, Bonneville, Madison, Teton and Butte;

District No. 5 shall consist of the counties of Bingham, Power, Bannock, Caribou, Oneida, Franklin, and Bear Lake;

District No. 6 shall consist of the counties of Camas, Gooding, Jerome, Twin Falls, Cassia, Blaine, Lincoln, and Minidoka.

Each of the above enumerated districts shall, at all times, be represented by one (1) member of the commission, appointed from said district by the governor.

The members of said commission shall be appointed for a term of ~~six----(6)~~ four (4) years; provided, that in the case of the death of any commissioner, or his removal from office as hereinbefore provided, the governor shall appoint a successor from the same district for the unexpired term. No member shall serve more than two (2) consecutive terms, except that a member appointed to fill an unexpired term may be appointed to two (2) additional, full terms. Members serving on the effective date of this act shall be eligible to complete the term they are then serving, and shall thereafter be governed by the provisions of this section limiting the length of any additional terms to four (4) years and the number of consecutive terms to two (2).

(d) Oath of Office -- Bond. Each commissioner shall, before entering upon his official duties, take and subscribe to the official oath, in writing, as provided by section 59-401, Idaho Code, to which said official oath there shall be added a declaration as to the name of the political party to which such commissioner belongs, and said commissioner shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

(e) Compensation and Reimbursement for Expenses. Each member of the commission shall be compensated as provided by section 59-509(h), Idaho Code. All such compensation and expenses shall be paid from the fish and game account.

(f) Quorum. A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power.

(g) Office and Supplies. The commission shall have its principal office in the city of Boise and is authorized to purchase supplies, equipment, printed forms, and notices, and to issue such publications as may be necessary.

Approved April 7, 1994.

CHAPTER 407
(S.B. No. 1438, As Amended)

AN ACT

RELATING TO VISITATION RIGHTS OF GRANDPARENTS AND GREAT-GRANDPARENTS; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-719, IDAHO CODE, TO PROVIDE FOR VISITATION RIGHTS OF GRANDPARENTS AND GREAT-GRANDPARENTS IF THE COURT FINDS VISITATION RIGHTS WOULD BE IN THE BEST INTERESTS OF THE CHILD; AND REPEALING SECTION 32-1008, IDAHO CODE.

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 32-719, Idaho Code, and to read as follows:

32-719. VISITATION RIGHTS OF GRANDPARENTS AND GREAT-GRANDPARENTS. The district court may grant reasonable visitation rights to grandparents or great-grandparents upon a proper showing that the visitation would be in the best interests of the child.

SECTION 2. That Section 32-1008, Idaho Code, be, and the same is hereby repealed.

Approved April 7, 1994.

CHAPTER 408
(S.B. No. 1440, As Amended)

AN ACT

RELATING TO VICTIMS OF SEXUAL OFFENSES; AMENDING SECTION 39-604, IDAHO CODE, TO PROVIDE FOR TESTING OF PERSONS CHARGED WITH A CRIME WHERE BODILY FLUIDS HAVE BEEN TRANSMITTED TO ANOTHER, TO PROVIDE FOR TESTING OF JUVENILES WHO ARE CHARGED WITH DRUG RELATED SEXUAL OR OTHER OFFENSES, TO PROVIDE FOR RELEASE OF TEST RESULTS IF TESTING IS REQUIRED BY THE SECTION AND TO REVISE PROCEDURES FOR RELEASE OF TEST RESULTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-604, Idaho Code, be, and the same is hereby amended to read as follows:

39-604. CONFINED AND IMPRISONED PERSONS -- EXAMINATION, TREATMENT, AND QUARANTINE -- VICTIMS OF SEXUAL OFFENSES -- ACCESS TO OFFENDERS' TEST RESULTS, TESTING FOR HIV, COUNSELING AND REFERRAL SERVICES. (1) All persons who shall be confined or imprisoned in any state prison facility in this state shall be examined for on admis-

sion, and again before release, and, if infected, treated for the diseases enumerated in section 39-601, Idaho Code, and this examination shall include a test for HIV antibodies or antigens. This examination is not intended to limit any usual or customary medical examinations that might be indicated during a person's imprisonment. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

(2) All persons who shall be confined in any county or city jail may be examined for and, if infected, treated for the venereal diseases enumerated in section 39-601, Idaho Code, if such persons have, in the judgment of public health authorities and the jailer, been exposed to a disease enumerated in section 39-601, Idaho Code.

(3) All persons ~~who shall be confined in any county or city jail~~ and, including juveniles, who are charged with sex offenses, drug related charges, prostitution, any crime in which body fluid has likely been transmitted to another, or other charges as recommended by public health authorities shall be tested for the venereal diseases enumerated in section 39-601, Idaho Code.

(4) All persons who are charged with any crime in which body fluid as defined in this chapter has likely been transmitted to another shall be tested for the presence of HIV antibodies or antigens and for hepatitus B virus.

(5) If a person is ~~charged with a violation of the provisions of section 18-1506, 18-1508, 18-6101 or 18-6108, Idaho Code, and is~~ tested as required in subsections (3) or (4) of this section, the results of the test shall be revealed to the court ~~upon its request. Upon application to the court by the victim(s), or if the victim(s) is a minor, by the minor's parent, guardian, or legal custodian, t~~The court ~~may~~ shall release the results of the test ~~if the court determines the health or safety of the victim(s) may be threatened. The court may impose such conditions on the release of the test results as the court deems necessary and just~~ to the victim(s), or if the victim(s) is a minor, to the minor's parent, guardian or legal custodian. Whenever a prisoner tests positive for HIV antibodies or antigens, the victim(s) of said prisoner shall be entitled to counseling regarding HIV, HIV testing in accordance with applicable law, and referral for appropriate health care and support services. Said counseling, HIV testing and referral services shall be provided to the victim(s) by the district health departments at no charge to the victim(s). Provided however, the requirement to provide referral services does not, in and of itself, obligate the district health departments to provide or otherwise pay for a victim's health care or support services. Any court, when releasing test results to a victim(s), or if the victim(s) is a minor, to the minor's parent, guardian, or legal custodian, shall explain or otherwise make the victim(s) or the victim's parent, guardian, or legal custodian, aware of the services to which the victim(s) is entitled as described herein.

(5~~6~~) Responsibility for the examination, testing and treatment of persons confined in county or city jails shall be vested in the county or city that operates the jail. The county or city may contract with the district health departments or make other arrangements for the examination, testing and treatment services. The district health department or other provider may charge and collect for the costs of

such examination and treatment, as follows:

(a) When the prisoner is a convicted felon awaiting transfer to the board of correction, or when the prisoner is a convicted felon being confined in jail pursuant to a contract with the board of correction, the board of correction shall reimburse such costs;

(b) When the prisoner is awaiting trial after an arrest by any state officer, the state agency employing such arresting officer shall reimburse such costs;

(c) When the prisoner is being held for any other authority or jurisdiction, including another state, the authority or jurisdiction responsible shall reimburse such costs unless otherwise provided for by contract.

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 April 7, 1994.

CHAPTER 409
(S.B. No. 1448, As Amended)

AN ACT

RELATING TO HIGHWAY FUNDS; AMENDING SECTION 40-701, IDAHO CODE, TO DELETE THE ALLOCATION OF ONE-HALF OF ONE PERCENT OF THE ACCOUNT TO ENCOURAGE USE OF RECYCLED MATERIALS; AND AMENDING SECTION 40-707, IDAHO CODE, TO ALLOW USE OF MONEYS IN THE STATE HIGHWAY ACCOUNT TO ENCOURAGE USE OF RECYCLED MATERIALS.

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

SECTION 1. That Section 40-701, Idaho Code, be, and the same is hereby amended to read as follows:

40-701. HIGHWAY DISTRIBUTION ACCOUNT -- APPORTIONMENT. (1) There is established in the dedicated fund of the state treasury an account known as the "Highway Distribution Account," to which shall be credited:

(a) Moneys as provided by sections 63-2412(1)(f)3 and 63-2418(3), Idaho Code;

(b) All moneys collected by the department, their agents and vendors, and county assessors and sheriffs, under the provisions of title 49, Idaho Code, except as otherwise specifically provided for; and

(c) All other moneys as may be provided by law.

(2) ~~Beginning July 1, 1992, one-half of one per cent (.5%) of the moneys in the highway distribution account may be remitted to the state highway account and shall be utilized to encourage the use of recycled materials including, but not limited to, recycled glass, reclaimed asphalt, asphalt containing recycled plastic, recycled rubber tires and paper in highway construction and maintenance projects.~~

The ~~remainder~~ highway distribution account shall be apportioned as follows:

(a) T~~t~~hirty-five and seventy-seven hundredths per cent (35.77%) to local units of government ~~and~~ as provided in section 40-709, Idaho Code;

(b) F~~f~~ifty-eight and eighty-three hundredths per cent (58.83%) to the state highway account established in section 40-702, Idaho Code~~,~~; and

(c) F~~f~~ive and forty hundredths per cent (5.40%) to the law enforcement account, established in section 67-2904, Idaho Code.

The state auditor shall remit the moneys apportioned to local units of government not later than January 25, April 25, July 25 and October 25 of each year, and to the state highway account and the law enforcement account as the moneys become available to the highway distribution account.

(3) Interest earned on the investment of idle moneys in the highway distribution account shall be paid to the highway distribution account.

(4) All idle moneys in the dedicated highway trust or asset accounts or subaccounts established from highway user revenues, reimbursements, fees or permits shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the various highway trust or asset accounts and subaccounts.

SECTION 2. That Section 40-707, Idaho Code, be, and the same is hereby amended to read as follows:

40-707. APPROPRIATION OF MONEYS IN STATE HIGHWAY ACCOUNT. One-half of one percent (.5%) of the moneys in the state highway account may be utilized to encourage the use of recycled materials including, but not limited to, recycled glass, reclaimed asphalt, asphalt containing recycled plastic, recycled rubber tires and paper in highway construction and maintenance projects. All other moneys at any time in the state highway account, except those as are otherwise required by law to be placed in the state highway redemption account, are hereby appropriated for the purpose of defraying the expenses, debts and costs incurred in carrying out the powers and duties of the highway board as provided by law, and for defraying administrative expenses of the department, including salaries of the board, the salary of the director, and salaries and wages of employees of the department and board and expenses for traveling. Communication supplies, equipment, fixed charges and all other necessary expenses of the department and board, not otherwise provided for and all claims against the state highway account shall be examined by the department and certified to the state auditor, who shall, upon approval of the board of examiners, draw his warrant against the state highway account for all bills and claims allowed by the board.

Approved April 7, 1994.

CHAPTER 410
(S.B. No. 1454, As Amended in the House)

AN ACT

RELATING TO THE BUSINESS OF MONEY TRANSMISSION; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 29, TITLE 26, IDAHO CODE, TO PROVIDE FOR A SHORT TITLE, DEFINITIONS, LICENSING, EXEMPTIONS, LICENSE QUALIFICATIONS, PERMISSIBLE INVESTMENTS, APPLICATION REQUIREMENTS, SURETY BONDS, APPLICATION FEES, ISSUANCE OF LICENSE, RENEWAL AND ANNUAL REPORT, EXTRAORDINARY REPORTING REQUIREMENTS, CONTROL CHANGES, EXAMINATIONS, RECORDS MAINTENANCE, CONFIDENTIALITY, SUSPENSION OR REVOCATION OF LICENSES, REPRESENTATIVE CONTRACTS, CONDUCT, SUSPENSION OR REVOCATION OF REPRESENTATIVES, LICENSE LIABILITY, HEARINGS, CIVIL PENALTIES, ENFORCEMENT, CRIMINAL PENALTIES, PROMULGATION OF RULES, SEVERABILITY, APPOINTMENT OF DIRECTOR AS AGENT FOR SERVICE OF PROCESS; AND PROVIDING AN EFFECTIVE DATE AND APPLICATION.

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

SECTION 1. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 29, Title 26, Idaho Code, and to read as follows:

CHAPTER 29
MONEY TRANSMISSION

26-2901. SHORT TITLE. This chapter may be known and cited as the "Idaho Money Transmitters Act."

26-2902. DEFINITIONS. Unless otherwise indicated, the following definitions shall apply to the terms set forth below wherever such terms are used in this chapter:

(1) "Applicant" means a person filing an application for a license under the provisions of this chapter.

(2) "Authorized representative" means an entity designated by the licensee under the provisions of this chapter to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.

(3) "Control" means ownership of, or the power to vote, twenty-five percent (25%) or more of the outstanding voting securities of a licensee or controlling person.

(4) "Controlling person" means any person in control of a licensee. On application the director shall determine whether a particular person qualifies as a controlling person. The director may waive any or all requirements of this chapter pertaining to a controlling person for good cause shown.

(5) "Department" means the Idaho department of finance.

(6) "Director" means the director of the department of finance.

(7) "Executive officer" means the licensee's president, chief executive officer, treasurer, chief financial officer and any other person who performs similar functions.

(8) "Key shareholder" means any person, or group of persons acting in concert, who is the owner of twenty-five percent (25%) or more of any class of an applicant's stock.

(9) "Licensee" means a person licensed under the provisions of this chapter.

(10) "Material litigation" means any litigation that, according to generally accepted accounting principles, is deemed significant to the financial health of a business and would be required to be referenced in the business's annual audited financial statements, report to shareholders or similar documents.

(11) "Money transmission" means the sale or issuance of payment instruments or engaging in the business of receiving money for transmission or the business of transmitting money within the United States or to locations outside the United States by any and all means including, but not limited to, payment instrument, wire, facsimile or electronic transfer.

(12) "Outstanding payment instrument" means any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or by an authorized representative of the licensee, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee.

(13) "Payment instrument" means any check, draft, money order, traveler's check or other instrument or written order for the transmission or payment of money, sold or issued to one (1) or more persons, whether or not such instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services.

(14) "Permissible investments" means:

(a) Cash;

(b) Certificate of deposit or other debt obligations of a financial institution, either domestic or foreign;

(c) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the federal reserve system;

(d) Any investment bearing a rating of one (1) of the three (3) highest grades as defined by a nationally recognized organization that rates such securities;

(e) Investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any obligations of any state, municipality or any political subdivision thereof;

(f) Shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities;

(g) Any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange; or

(h) Receivables which are due to a licensee from its authorized representatives pursuant to a contract described in section

26-2918, Idaho Code, which are not past due or doubtful of collection; or any other investments approved by the director.

(15) "Person" means any individual, partnership, association, joint stock association, limited liability company, trust or corporation.

(16) "State" means the state of Idaho.

26-2903. LICENSE REQUIRED. (1) On or after the effective date of this act, no person except a person exempt pursuant to the provisions of section 26-2904, Idaho Code, shall engage in the business of money transmission without a license as provided in accordance with the provisions of this chapter.

(2) A licensee may conduct its business in this state at one (1) or more locations, directly or indirectly owned, or through one (1) or more authorized representatives, or both, pursuant to the single license granted to the licensee.

(3) The director may permit multiple corporations, which are directly or indirectly commonly controlled, to engage in activities under the provisions of this chapter, pursuant to a single bond or other security device in satisfaction of the requirements of section 26-2908, Idaho Code.

26-2904. EXEMPTIONS. (1) This chapter shall not apply to:

(a) The United States or any department, agency or instrumentality of the United States;

(b) The United States post office;

(c) The state or any political subdivision of the state; and

(d) Banks, credit unions, savings and loan associations, savings banks or mutual banks organized under the laws of any state or the United States, provided that they do not issue or sell payment instruments through authorized delegates who are not banks, credit unions, savings and loan associations, savings banks or mutual banks; and

(2) Authorized representatives of a licensee, acting within the scope of authority conferred by a written contract conforming to the requirements of section 26-2918, Idaho Code, shall not be required to obtain a license pursuant to this chapter.

26-2905. LICENSE QUALIFICATIONS. (1) Each licensee licensed under the provisions of this chapter shall at all times have a net worth of not less than fifty thousand dollars ($50,000), calculated in accordance with generally accepted accounting principles. Licensees engaging in money transmission at more than one (1) location or through authorized representatives shall have an additional net worth of twenty-five thousand dollars ($25,000) per location or authorized representative located in the state, as applicable, to a maximum of two hundred fifty thousand dollars ($250,000).

(2) Every corporate applicant, at the time of filing of an application for a license under the provisions of this chapter and at all times after a license is issued, shall be in good standing in the state of its incorporation. All noncorporate applicants shall, at the time of the filing of an application for a license under the provisions of this chapter and at all times after a license is issued, have

all necessary registrations or qualifications to do business in this state.

26-2906. PERMISSIBLE INVESTMENTS. Each licensee licensed under the provisions of this chapter must at all times possess permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee in the United States. This requirement may be waived by the director if the dollar volume of a licensee's outstanding payment instruments does not exceed the bond or other security devices posted by the licensee pursuant to section 26-2908, Idaho Code.

26-2907. LICENSE APPLICATION. Each application for a license under the provisions of this chapter shall be made in writing, under oath, and in a form prescribed by the director. Each application shall contain:

(1) For all applicants:

(a) The exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of its business and the location of the applicant's business records;

(b) The history of the applicant's material litigation for the five (5) year period prior to the date of the application and any nontraffic related criminal convictions or withheld judgments;

(c) A description of the activities conducted by the applicant and a history of operations;

(d) A description of the business activities in which the applicant seeks to be engaged in this state;

(e) A list identifying the applicant's proposed authorized representatives in this state;

(f) A sample authorized representative contract, if applicable;

(g) A sample form of payment instrument, if applicable;

(h) The location(s) at which the applicant and its authorized representatives, if any, propose to conduct the licensed activities in this state; and

(i) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which such payment instruments will be payable.

(2) If the applicant is a corporation, the applicant must also provide:

(a) The date of the applicant's incorporation and state of incorporation;

(b) A certificate of good standing from the state in which the applicant was incorporated;

(c) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange;

(d) The name, business and residence address, and employment history for the past five (5) years of the applicant's executive officers and the officer(s) or manager(s) who will be in charge of

the applicant's activities to be licensed hereunder;

(e) The name, business and residence address, and employment history for the five (5) year period preceding the date of the application of any key shareholder of the applicant;

(f) The history of material litigation and nontraffic related criminal convictions or withheld judgments for the five (5) year period preceding the date of the application of every current director, executive officer, or key shareholder of the applicant;

(g) A copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity and statement of changes in financial position, and, if available, the applicant's audited financial statements for the immediately preceding two (2) year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two (2) year period or the parent corporation's form 10K reports filed with the United States securities and exchange commission for the prior three (3) years may be submitted with the applicant's unaudited financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this provision. In the event any applicant does not otherwise obtain audited financial statements, such applicant shall, in lieu of audited financial statements required in this section, furnish the director with federal income tax returns covering the required periods together with copies of such unaudited, compiled, or reviewed financial statements as the applicant shall have prepared or obtained for other purposes, including, without limitation, the most recent financial statements, if any, furnished to the applicant's bank or other lending institution; and

(h) Copies of all filings, if any, made by the applicant with the United States securities and exchange commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application.

(3) If the applicant is not a corporation, the applicant must also provide:

(a) The name, business and residence address, personal financial statement and employment history, for the five (5) year period prior to the date of the application, of each principal of the applicant and the name, business and residence address, and employment history for the past five (5) years of any other person or persons who will be in charge of the applicant's activities to be licensed hereunder;

(b) The place and date of the applicant's registration or qualification to do business in this state;

(c) The history of material litigation for the five (5) year period prior to the date of the application and any nontraffic related criminal convictions or withheld judgments for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility with respect

to the applicant's activities; and

(d) Copies of the applicant's audited financial statements, including balance sheet, statement of income or loss, and statement of changes in financial position, for the current year and, if available, for the immediately preceding two (2) year period. In the event any applicant does not otherwise obtain audited financial statements, such applicant shall, in lieu of audited financial statements required in this section, furnish the director with federal income tax returns covering the required periods together with copies of such unaudited, compiled or reviewed financial statements as the applicant shall have prepared or obtained for other purposes, including, without limitation, the most recent financial statements, if any, furnished to applicant's bank or other lending institution.

(4) The director is authorized, for good cause shown, to waive any requirement of this section with respect to any license application or to permit a license applicant to submit substituted information in its license application in lieu of the information required in this section.

26-2908. BOND OR OTHER SECURITY DEVICE. (1) Each application must be accompanied by a surety bond, irrevocable letter of credit or such other similar security device, hereinafter referred to as security device, acceptable to the director in the amount of ten thousand dollars ($10,000). If the applicant proposes to engage in business under the provisions of this chapter at more than one (1) location, through authorized representatives or otherwise, then the amount of the security device will be increased by five thousand dollars ($5,000) per location, up to a maximum of five hundred thousand dollars ($500,000). The security device shall be in a form satisfactory to the director and shall run to the state for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money in connection with either the sale and issuance of payment instruments and the transmission of money. In the case of a bond, the aggregate liability of the surety in no event shall exceed the principal sum of the bond. Claimants against the licensee or its authorized representatives may themselves bring suit directly on the security device or the director may bring suit on behalf of such claimants, either in one (1) action or in successive actions. Permissible investments required in section 26-2906, Idaho Code, may be pledged as collateral for the surety bond, irrevocable letter of credit, or similar security device required in this section.

(2) In lieu of such security device or of any portion of the principal thereof, as required in this section, the licensee may deposit with the director, or with such banks in this state as the licensee may designate and the director may approve, cash, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, school district or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the

security device or portion thereof. The securities or cash, or both, shall be deposited as aforesaid and held to secure the same obligations as would the security device, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the director, to substitute other securities for those deposited, and shall be required to do so on written order of the director made for good cause shown.

(3) The security device shall remain in effect until cancellation, which may occur only after thirty (30) days' written notice to the director. Cancellation shall not affect any liability incurred or accrued during said period.

(4) The security device or deposit in lieu thereof shall remain in place for a period of two (2) years from the date the licensee ceases money transmission operations in this state. Notwithstanding the preceding sentence, the director shall permit the security device or deposit in lieu thereof to be reduced or eliminated prior to the expiration of the two (2) year post-cessation period to the extent that the amount of the licensee's payment instruments outstanding in this state are reduced. The director shall also permit a licensee to substitute a letter of credit or such other form of security device acceptable to the director for the security device, or deposit in lieu thereof, in place at the time the licensee ceases money transmission operations in this state.

(5) Two (2) years following the cessation of money transmission operations in this state, a former licensee has the option to transfer any funds held to pay outstanding payment instruments to the state tax commission, who shall administer said funds in accordance with chapter 5, title 14, Idaho Code.

26-2909. APPLICATION FEE. Each application must be accompanied by a nonrefundable application fee in the amount of one hundred dollars ($100) for the license. The application fee shall also constitute the license fee for the applicant's first year of activities if the license is granted. All fees, fines, examination and miscellaneous charges provided for in accordance with the provisions of this chapter shall be paid to the director and shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

26-2910. ISSUANCE OF LICENSE. (1) Upon the filing of a complete application, the director shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The director may conduct an on-site investigation of the applicant, the actual cost of which shall be borne by the applicant. If the director finds that the applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community, and that the applicant has fulfilled the requirements imposed in this chapter and has paid the required license fee, the director shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in this state for a term of one (1) year. If these requirements have not been met, the director shall deny the application in writing setting forth the reasons for the denial.

(2) The director shall approve or deny every application for an

original license within one hundred eighty (180) days from the date a complete application is submitted, which period may be extended by the written consent of the applicant. The director shall notify the applicant of the date when the application is deemed complete. In the absence of approval or denial of the application, or consent to the extension of the one hundred eighty (180) day period, the application is deemed approved and the director shall issue the license effective as of the first day after the one hundred eighty (180) day or extended period has elapsed.

(3) Any applicant aggrieved by a denial issued by the director under the provisions of this section may at any time within thirty (30) days from the date of receipt of written notice of the denial contest the denial by serving a response on the director. The director shall set a date for a hearing not later than sixty (60) days after service of the response, unless a later date is set with the consent of the denied applicant.

26-2911. RENEWAL OF LICENSE AND ANNUAL REPORT. (1) Each licensee shall file with the director an annual report, in a form prescribed by the director, which form shall be sent by the director to each licensee no later than three (3) months immediately preceding the thirtieth day of June of each year, or as the director in his discretion, may determine. The licensee must include each of the following in its annual renewal report:

(a) A copy of its most recent audited consolidated annual financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder's equity and statement of changes in financial position; or, in the case of a licensee that is a wholly owned subsidiary of a parent corporation, the consolidated audited annual financial statement of the parent corporation may be filed with the licensee's unaudited annual financial statement. In the event any licensee does not otherwise obtain audited financial statements, such licensee shall, in lieu of audited financial statements required in this section, furnish the director with federal income tax returns covering the required periods together with copies of such unaudited, compiled or reviewed financial statements as the licensee shall have prepared or obtained for other purposes, including, without limitation, the most recent financial statements, if any, furnished to licensee's bank or other lending institution.

(b) For the most recent quarter for which data is available prior to the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days prior to the renewal date, the licensee must provide the number of payment instruments sold by the licensee in the state, the dollar amount of those instruments and the dollar amount of those instruments currently outstanding.

(c) Any material changes in any of the information submitted by the licensee on its original application which have not previously been reported to the director on any other report required to be filed under the provisions of this chapter.

(d) A list of the licensee's permissible investments; and if an audited financial statement has not been provided, the licensee

shall provide a certification by an independent certified public accountant that the licensee has complied with the provisions of section 26-2906, Idaho Code.

(e) A list of the locations within this state at which business regulated by the provisions of this chapter is being conducted by either the licensee or its authorized representative.

(2) A licensee that has not filed an annual report by the renewal filing deadline and has not been granted an extension of time to do so by the director shall be notified by the director, in writing, that a hearing will be scheduled at which time the licensee will be required to show cause why its license should not be suspended pending compliance with this requirement.

26-2912. EXTRAORDINARY REPORTING REQUIREMENTS. Within fifteen (15) days of the occurrence of any one (1) of the events listed below, a licensee shall file a written report with the director describing such event:

(1) The filing for bankruptcy or reorganization by the licensee;

(2) The institution of revocation or suspension proceedings against the licensee by any state or government authority with regard to the licensee's money transmission activities;

(3) Any felony indictment, complaint or information of the licensee or any of its key officers or directors; or

(4) Any felony conviction of the licensee or any of its key officers or directors.

26-2913. CHANGES IN CONTROL OF A LICENSE. (1) Within fifteen (15) days of a change or acquisition of control of a licensee that is a publicly traded corporation or is a direct or indirect subsidiary of a publicly traded corporation, the licensee shall provide notice of such event to the director in writing.

(2) Licensees other than publicly traded corporations or direct or indirect subsidiaries of publicly traded corporations must notify the director in writing thirty (30) days prior to a change of control.

26-2914. EXAMINATIONS. (1) The director may conduct examinations of a licensee. Should the director conclude that an on-site examination of a licensee is necessary, the licensee, subject to the provision of subsection (3) of this section, shall pay all the actual costs of such examination. If the director determines, based on the licensee's financial statements and past history of operations in the state, that an on-site examination is unnecessary, the on-site examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states. The director, in lieu of an on-site examination, may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm, and reports so accepted are considered for all purposes as an official report of the director.

(2) The director may request financial data from a licensee in addition to that required in section 26-2907, Idaho Code, or conduct an on-site examination of any authorized representative or location of a license within this state without prior notice to the authorized representative or licensee if the director has a reasonable basis to

believe that the licensee or authorized representative is in violation of the provisions of this chapter.

(3) When the director examines a licensee or an authorized representative within this state, the licensee or authorized representative shall pay all the actual costs of such examination, up to a maximum of one thousand dollars ($1,000).

26-2915. MAINTENANCE OF RECORDS. (1) Each licensee shall make, keep, and preserve the following books, accounts and other records for a period of three (3) years:

(a) A record or records of payment instruments sold;

(b) A general ledger containing all asset, liability, capital, income and expense accounts, which general ledger shall be posted at least monthly;

(c) Settlement sheets, if received from authorized representatives;

(d) Bank statements and bank reconciliation records;

(e) Records of outstanding payment instruments;

(f) Records of each payment instrument paid within the three (3) year period; and

(g) A list of the names and addresses of all of the licensee's authorized representatives, as well as copies of each authorized representative's contract.

(2) Maintenance of such documents as are required in this section in a photographic or other similar form shall constitute compliance with the provisions of this section.

(3) Records may be maintained at a location other than at a location within this state so long as they are made accessible to the director on fifteen (15) days' written notice.

26-2916. CONFIDENTIALITY OF DATA SUBMITTED TO THE DIRECTOR. (1) All information or reports obtained by the director from an applicant, licensee or authorized representative, whether obtained through reports, applications, examinations, audits, investigation, or otherwise including, but not limited to:

(a) All information contained in or related to examination, investigation, operating, or condition reports reported by, on behalf of, or for the use of the director; or

(b) Financial statements, balance sheets, or authorized representative information;

are confidential trade secrets and may not be disclosed or distributed outside the department in accordance with the provisions of section 9-340(2), Idaho Code, by the director or any officer or employee of the department.

(2) The director, however, may provide for the release of information to representatives of state or federal agencies who state in writing that they shall maintain the confidentiality of such information if:

(a) The licensee provides consent prior to the release; or

(b) The director finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the licensee has been given prior notice by the director of its intent to release such information.

(3) Nothing in this section shall prohibit the director from releasing to the public a list of persons licensed under the provisions of this chapter or to release aggregated financial data on such licensees.

(4) The director may release information without prior notice to a law enforcement agency of this state or the United States in connection with a criminal referral made under this chapter or other law.

26-2917. SUSPENSION OR REVOCATION OF LICENSES. After notice and hearing, the director may suspend or revoke a licensee's license if the director finds that:

(1) Any fact or condition exists that, if it had existed at the time when the licensee applied for a license, would have been grounds for denying such application;

(2) The licensee's net worth becomes inadequate and the licensee, after ten (10) days' written notice from the director, fails to take such steps as the director deems necessary to remedy such deficiency;

(3) The licensee violates any provisions of this chapter or any rule or order of the director under the provisions of this chapter;

(4) The licensee is conducting its business in an unsafe or unsound manner;

(5) The licensee is insolvent;

(6) 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;

(7) The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement or other relief under any bankruptcy;

(8) The licensee refuses to permit the director to make any examination authorized in this chapter; or

(9) The licensee wilfully fails to make any report required in this chapter.

26-2918. AUTHORIZED REPRESENTATIVE CONTRACTS. Licensees desiring to conduct licensed activities through authorized representatives shall authorize such representative to operate pursuant to an express written contract, which shall provide the following:

(1) That the licensee appoints the person as its representative with authority to engage in money transmission on behalf of the licensee;

(2) That neither a licensee nor an authorized representative may authorize subrepresentatives without the written consent of the director;

(3) That licensees are subject to supervision and regulation by the director;

(4) An acknowledgement that the authorized representative consents to the director's inspection, with or without prior notice to the licensee or authorized representative(s), of the books and records of authorized representative(s) of the licensee when the director has a reasonable basis to believe that the licensee or authorized representative is in violation of the provisions of this chapter; and

(5) That authorized representatives are under a duty to act only as authorized under the contract with the licensee and that an authorized representative that exceeds its authority is subject to cancel-

lation of its contract and disciplinary action by the director.

26-2919. AUTHORIZED REPRESENTATIVE CONDUCT. (1) An authorized representative shall not make any fraudulent or false statement or misrepresentation to a licensee or to the director.

(2) All money transmission or sale or issuance of payment instrument activities conducted by authorized representatives shall be strictly in accordance with the licensee's written procedures provided to the authorized representative.

(3) An authorized representative shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized representative.

(4) All funds, less fees, received by an authorized representative of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized representative for transmission shall, from the time such funds are received by such authorized representative until such time when the funds or an equivalent amount are remitted by the authorized representative to the licensee, constitute trust funds owned by and belonging to the licensee. If an authorized representative commingles any such funds with any other funds owned or controlled by the authorized representative, all commingled proceeds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

(5) An authorized representative shall report to the licensee the theft or loss of payment instruments within twenty-four (24) hours from the time he knew or should have known of such theft or loss.

26-2920. REVOCATION OR SUSPENSION OF AUTHORIZED REPRESENTATIVES. (1) If, after notice and a hearing, the director finds that any authorized representative of a licensee or any director, officer, employee, or controlling person of such authorized representative:

(a) Has violated any provision of this chapter, or of any rule or order issued under the provisions of this chapter;

(b) Has engaged or participated in any unsafe or unsound act with respect to the business of selling or issuing payment instruments of the licensee or the business of money transmission; or

(c) Has made or caused to be made in any application or report filed with the director or in any proceeding before the director, any statement which was at the time and in the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein, the director may issue an order suspending or barring such authorized representative from continuing to be or becoming an authorized representative of any licensee during the period for which such order is in effect. Upon issuance of such order, the licensee shall terminate its relationship with such authorized representative according to the terms of the order.

(2) (a) Any authorized representative to whom an order is issued under the provisions of this section may apply to the director to modify or rescind such order. The director shall not grant such application unless the director finds that it is in the public

interest to do so and that it is reasonable to believe that such person will, if and when such person is permitted to resume being an authorized representative of a licensee, comply with all applicable provisions of this chapter and of any rule and order issued under the provisions of this chapter.

(b) The right of any authorized representative to whom an order is issued under the provisions of this section to petition for judicial review of such order shall not be affected by the failure of such persons to apply to the director to modify or rescind the order.

26-2921. LICENSEE LIABILITY. A license's liability to any person for a money transmission conducted on that person's behalf by the licensee or the licensee's authorized representative shall be limited to the amount of money transmitted or the face amount of the payment instrument purchased.

26-2922. HEARINGS -- PROCEDURES. The provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, shall apply to any hearing afforded pursuant to the provisions of this chapter.

26-2923. CIVIL PENALTIES. (1) If, after notice and hearing, the director finds that a person has violated the provisions of this chapter or a rule adopted under the provisions of this chapter, the director may order the person to pay to the director a civil penalty in an amount specified by the director, not to 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 that the violation continues, but not to exceed twenty-five thousand dollars ($25,000) in the aggregate. The provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, shall apply to such hearing.

(2) The director, in his discretion, is authorized to compromise, settle, and collect civil penalties with any person for violations of any provision of this chapter, or of any rule or order issued or promulgated pursuant to the provisions of this chapter.

26-2924. ENFORCEMENT. (1) If it appears to the director that any person has committed or is about to commit a violation of any provision of this chapter or of any rule or order of the director, the director may:

(a) Issue a cease and desist order ordering such person to cease and desist violating or continuing to violate any provision of this chapter or any rule or order issued in accordance with this chapter; or

(b) Apply to the district court for an order enjoining such person from violating or continuing to violate any provision of this chapter or any rule or order and for injunctive or such other relief as the nature of the case may require.

(2) The director may enter into consent orders at any time with any person to resolve any matter arising under the provisions of this chapter. A consent order must be signed by the person to whom it is issued or a duly authorized representative, and must indicate agree-

ment to the terms contained therein. A consent order need not constitute an admission by any person that any provision of this chapter or any rule or order promulgated or issued thereunder has been violated nor need it constitute a finding by the director that such person has violated any provision of this chapter or any rule or order promulgated or issued thereunder.

(3) Notwithstanding the issuance of a consent order, the director may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order unless the consent order by its terms expressly precludes the director from so doing.

26-2925. CRIMINAL PENALTIES. Any person who knowingly and wilfully violates any provision of this chapter is guilty of a felony.

26-2926. PROMULGATION OF RULES. All rules promulgated by the director pursuant to authority conferred in this chapter will be in accordance with the Idaho administrative procedure act, chapter 52, title 67, Idaho Code. In addition thereto, at the time the director files a notice of proposed adoption, amendment or repeal of a rule for public comment, a copy of said notice will be sent by regular United States mail, postage prepaid, to all then current licensees and applicants for licenses under the provisions of this chapter.

26-2927. SEVERABILITY. Should any provision, sentence, clause, section or part of this act for any reason be held unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this act. It is hereby declared to be the intention of this legislature that this act would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

26-2928. APPOINTMENT OF DIRECTOR AS AGENT FOR SERVICE OF PROCESS. (1) Any licensee, authorized representative or other person who knowingly engages in business activities that are regulated under the provisions of this chapter, with or without filing an application, is deemed to have done both the following:

(a) Consented to the jurisdiction of the courts of this state for all actions arising under the provisions of this chapter; and

(b) Appointed the director as his lawful agent for the purpose of accepting service of process in any action, suit or proceeding that may arise under the provisions of this chapter.

(2) Within three (3) business days after service of process upon the director, the director shall transmit by certified mail copies of all lawful processes accepted by the director as an agent to that person at his last known address. Service of process shall be considered complete three (3) business days after the director deposits copies of the documents in the United States mail.

SECTION 2. This act shall be in full force and effect on and after October 1, 1994. Every person engaged in activities within this state encompassed in this chapter at the time of the chapter's adoption shall file an application in accordance with the provisions of

this chapter within three months after the date this act becomes effective. No person shall be deemed to be in violation of the provisions of this act for operating without a license if he files an application within such three month period, unless and until such application is denied.

Approved April 7, 1994.

CHAPTER 411
(S.B. No. 1455)

AN ACT

RELATING TO THE PUBLIC EMPLOYEES RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO FURTHER DEFINE THE TERM DISABLED AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" mean the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" mean such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to regulations adopted by the retirement board.

(5B) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

(i) The highest average salary; and

(ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:

A. Military service;

B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and

C. Workers' compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42). Effective October 1, 1995, the consecutive calendar months shall be thirty-six (36).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) That the member will <u>likely</u> remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and nonmedical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is

not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer or a school teacher who works half-time or more for an employer and who receives salary for services rendered for such employer; or

(b) Elected officials or appointed officials of an employer who receive a salary; or

(c) A person who is separated from service with less than five (5) months of employment and who is reemployed or reinstated by the same employer within thirty (30) days.

(B) "Employee" does not include:

(a) Persons rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) Workers whose employment with any employer does not total five (5) consecutive months; or

(c) Persons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons; or

(d) Inmates of a state institution or persons enrolled full-time in a state institution principally for purposes of training, whether or not receiving compensation for services performed for the institution; or

(e) Persons making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that those persons who receive separate remuneration for work currently performed for an employer and the United States government may elect to be members of the retirement system in accordance with rules of the board.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations

funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means an employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, and military service which occurs after the commencement of such contributions.

(23) "Military service" means active duty service in the armed forces of the United States including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code. Provided, however, for the purposes of this chapter, military service SHALL NOT include:

(a) ~~a~~Any period ended by dishonorable discharge or during which termination of such service is available but not accepted;

(b) ~~a~~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) ~~a~~Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any polit-

ical subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) "Salary" means the total salary or wages paid to a person who meets the definition of employee by an employer for personal services currently performed, including the cash value of all remuneration in any medium other than cash in the amount reported by the employer for income tax purposes and also including the amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. Service of fifteen (15) days or more during any calendar month shall be credited as one (1) month of service. Service of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested retirement allowance" means the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

Approved April 7, 1994.

CHAPTER 412
(S.B. No. 1458)

AN ACT

RELATING TO THE UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION BOARD; AMENDING SECTION 41-279, IDAHO CODE, TO PROVIDE THAT AN ADDITIONAL PETROLEUM EQUIPMENT MARKETER SHALL SERVE ON THE BOARD IN LIEU OF A REPRESENTATIVE OF A MAJOR OIL COMPANY AND PROVIDING FOR COMPENSATION OF BOARD MEMBERS WHO ARE NOT STATE EMPLOYEES.

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

SECTION 1. That Section 41-279, Idaho Code, be, and the same is hereby amended to read as follows:

41-279. UNDERGROUND STORAGE TANK TECHNICIAN CERTIFICATION BOARD. (1) There is hereby created in the office of the state fire marshal the underground storage tank technician certification board. Members of the board shall be appointed by the governor and shall serve for a term of three (3) years. The state fire marshal shall be an ex officio member of the board. ~~One r~~Representatives from each of the following shall be appointed to the board:

(a) ~~A major oil company;~~

~~(b)~~ An Idaho domiciled petroleum jobber;

(~~c~~b) An Idaho domiciled service station dealer;

(~~d~~c) ~~A~~ Two (2) petroleum equipment marketers/installers;

(~~e~~d) A representative of t~~T~~he Idaho department of health and welfare, division of environmental quality.

(2) The terms of the members of the board first appointed shall expire as follows: three (3) members two (2) years later, two (2) members three (3) years later. Thereafter, appointments shall be for three (3) year terms. Each member shall hold office until the appointment and qualification of his successor. Vacancies occurring prior to the expiration of the term shall be filled by appointment in like manner for the unexpired term. At its first meeting of every calendar year, the board shall elect a president from its members, and a secretary who may or may not be a member of the board. Members of the board who are not state employees shall ~~serve without compensation~~ be compensated as provided in section 59-509(g), Idaho Code. The staff of the office of the state fire marshal shall provide such assistance as the board may require.

Approved April 7, 1994.

CHAPTER 413
(S.B. No. 1465, As Amended in the House)

AN ACT

RELATING TO VEHICULAR MANSLAUGHTER; AMENDING SECTION 18-4007, IDAHO CODE, TO PROVIDE THAT ANY PERSON CONVICTED OF VEHICULAR MANSLAUGH-

TER RESULTING IN THE DEATH OF A PARENT OR PARENTS OF MINOR CHILDREN MAY BE ORDERED BY THE COURT TO PAY SUPPORT FOR SUCH CHILDREN UNTIL THEY REACH EIGHTEEN, TO PROVIDE FOR ENFORCEMENT OF SUCH ORDERS AND TO PROHIBIT PAYMENT OR INDEMNIFICATION OF SUCH CHILD SUPPORT BY THE PROCEEDS OF ANY LIABILITY INSURANCE POLICY.

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

SECTION 1. That Section 18-4007, Idaho Code, be, and the same is hereby amended to read as follows:

18-4007. PUNISHMENT FOR MANSLAUGHTER. Manslaughter is punishable as follows:

1. Voluntary--by a fine of not more than fifteen thousand dollars ($15,000), or by a sentence to the custody of the state board of correction not exceeding fifteen (15) years, or by both such fine and imprisonment.

2. Involuntary--by a fine of not more than ten thousand dollars ($10,000), or by a sentence to the custody of the state board of correction not exceeding ten (10) years, or by both such fine and imprisonment.

3. Vehicular--in the operation of a motor vehicle:

(a) For a violation of section 18-4006 3. (a) or (b), Idaho Code, by a fine of not more than ten thousand dollars ($10,000), or by a sentence to the custody of the state board of correction not exceeding ten (10) years, or by both such fine and imprisonment.

(b) For a violation of section 18-4006 3. (c), Idaho Code, by a fine of not more than two thousand dollars ($2,000), or by a jail sentence not exceeding one (1) year, or by both such fine and jail sentence.

(c) In addition to the foregoing, any person convicted of a violation of section 18-4006 3., Idaho Code, which resulted in the death of the parent or parents of minor children may be ordered by the court to pay support for each such minor child until the child reaches the age of eighteen (18). Support shall be established in accordance with the child support guidelines then in effect, and the nonpayment of such support shall be subject to enforcement and collection by the surviving parent or guardian of the child in the same manner that other child support orders are enforced as provided by law. In no event shall the child support judgment or order imposed by the court under this section be paid or indemnified by the proceeds of any liability insurance policy.

Approved April 7, 1994.

CHAPTER 414
(S.B. No. 1466)

AN ACT

RELATING TO POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A

NEW SECTION 18-1502C, IDAHO CODE, TO PROVIDE A PENALTY IN THE FORM OF A FINE FOR POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA; AND AMENDING SECTION 16-1803, IDAHO CODE, TO PROVIDE FOR JURISDICTION PERTAINING TO POSSESSION OF MARIJUANA OR PARAPHERNALIA.

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

SECTION 1. That Chapter 15, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-1502C, Idaho Code, and to read as follows:

18-1502C. POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR -- FINES. 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, shall be guilty of a misdemeanor, and upon conviction, may be punished by a fine not in excess of three hundred dollars ($300) or by thirty (30) days in a juvenile detention facility or by both or may be subject to the provisions of chapter 18, title 16, Idaho Code.

SECTION 2. That Section 16-1803, Idaho Code, be, and the same is hereby amended to read as follows:

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

1. Where the act, omission or status is prohibited by federal, state, local or municipal law or ordinance by reason of minority only, regardless of where the same occurred;

2. Where the act or omission is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult, regardless of where the same occurred, except traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt violations. A juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

3. Concerning any child where the child comes under the purview of the interstate compact on juveniles as set forth in chapter 19, title 16, Idaho Code;

4. This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of fourteen (14) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

5. This chapter shall not apply to the violent juvenile offender, as defined in this chapter;

6. This chapter shall not apply to juvenile violators of the provisions of section 18-1502B, Idaho Code, pertaining to the possession and usage of inhalants, or section 18-1502C, Idaho Code, pertaining to the possession of marijuana or paraphernalia, unless the court so orders the juvenile violator to come under the purview of this chapter.

Approved April 7, 1994.

CHAPTER 415
(S.B. No. 1468, As Amended)

AN ACT

RELATING TO ORAL AFFIDAVITS AND ISSUANCE OF WARRANTS; AMENDING CHAPTER 44, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-4404, IDAHO CODE, TO PROVIDE FOR TELEPHONIC AFFIDAVIT PROCEDURES; AND AMENDING SECTION 19-4406, IDAHO CODE, TO PROVIDE FOR ORAL AND TELEPHONIC MEANS WHICH MAY BE USED TO EVIDENCE AND SUPPORT PROBABLE CAUSE FOR ISSUING WARRANTS.

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

SECTION 1. That Chapter 44, 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 19-4404, Idaho Code, and to read as follows:

19-4404. ORAL AFFIDAVIT -- TELEPHONIC AFFIDAVIT -- PROCEDURES. In lieu of a written affidavit, the magistrate may take an oral statement under oath which shall be recorded and transcribed. The judge is authorized to administer an oath or affirmation by telephone, and to take testimony by telephone. All testimony given over the telephone that is intended to support an application for a search warrant must be given on oath or affirmation and must identify the person testifying. The affidavit or oral testimony as recorded must be filed with the clerk of the court.

SECTION 2. That Section 19-4406, Idaho Code, be, and the same is hereby amended to read as follows:

19-4406. ISSUANCE OF WARRANT. If the magistrate is thereupon satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, he must issue a search warrant, signed by him with his name of office, to a peace officer in his county, commanding him forthwith to search the person or place named, for the property specified, and to bring it before the magistrate.

If the affidavit for the warrant is related to the court telephonically, the magistrate may verbally authorize a peace officer to sign the magistrate's name on a duplicate original warrant, which verbal authorization shall be recorded and transcribed. After service

of the warrant, this duplicate original warrant must be returned to the magistrate who authorized the signing of his name on it. The magistrate shall then endorse his name and enter the date on the warrant when it is returned to him. Any failure of the magistrate to make such an endorsement does not in itself invalidate the warrant.

Approved April 7, 1994.

CHAPTER 416
(S.B. No. 1488)

AN ACT

RELATING TO THE PACIFIC NORTHWEST ECONOMIC REGION; AMENDING SECTION 67-7802, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR OR GOVERNOR'S DESIGNEE SHALL BE AN INCLUDED REPRESENTATIVE OF THE PACIFIC NORTHWEST ECONOMIC REGION ORGANIZATIONAL STRUCTURE AND TO SPECIFY HOW LEGISLATOR MEMBERS OF THE EXECUTIVE COMMITTEE FROM EACH STATE ARE CHOSEN, TO PROVIDE FOR REVIEW OF THE AVAILABILITY OF, AND TO APPLY FOR, IF APPROPRIATE, CANADIAN, UNITED STATES, AND STATE TAX EXEMPT STATUS.

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

SECTION 1. That Section 67-7802, Idaho Code, be, and the same is hereby amended to read as follows:

67-7802. PACIFIC NORTHWEST ECONOMIC REGION. The Pacific northwest economic region is hereby enacted into law and entered into by the state of Idaho as a party, and is in full force and effect in accordance with the terms of this agreement.

THE PACIFIC NORTHWEST ECONOMIC REGION

ARTICLE I -- Policy and Purpose

States and provinces participating in the Pacific northwest economic region shall seek to develop and establish policies that: promote greater regional collaboration among the seven (7) entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually beneficial. These areas include, but are not limited to: international trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific northwest economic region may take the form of uniform legislation enacted by two (2) or more

states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

ARTICLE II -- Eligible Parties and Effective Date

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon and Washington. This agreement establishing the Pacific northwest economic region shall become effective when it is executed by one (1) state, one (1) province, and one (1) additional state and/or province in a form deemed appropriate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one (1) year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

ARTICLE III -- Organizational Structure

Each state and province participating in this agreement shall appoint representatives to the Pacific northwest economic region. The organizational structure of the Pacific northwest economic region shall consist of the following: a delegate council consisting of four (4) legislators and the governor or governor's designee from each participating state and four (4) representatives and the premier or the premier's designee from each participating province and an executive committee consisting of one (1) legislator from each participating state and/or province who is a member of the delegate council and four (4) of the seven (7) governors/premiers or their designees who are members of the delegate council. The legislator members of the executive committee from each state or province shall be chosen by the legislator members of that state or province. The four (4) governor or premier members of the executive committee shall be chosen by the governors and premiers from among the governors and premiers on the delegate council. At least one (1) of four (4) members representing the governors and premiers on the executive committee must be the premier of a Canadian province. Policy committees may be established to carry out further duties and responsibilities of the Pacific northwest economic region.

ARTICLE IV -- Duties and Responsibilities

The delegate council shall have the following duties and responsibilities: facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific northwest economic region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific northwest economic region. The executive committee shall perform the following duties and responsibilities: elect the president and vice president of the Pacific northwest economic region; approve and implement general organizational policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; review the availability of, and if appropriate apply for: (1) tax exempt status under the laws and

regulations of the United States or any state or subdivision thereof; and (2) similar status under the laws and regulations of Canada or any province or subdivision thereof, and approve such rules, regulations, organizational policies, and staffing structure for the Pacific northwest economic region and take such further actions on behalf of the Pacific northwest economic region as may be deemed by the executive committee to be necessary or appropriate to qualify for and maintain such tax exempt or similar status under the applicable laws or regulations; and other duties and responsibilities established in the rules and regulations of the Pacific northwest economic region. The rules and regulations of the Pacific northwest economic region shall establish the procedure for voting.

ARTICLE V -- Membership of Policy Committees

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators to sit on these committees in accordance with its own rules and regulations concerning such appointments.

ARTICLE VI -- General Provisions

This agreement shall not be construed to limit the powers of any state or province or to amend or repeal or prevent the enactment of any legislation.

Approved April 7, 1994.

CHAPTER 417
(S.B. No. 1491, As Amended, As Amended in the House)

AN ACT

RELATING TO SCHOLARSHIPS; AMENDING SECTION 33-4302A, IDAHO CODE, TO STRIKE A RESTRICTION TO DEPENDENTS OF PEACE OFFICERS OR FIREFIGHTERS KILLED OR DISABLED ONLY AFTER JULY 1, 1990.

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

SECTION 1. That Section 33-4302A, Idaho Code, be, and the same is hereby amended to read as follows:

33-4302A. SCHOLARSHIPS -- STATE AID. Any dependent of a full-time ~~police~~ peace officer or firefighter employed in Idaho, which officer or firefighter is a resident of the state of Idaho and which officer or firefighter is killed or disabled in the ~~act of police or fire protection on or after July 1, 1990,~~ line of duty shall be admitted to attend any public institution of higher education or public vocational-technical school within the state of Idaho without the necessity of paying tuition and fees in an amount not to exceed eight hundred dollars ($800) and shall be provided with books, equipment and supplies necessary for pursuit of their program of enrollment not to exceed three hundred dollars ($300), per quarter, semester, intensified semester, or like education period. The dependent shall be required to meet the educational qualifications as such institution of

higher education or vocational-technical school as established for other prospective students of this state.

Affected institutions shall, in their preparation of future budgets, include therein costs resulting from such tuition, fees, books, equipment and supplies for reimbursement thereof from appropriation of state funds.

For the purposes of this section, a ~~police~~ peace officer or firefighter, employed in Idaho, is considered disabled if he or she is unable to perform with reasonable continuity the material duties of any gainful occupation for which he or she is reasonably fitted by education, training and experience.

Approved April 7, 1994.

CHAPTER 418
(S.B. No. 1497, As Amended, As Amended in the House)

AN ACT

RELATING TO DUTIES OF THE LANDLORD; AMENDING SECTION 6-320, IDAHO CODE, TO PROVIDE THAT A TENANT SHALL HAVE A CAUSE OF ACTION AGAINST A LANDLORD FOR FAILURE TO INSTALL SMOKE DETECTORS IN DWELLING UNITS UNDER HIS CONTROL, INCLUDING MOBILE HOMES, TO PROVIDE THAT THE TENANT MAY INSTALL SMOKE DETECTORS AND DEDUCT THE COST FROM THE RENT IF THE LANDLORD FAILS TO DO SO AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 6-320, Idaho Code, be, and the same is hereby amended to read as follows:

6-320. ACTION FOR DAMAGES AND SPECIFIC PERFORMANCE BY TENANT. (a) A tenant may file an action against a landlord for damages and specific performance for:

(1) Failure to provide reasonable waterproofing and weather protection of the premises;

(2) Failure to maintain in good working order electrical, plumbing, heating, ventilating, cooling, or sanitary facilities supplied by the landlord;

(3) Maintaining the premises in a manner hazardous to the health or safety of the tenant;

(4) Failure to return a security deposit as and when required by law; ~~and,~~

(5) 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; and

(6) Failure to install approved smoke detectors in each dwelling unit, to include mobile homes, under the landlord's control. Upon commencement of a rental agreement, the landlord shall verify that smoke detectors have been installed and are in good working order in the dwelling unit. The tenant shall maintain the smoke detect-

ors in good working order during the tenant's rental period. For purposes of this section, an approved smoke detector is a battery-operated device that is capable of detecting visible or invisible particles of combustion and that bears a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly. If the landlord or the landlord's assignee fails to install working smoke detectors, the tenant may send written notice by certified mail, return receipt requested, to the landlord or the landlord's assignee that if working smoke detectors are not installed within seventy-two (72) hours of receipt of the letter, the tenant may install smoke detectors and deduct the cost from the tenant's next month's rent. Smoke detectors purchased by the tenant and deducted from rent become the property of the landlord and shall not be removed from the premises.

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 his action for damages with an action for specific performance, the early trial provision of this section shall not be applicable, and a summons must be issued returnable as in other cases upon filing the complaint.

(b) In an action under this section, 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.

(c) 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 the amount of the damages assessed. Judgment may also be entered requiring specific performance for any breach of agreement showing by the evidence, and for costs and disbursements.

(d) 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.

(e) The provisions of this section ~~6-320, Idaho Code,~~ shall not apply to tracts of land of five (5) acres or more used for agricultural purposes.

Approved April 7, 1994.

CHAPTER 419
(S.B. No. 1499, As Amended)

AN ACT

RELATING TO HAZARDOUS AND PCB WASTE DISPOSAL FEES; AMENDING SECTION 39-4403, IDAHO CODE, TO PROVIDE A DEFINITION OF PCB WASTE; AND AMENDING SECTION 39-4427, IDAHO CODE, TO PROVIDE FEES FOR HAZARDOUS WASTES AND PCB WASTES AND TO PROVIDE AUTHORITY FOR THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO ENTER INTO AGREEMENTS TO DISPOSE OF WASTES GENERATED OR DISPOSED OF BY ANY AGENCY OF THE STATE OF IDAHO AND TO CREDIT TO THE HAZARDOUS WASTE TRAINING, EMERGENCY AND MONITORING ACCOUNT THE COST OF SUCH DISPOSAL.

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

SECTION 1. That Section 39-4403, Idaho Code, be, and the same is hereby amended to read as follows:

39-4403. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho board of health and welfare.

(2) "Commercial hazardous waste facility or site" means any hazardous waste facility whose primary business is the treatment, storage or disposal, for a fee or other consideration, of hazardous waste generated offsite by generators other than the owner and operator of the facility.

(3) "Department" means the Idaho department of health and welfare.

(4) "Director" means the director of the Idaho department of health and welfare or the director's authorized agent.

(5) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(6) "Gate ton" means the weight, in tons (2,000 pounds/ton), of waste material received at a facility. This weight does not include any subsequent changes to the weight resulting from the management of the waste by the facility.

(7) "Generator" means any person, who by virtue of ownership, management, or control, is responsible for causing or allowing to be caused the creation of a hazardous waste.

(8) "Hazardous waste" means a waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illnesses; or

(b) Pose a substantial threat to human health or to the environment if improperly treated; stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitible, or reactive, or materials which may have

mutagenic, teratogenic, or carcinogenic properties but do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to national pollution discharge elimination system permits under the Federal Water Pollution Control Act, as amended, 33 U.S.C., Section 1251 et seq., or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C., Section 2011 et seq.

(9) "Hazardous waste management" means the systematic control of the collection, source separation, storage, treatment, transportation, processing, and disposal of hazardous wastes.

(10) "Hazardous waste facility or site" means any property, structure, or ancillary equipment intended or used for the transportation, treatment, storage or disposal of hazardous wastes.

(11) "Injection" means the subsurface emplacement of free liquids.

(12) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste identification code(s), and destination of hazardous waste during any transportation from the point of generation to the point of treatment, storage or disposal.

(13) "Manifested waste" means waste which at the point of origin or generation is required to be manifested for transportation in a manner similar to that of the federal uniform hazardous waste manifest or by other manifest requirements designed to assure proper treatment, storage and disposal of such waste.

(14) "PCB waste" means any waste or waste item which is not included in the definition of "hazardous waste" and which is contaminated with polychlorinated biphenyls.

(15) "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.

(15~~6~~) "RCRA" means the Resource Conservation and Recovery Act of 1976 as amended from time to time.

(16~~7~~) "Restricted hazardous waste" means a waste or combination of wastes regulated as land disposal restricted pursuant to federal statutes and regulations, including 40 CFR part 268.

(17~~8~~) "Storage" means the containment of hazardous wastes, on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous wastes.

(18~~9~~) "Transportation" means the movement of any hazardous waste to or from a hazardous waste facility or site.

(~~19~~20) "Transporter" means any person who transports a hazardous waste to or from a hazardous waste facility or site.

(20~~1~~) "Treatment" means any method, technique, or process, including neutralization, which is designed not to be an integral part of a production process, but which is rather designed to change the physical, chemical, or biological character or composition of any hazardous waste prior to storage or final disposal so as to neutralize such waste or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recov-

ery, amenable for storage or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(2~~1~~2) "Waste" means any solid, semisolid, liquid or contained gaseous material for which no reasonable use or reuse is intended or which is intended to be discarded.

SECTION 2. That Section 39-4427, Idaho Code, be, and the same is hereby amended to read as follows:

39-4427. HAZARDOUS WASTE DISPOSAL FEE. (1) On and after July 1, 199~~2~~4, there is imposed on the owner or operator of every commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, ~~a--fee-of-twenty-six-dollars-($26.00)-per-gate ton,-or-fraction-thereof,-on-all-materials-disposed-of-at-the-facility or-site,-and,-on-and-after-January-1,-1993,-the-fee--shall--be--thirty dollars--($30.00)--per-gate-ton,-or-fraction-thereof,-on-all-materials disposed-of-at-the-facility-or-site~~ the following waste disposal fees:

(a) Hazardous wastes as defined by RCRA or section 39-4407, Idaho Code: thirty dollars ($30.00) per gate ton or fraction thereof disposed of at the facility or site;

(b) PCB and all other wastes: twenty-five dollars ($25.00) per gate ton or fraction thereof disposed of at the facility or site.

(2) The fees set forth in subsection (1) of this section shall not apply to any of the following types of wastes:

(a) Wastes generated or disposed of by a public agency or other person operating a household hazardous waste collection program;

(b) Wastes generated or disposed of by any agency of the state of Idaho.

Any waste for which the fees are waived under the provisions of this section must be noted as fee-waived waste on the return required in section 39-4428, Idaho Code, and is subject to all audit provisions of section 39-4429, Idaho Code.

(3) For wastes disposed of by any agency of the state of Idaho at any commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, the director, pursuant to a written agreement with the owner or operator of any such facility or site, may credit to the hazardous waste training, emergency and monitoring account an amount equal to the actual cost charged by such owner or operator per gate ton or fraction thereof for disposal of wastes at such facility or site.

Approved April 7, 1994.

CHAPTER 420
(S.B. No. 1509)

AN ACT

RELATING TO PERFORMANCE ACCOUNTABILITY AND REPORTING BY STATE AGENCIES; AMENDING SECTION 67-1901, IDAHO CODE, TO CLARIFY AND EXPAND THE PURPOSES OF LONG-TERM STRATEGIC PLANS; AMENDING SECTION

67-1902, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR STRATEGIC PLANS; AND AMENDING SECTION 67-1903, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR ANNUAL PERFORMANCE PLANS AND ACCOUNTABILITY REPORTING BY STATE AGENCIES.

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

SECTION 1. That Section 67-1901, Idaho Code, be, and the same is hereby amended to read as follows:

67-1901. PURPOSE. The purposes of sections 67-1901, 67-1902 and 67-1903, Idaho Code, and other applicable laws, are:

(1) To improve management practices and the confidence of our citizens in the capability of their state government ~~by systematically holding state agencies accountable for~~ in achieving program and operating results of the highest quality by developing and effectively utilizing long-term strategic planning techniques, key performance standards or goals and measures and improved practices in publicly reporting their progress;

(2) ~~To establish procedures for state agencies to set program goals, measure program performance against those goals, and report publicly on their progress;~~

~~(3)~~ To improve program effectiveness and accountability by promoting a new focus on results, service quality and customer satisfaction;

(4~~3~~) To help program managers improve service delivery by requiring that they plan to meet program objectives and by providing them with information about program results and service quality; and

(5~~4~~) To improve oversight review and decision making by providing objective information, data and statistics on achieving statutory and other public policy objectives, and on the relative effectiveness and efficiency of program implementation and spending.

SECTION 2. That Section 67-1902, Idaho Code, be, and the same is hereby amended to read as follows:

67-1902. STRATEGIC PLANS. (1) By not later than ~~July~~ September 1, 1995, the administrative head of each state agency shall submit to the division of financial management a comprehensive strategic plan for the programs, functions and activities of that agency using a methodology and format approved by the division of financial management. Each plan shall contain:

(a) A comprehensive mission and outcome based vision statement covering the major programs functions and ~~operations~~ activities of the agency;

(b) General goals ~~and objectives~~, including outcome ~~related~~ based goals and objectives for the major programs, functions and ~~operations~~ activities of the agency;

(c) A description of how the goals and objectives are to be achieved, ~~together with~~ the key performance standards and measures that will be used to determine the efficiency, economy and effectiveness of the programs, functions and activities, and a schedule of implementation;

(d) A description of how the performance ~~goals,~~ standards and measures identified as required by section 67-1903, Idaho Code, shall be related to the general goals and objectives in the strategic plan;

(e) An identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

(f) A description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations.

(2) The strategic plan shall cover a period of not less than ~~five (5)~~ four (4) years forward ~~from~~ including the fiscal year in which it is submitted, and shall be updated ~~and revised~~ at least annually integrated into the management decision of the agency and reported in a manner that readily allows comparison of the results of the agencies activities and operations to its strategic plan.

(3) The annual performance plan required by section 67-1903, Idaho Code, shall be consistent with the agency's strategic plan.

(4) When developing a strategic plan, an agency shall consult with the appropriate members of the legislature, and shall solicit and consider the views and suggestions of those persons and entities potentially affected by the plan.

(5) For the purposes of sections 67-1901, 67-1902 and 67-1903, Idaho Code, and other applicable laws, the term "agency" ~~shall~~ means each department, board, commission, office and institution, educational or otherwise, except elective offices, in the executive department of state government, as such are defined in section 67-3503, Idaho Code.

(6) Strategic plans are public records and are available to the public as provided in section 9-338, Idaho Code.

SECTION 3. That Section 67-1903, Idaho Code, be, and the same is hereby amended to read as follows:

67-1903. ANNUAL PERFORMANCE PLANS AND ACCOUNTABILITY REPORTING. (1) For the fiscal year commencing July 1, 1995, and for each fiscal year thereafter, each agency shall, as a part of its budget request, prepare an annual performance plan covering each program, function or activity ~~set forth in the budget request of that agency. Such plan~~ along with the key performance standards and measures appropriate to adequately evaluate an agency's performance. Each agency shall:

(a) Establish outcome based performance ~~outcomes or results~~ goals and objectives along with performance standards used to define and measure the level of performance or results to be achieved by a program, function or activity, and by not later than September 1 of each year, report such standards to the joint legislative oversight committee;

(b) Express such goals in an objective, quantifiable and measurable form unless permitted an alternative form under subsection (2) of this section;

(c) Establish ~~performance indicators to be used in assessing the~~ relevant ~~output measures, service levels and~~ outcome and output measures of each program, function and activity;

(d) Provide a basis for ~~comparing~~ assessing actual program results ~~with--the--established~~ by comparing relevant performance outcome and output measures to performance ~~goals~~;

(e) Describe the means to be used to verify and validate measured values; and

(f) Review the success of achieving the previous fiscal year's performance standards or goals.

(2) Each agency shall include in its budget requests and in its annual reports to the legislature and to the public, an historical, comparative report of its performance and plans compared to its performance standards and measures. The report shall disclose the immediately prior four (4) historical fiscal years, and the next four (4) fiscal years of its strategic plan.

The information reported in each of these years shall include performance based financial and statistical trends, ratios and percentages for each of their programs, activities and functions along with brief narratives evaluating their results and explaining the continued value and need of each program or activity in order of priority.

Reports shall be presented in a uniform and consistent basis and in appropriate summary type format and language that can be easily reviewed and readily understood by the average citizen.

To the extent records are not available in a format or classification that allows meaningful comparison for fiscal years prior to July 1, 1995, or if there are other compelling facts limiting an agency's compliance with the foregoing, waivers for up to the fiscal year commencing July 1, 1996, may be granted by the division of financial management. At a minimum, agencies shall be required to start implementation for the fiscal year commencing July 1, 1995, on a pilot basis using one (1) or more programs or activities.

(3) If an agency, after consultation with the administrator of the division of financial management, determines that it is not feasible to express the performance standard or goals for a particular program activity in an objective and quantifiable form, the administrator may authorize an alternative form. Such alternative form shall:

(a) Include separate descriptive statements of:

(i) A minimally effective program, and

(ii) A successful program,

with sufficient precision and in such terms that will allow for an accurate, independent determination of whether the program activity's performance meets the criteria of either description; or

(b) State why it is ~~unfeasible~~ not feasible or impractical to express a performance goal in any form for the program activity.

(~~3~~4) In preparing a comprehensive and informative plan under this section, an agency may aggregate, disaggregate or consolidate program activities, provided that any aggregation or consolidation does not omit or minimize the significance of any program activity constituting a major function or operation of the agency.

(~~4~~5) For the purposes of this section:

(a) "Outcome performance measure" refers to an assessment of the results of a program activity compared to its intended purpose or vision;

(b) "Output performance measure" refers to the tabulation, calcu-

lation or recording of activity or effort and can be expressed in a quantitative or qualitative manner, with emphasis on the impact on the person or services receiving the end result;

(c) "Performance standard or goal" means a target level of performance expressed as a tangible, measurable objective, against which actual achievement shall be compared, including a goal expressed as a quantitative standard, value or rate;

(d) "Performance indicator or measure" refers to a particular value or characteristic used to measure output or outcome;

(e) "Program ~~activity~~" means a specific activity or project as listed in the annual budget of the state of Idaho or subcomponent thereof that is deemed by management or the legislature to be significant, highly controversial, materially different, important or having a high probability to become such; ~~and~~

(f) "Program evaluation" means an assessment, through quantifiable measurement and systematic analysis, of the manner and extent to which programs achieve intended objectives; and

(g) "Function" means a group of related activities serving a common end.

Approved April 7, 1994.

CHAPTER 421
(S.B. No. 1532)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE; AMENDING CHAPTER 80, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8004C, IDAHO CODE, TO PROVIDE THAT A DEFENDANT CONVICTED OF DRIVING UNDER THE INFLUENCE WHOSE ALCOHOL CONCENTRATION IS 0.20 OR MORE SHALL BE SUBJECT TO THE EQUIVALENT OF PENALTIES FOR A SECOND CONVICTION UNDER SECTION 18-8004, IDAHO CODE, AND TO PROVIDE THAT A SECOND CONVICTION INVOLVING EXCESSIVE ALCOHOL CONCENTRATION SHALL BE A FELONY AND SUBJECT TO THE EQUIVALENT OF PENALTIES FOR A THIRD VIOLATION OF SECTION 18-8004, IDAHO CODE; AND AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE PROPER CROSS REFERENCES TO SECTION 18-8004C, IDAHO CODE, TO PROVIDE FOR THE APPLICATION OF CERTAIN REQUIREMENTS OF SECTION 18-8004 TO SECTION 18-8004C, IDAHO CODE, AND TO PROVIDE FOR THE IMPOSITION OF ADDITIONAL SUSPENSION PERIODS UNTIL THE PERSON REACHES TWENTY-ONE YEARS OF AGE.

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

SECTION 1. That Chapter 80, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-8004C, Idaho Code, and to read as follows:

18-8004C. EXCESSIVE ALCOHOL CONCENTRATION -- PENALTIES. Notwithstanding any provision of section 18-8005, Idaho Code, to the contrary:

(1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), Idaho Code, for the first time, but who has an alcohol concentration of 0.20, as defined in section 18-8004(4), Idaho Code, or more, as shown by an analysis of his blood, breath or urine by a test requested by a police officer, shall be guilty of a misdemeanor; and:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and may be sentenced to not more than one (1) year;

(b) May be fined an amount not to exceed two thousand dollars ($2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of this section and violations of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, and who has an alcohol concentration of 0.20, as defined in section 18-8004(4), Idaho Code, or more, as shown by an analysis of his blood, breath or urine by a test requested by a police officer, and who previously has been found guilty of or has pled guilty to one (1) or more violations of section 18-8004, Idaho Code, in which the person had an alcohol concentration of 0.20 or more, or any substantially conforming foreign criminal violation wherein the defendant had an alcohol concentration of 0.20 or more, or any combination thereof, within five (5) years, notwithstanding the form of judgment or withheld judgment shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed five (5) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his driver's license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving

privileges of any kind.

(3) All the provisions of section 18-8005, Idaho Code, not in conflict with or otherwise provided for in this section, shall apply to this section.

(4) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

SECTION 2. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a) or (5), Idaho Code, for the first time is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) May be sentenced to jail for not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars ($1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for a period of thirty (30) days which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days during which the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(b), Idaho Code, for the first time is guilty of a misdemeanor and subject to:

(a) The provisions of section 18-8005(1), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(c), Idaho Code, for the first time, is guilty of a misdemeanor and is subject to:

(a) The provisions of section 18-8005(1), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004, Idaho Code, or any substantially

conforming foreign criminal violation within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), and except as provided in section 18-8004C, Idaho Code, is guilty of a misdemeanor; and, except as provided in section 18-8004C, Idaho Code:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and may be sentenced to not more than one (1) year;

(b) May be fined an amount not to exceed two thousand dollars ($2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) If the person has pled guilty or was found guilty for the second time within five (5) years of a violation of the provisions of section 18-8004(1)(b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(5) Except as provided in section 18-8004C, Idaho Code, aAny person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004, Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed five (5) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his driver's license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind.

(6) For the purpose of computation of the enhancement period in subsections (4), (5) and (7) of this section, the time that elapses

between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(7) Notwithstanding the provisions of subsections (4) and (5) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a felony violation of the provisions of section 18-8004C, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, or a violation of the provisions of section 18-4006 3. (b), Idaho Code, and within ten (10) years pleads guilty or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (5) of this section.

(8) For the purpose of subsections (4) and (5) of this section and the provisions of section 18-8004C, Idaho Code, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(9) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility approved by the Idaho department of health and welfare. In the event the alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the

use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(10) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (9) of this section, if any.

(11) A minor may be prosecuted for a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, under title 16, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of ~~eighteen~~ twenty-one (~~21~~8) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(12) In the event that the alcohol evaluation required in subsection (9) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(13) Any person who is disqualified shall not be granted restricted driving privileges to operate a commercial motor vehicle.

Approved April 7, 1994.

CHAPTER 422
(S.B. No. 1534)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE; AMENDING SECTION 18-8004, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE HAVING AN ALCOHOL CONCENTRATION OF AT LEAST 0.02 BUT LESS THAN 0.10 TO DRIVE OR BE IN CONTROL OF A MOTOR VEHICLE; AMENDING CHAPTER 80, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-8004A, IDAHO CODE, TO PROVIDE PENALTIES FOR PERSONS UNDER THE AGE OF TWENTY-ONE WHO PLEAD GUILTY TO OR ARE FOUND GUILTY OF DRIVING A MOTOR VEHICLE WHILE HAVING AN ALCOHOL CONCENTRATION OF 0.02 BUT LESS THAN 0.10; AND AMENDING SECTION 18-8005, IDAHO CODE, TO PROVIDE PROPER CROSS REFERENCES AND TO PROVIDE FOR THE IMPOSITION OF PERIODS OF ADDITIONAL SUSPENSION UNTIL THE PERSON REACHES TWENTY-ONE YEARS OF AGE.

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

SECTION 1. That Section 18-8004, Idaho Code, be, and the same is hereby amended to read as follows:

18-8004. PERSONS UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) (a) It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or who has an alcohol concentration of 0.10, as defined in subsection (4) of this section, or more, as shown by analysis of his blood, urine, or breath, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

(b) It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or who has an alcohol concentration of 0.04 through 0.09, as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, to drive or be in actual physical control of a commercial motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

(c) It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or who has an alcohol concentration of 0.10 or higher, as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, to drive or be in actual physical control of a commercial motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

(d) It is unlawful for any person under the age of twenty-one (21) who has an alcohol concentration of at least 0.02 but less than 0.10, as defined in subsection (4) of this section, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public. Any person violating this subsection shall be subject to the penalties provided in section 18-8004A, Idaho Code.

(2) Any person having an alcohol concentration of less than 0.10,

as defined in subsection (4) of this section, as shown by analysis of his blood, urine, or breath, by a test requested by a police officer shall not be prosecuted for driving under the influence of alcohol, except as provided in subsection (3), ~~and~~ subsection (1)(b) or subsection (1)(d) of this section. Any person who does not take a test to determine alcohol concentration or whose test result is determined by the court to be unreliable or inadmissible against him, may be prosecuted for driving or being in actual physical control of a motor vehicle while under the influence of alcohol, drugs, or any other intoxicating substances, on other competent evidence.

(3) If the results of the test requested by a police officer show a person's alcohol concentration of less than 0.10, as defined in subsection (4) of this section, such fact may be considered with other competent evidence of drug use other than alcohol in determining the guilt or innocence of the defendant.

(4) For purposes of this chapter, an evidentiary test for alcohol concentration shall be based upon a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath or sixty-seven (67) milliliters of urine. Analysis of blood, urine or breath for the purpose of determining the alcohol concentration shall be performed by a laboratory operated by the Idaho department of law enforcement or by a laboratory approved by the Idaho department of law enforcement under the provisions of approval and certification standards to be set by that department, or by any other method approved by the Idaho department of law enforcement. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated or approved by the Idaho department of law enforcement or by any other method approved by the Idaho department of law enforcement shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(5) It is unlawful for any person who is an habitual user of, or under the influence of any narcotic drug, or who is under the influence of any other drug or any combination of alcohol and any drug to a degree which renders him incapable of safely driving a motor vehicle, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to public use. The fact that any person charged with a violation of the provisions of this subsection is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of a violation of the provisions of this subsection.

(6) "Actual physical control" as used in this section, shall be defined as being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving.

(7) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 2. That Chapter 80, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-8004A, Idaho Code, and to read as follows:

18-8004A. PENALTIES -- PERSONS UNDER 21 WITH LESS THAN 0.10 ALCOHOL CONCENTRATION. (1) Any person found guilty of a violation of subsection (1)(d) of section 18-8004, Idaho Code, shall be guilty of a misdemeanor; and, for a first offense:

(a) Shall be fined an amount not to exceed one thousand dollars ($1,000);

(b) Shall have his driving privileges suspended by the court for a period of one (1) year, ninety (90) days of which shall not be reduced and during which period absolutely no driving privileges of any kind may be granted. After the period of absolute suspension of driving privileges has passed, the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for any subsequent violation of the provisions of this section or any violation of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney.

(d) Shall be required to undergo an alcohol evaluation and otherwise comply with the requirements of sections 18-8005(9) and 18-8005(12), Idaho Code, as ordered by the court.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of subsection (1)(d) of section 18-8004, Idaho Code, who previously has been found guilty of or has pled guilty to a violation of section 18-8004(1)(d), Idaho Code, or any substantially conforming foreign criminal violation, as defined in section 18-8005(8), Idaho Code, notwithstanding the form of the judgment or withheld judgment, is guilty of a misdemeanor; and

(a) Shall be fined an amount of not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000);

(b) Shall have his driving privileges suspended by the court for a period not to exceed two (2) years, one hundred eighty (180) days of which shall be absolute and shall not be reduced and during which period absolutely no driving privileges of any kind may be granted;

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of this section or section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall undergo an alcohol evaluation and comply with the other requirements of subsections (9) and (12) of section 18-8005, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of subsection (1)(d) of section 18-8004,

Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1)(d), Idaho Code, or any substantially conforming foreign criminal violation, within five (5) years, notwithstanding the form of the judgment or withheld judgment, shall be guilty of a misdemeanor; and

(a) May be sentenced to jail for not to exceed six (6) months;

(b) Shall be fined an amount of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000);

(c) Shall surrender his driver's license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year, during which period absolutely no driving privileges of any kind may be granted, or until such person reaches the age of twenty-one (21), whichever is greater; and

(e) Shall undergo an alcohol evaluation and comply with all other requirements imposed by the court pursuant to sections 18-8005(9) and 18-8005(12), Idaho Code.

(4) All provisions of section 18-8005, Idaho Code, not otherwise in conflict with or provided for in this section shall apply to any sentencing imposed under the provisions of this section.

(5) A person violating the provisions of section 18-8004(1)(d), Idaho Code, may be prosecuted under title 16, Idaho Code.

SECTION 3. That Section 18-8005, Idaho Code, be, and the same is hereby amended to read as follows:

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a) or (5), Idaho Code, for the first time is guilty of a misdemeanor; and

(a) May be sentenced to jail for not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars ($1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for a period of thirty (30) days which shall not be reduced and during which thirty (30) day period absolutely no driving privileges of any kind may be granted. After the thirty (30) day period of absolute suspension of driving privileges has passed, the defendant shall have driving privileges suspended by the court for an additional period of at least sixty (60) days, not to exceed one hundred fifty (150) days during which the defendant may request restricted driving privileges which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) Any person who pleads guilty to or is found guilty of a

violation of the provisions of section 18-8004(1)(b), Idaho Code, for the first time is guilty of a misdemeanor and subject to:

(a) The provisions of section 18-8005(1), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(3) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(c), Idaho Code, for the first time, is guilty of a misdemeanor and is subject to:

(a) The provisions of section 18-8005(1), Idaho Code; and

(b) The provisions of section 49-335, Idaho Code.

(4) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a misdemeanor; and

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days the first forty-eight (48) hours of which must be consecutive, and may be sentenced to not more than one (1) year;

(b) May be fined an amount not to exceed two thousand dollars ($2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his driver's license or permit to the court;

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of one (1) year after release from confinement, during which one (1) year period absolutely no driving privileges of any kind may be granted; and

(f) If the person has pled guilty or was found guilty for the second time within five (5) years of a violation of the provisions of section 18-8004(1)(b) or (c), Idaho Code, then the provisions of section 49-335, Idaho Code, shall apply.

(5) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, or any substantially conforming foreign criminal violation, or any combination thereof, within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed five (5) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his driver's license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind.

(6) For the purpose of computation of the enhancement period in subsections (4), (5) and (7) of this section, the time that elapses between the date of commission of the offense and the date the defendant pleads guilty or is found guilty for the pending offense shall be excluded. If the determination of guilt against the defendant is reversed upon appeal, the time that elapsed between the date of the commission of the offense and the date the defendant pleads guilty or is found guilty following the appeal shall also be excluded.

(7) Notwithstanding the provisions of subsections (4) and (5) of this section, any person who has pled guilty or has been found guilty of a felony violation of the provisions of section 18-8004, Idaho Code, a violation of the provisions of section 18-8006, Idaho Code, or a violation of the provisions of section 18-4006 3.(b), Idaho Code, and within ten (10) years pleads guilty or is found guilty of a further violation of the provisions of section 18-8004, Idaho Code, shall be guilty of a felony and shall be sentenced pursuant to subsection (5) of this section.

(8) For the purpose of subsections (4) and (5) of this section, a substantially conforming foreign criminal violation exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of section 18-8004, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(9) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004 or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility approved by the Idaho department of health and welfare. In the event the alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treat-

ment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(10) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004 or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (9) of this section, if any.

(11) A minor may be prosecuted for a violation of the provisions of section 18-8004, Idaho Code, under title 16, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1)(a), (b) or (c), Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of ~~eighteen~~ twenty-one (~~18~~21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

(12) In the event that the alcohol evaluation required in subsection (9) of this section recommends alcohol treatment, the court shall order the person to complete a treatment program in addition to any other sentence which may be imposed, unless the court determines that alcohol treatment would be inappropriate or undesirable, in which event, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation, or a comparable program. Such treatment shall, to the greatest extent possible, be at the expense of the defendant. In the event that funding is provided for or on behalf of the defendant by an entity of state government, restitution shall be ordered to such governmental entity in accordance with the restitution procedure for crime victims, as speci-

fied under chapter 53, title 19, Idaho Code. Nothing contained herein shall be construed as requiring a court to order that a governmental entity shall provide alcohol treatment at government expense unless otherwise required by law.

(13) Any person who is disqualified shall not be granted restricted driving privileges to operate a commercial motor vehicle.

Approved April 7, 1994.

CHAPTER 423
(S.B. No. 1538)

AN ACT

RELATING TO DISPOSITION OF A PERSON'S REMAINS; AMENDING CHAPTER 11, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1139, IDAHO CODE, TO PROVIDE FOR A PERSON'S RIGHT TO LEAVE INSTRUCTIONS FOR THE DISPOSITION OF HIS REMAINS; AMENDING CHAPTER 11, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1140, IDAHO CODE, TO PROVIDE THAT A PERSON'S INSTRUCTIONS WILL BE FOLLOWED; AMENDING CHAPTER 11, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1141, IDAHO CODE, TO RECOGNIZE RIGHTS OF SURVIVORS; AMENDING CHAPTER 11, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1142, IDAHO CODE, TO PROVIDE FOR AUTHORITY OF PERSONS TO DIRECT DISPOSITION IN THE ABSENCE OF INSTRUCTIONS FROM THE DECEDENT; AMENDING CHAPTER 11, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1143, IDAHO CODE, TO PROVIDE THAT A FUNERAL SERVICE ESTABLISHMENT OR CEMETERY OR CREMATORY SHALL HAVE THE RIGHT TO RELY ON INFORMATION RECEIVED; AND AMENDING SECTION 54-1118, IDAHO CODE, TO CLARIFY RIGHTS OF DISPOSITION.

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

SECTION 1. That Chapter 11, 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 54-1139, Idaho Code, and to read as follows:

54-1139. INSTRUCTIONS FOR DISPOSITION OF PERSON'S REMAINS. A. A person may provide written instructions as part of a prearranged funeral plan for disposition of the person's remains by any lawful means. The person shall execute the prearranged funeral plan, containing the instructions, as provided in section 54-1133, Idaho Code.

B. As used in this section, "prearranged funeral plan" means a plan:

(1) For the final disposition of a person's remains; and

(2) That has been funded in advance of the death of the person leaving instructions for the disposition of that person's remains.

C. A person, as part of a prearranged funeral plan, shall have the authority to sign all necessary or required forms, authorizations or agreements pertaining to the disposition of his remains including, but not limited to, a cremation authorization form.

D. A person, as part of a prearranged funeral plan, may designate a person to make decisions regarding any substitutions under section 54-1137, Idaho Code.

SECTION 2. That Chapter 11, 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 54-1140, Idaho Code, and to read as follows:

54-1140. PERSON'S DIRECTIONS TO BE FOLLOWED -- EXCEPTION. Unless a compelling public interest makes it impossible to comply with a person's direction as provided in section 54-1139, Idaho Code, the remains of a person must be disposed of as instructed in such instrument.

SECTION 3. That Chapter 11, 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 54-1141, Idaho Code, and to read as follows:

54-1141. SURVIVOR'S SERVICES. The provisions of section 54-1140, Idaho Code, shall not prevent the deceased person's survivors from, at their own expense, pursuing meaningful services and making arrangements with funeral service establishments which do not conflict with the deceased's instructions for disposition.

SECTION 4. That Chapter 11, 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 54-1142, Idaho Code, and to read as follows:

54-1142. AUTHORITY IN ABSENCE OF PREARRANGED FUNERAL PLAN. If the decedent has not made a prearranged funeral plan as set forth in section 54-1139, Idaho Code, the right to control the disposition of the remains of a deceased person vests in, and devolves upon the following in the order named:

A. A person or entity designated in a written document executed by the decedent and acknowledged in the same manner as required for instruments conveying real property, and subject to such limitations, restrictions, or directions, as may be set forth in such document;

B. The surviving spouse;

C. A majority of the surviving adult children of the decedent;

D. The surviving parents of the decedent;

E. The person nominated as the personal representative of the decedent named in the will of the decedent or appointed otherwise by court order;

F. A person entitled to inherit from the decedent under the intestate succession laws of the state of Idaho.

SECTION 5. That Chapter 11, 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 54-1143, Idaho Code, and to read as follows:

54-1143. RIGHT TO RELY. A. Any person signing a funeral service agreement or cremation authorization form or any other authorization for disposition, whether part of a prearranged funeral plan or at time of death, shall be deemed to warrant the truthfulness of any facts set forth therein, including the identity of the deceased whose remains are sought to be buried or cremated and the signer's authority to order such disposition.

B. A funeral service establishment, cemetery or crematory shall have the right to rely on such authorization and shall have authority to dispose of human remains upon the receipt of an authorization form signed by the decedent or by the person having the right to control disposition as set forth in section 54-1142, Idaho Code. There shall be no liability of a funeral service establishment, cemetery or crematory that disposes of human remains pursuant to such authorization, or that releases or disposes of the remains pursuant to such authorization.

SECTION 6. That Section 54-1118, Idaho Code, be, and the same is hereby amended to read as follows:

54-1118. SENDING BODY TO FUNERAL ESTABLISHMENT WITHOUT ~~CONSENT OF NEXT-OF-KIN~~ INQUIRY PROHIBITED -- EXCEPTIONS -- ANATOMICAL GIFTS -- AUTHORITY ~~OF-FIDUCIARIES----PAYMENT-OF-BENEFITS-NOT-TO-DEPRIVE-NEXT-OF KIN--OF-RIGHT-OF-CHOICE~~ REGARDING DISPOSITION. A. It shall be unlawful for any public officer or employee, an official of any public institution, any physician or surgeon, or any other person who had a professional relationship with any decedent to send or cause to be sent to any funeral establishment or mortician the remains of any deceased person without having first made due inquiry as to the desires of the ~~next-of-kin-and-of-the-persons-who-may-be-chargeable-with-the--funeral expenses--of--such--decedent.-And-if-any-such-kin-be-found,-his-or-her authority-and-directions-shall-govern-the-disposal-of-the--remains--of such~~ decedent as expressed in any prearranged funeral plan as set forth in section 54-1139, Idaho Code, or of the person authorized to direct disposition of the remains under section 54-1142, Idaho Code.

No person licensed as a mortician or anyone acting for him shall participate in any transaction or business which in any way interferes with the freedom of choice of the general public to choose a mortician or a funeral establishment to perform the burial or disposal of a human body, except where the body or a part thereof is given for anatomical purposes.

Nothing herein contained shall be construed to govern or limit the authority of any administrator or executor, trustee, or other person having a fiduciary relationship with the deceased.

B. No company, corporation or association engaged in the business of paying, or providing for the payment, of the expenses for mortician services or funeral supplies, or engaged in the business of providing insurance upon the life of any person for the payment of such expenses upon his death, shall pay any such insurance or benefits to any mortician, funeral director, funeral establishment, or other person in any manner which might or could deprive the ~~representative,-next-of-kin, or-family-of-a-deceased-person-of-their-freedom-of-choice-in-procuring mortician-services-and-funeral-supplies-for-the-burial-or-disposal--of~~

~~the--dead--human-body-of-such-deceased-person~~ decedent as expressed in any prearranged funeral plan as set forth in section 54-1139, Idaho Code, or of the person authorized to direct disposition of the remains under section 54-1142, Idaho Code, from directing the method, manner and arrangements for the disposition of the remains.

Approved April 7, 1994.

CHAPTER 424
(S.B. No. 1542)

AN ACT

RELATING TO PROBATION OFFICERS; AMENDING SECTION 20-227, IDAHO CODE, TO CLARIFY THE AUTHORITY OF MISDEMEANOR PROBATION OFFICERS IN CERTAIN COUNTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 20-227, Idaho Code, be, and the same is hereby amended to read as follows:

20-227. ARREST OF PAROLEE OR PROBATIONER WITHOUT WARRANT -- DETENTION -- REPORT TO COMMISSION OR COURT. Any parole or probation officer may arrest a parolee or probationer without a warrant, or may deputize any other officer with power of arrest to do so, by giving him a written statement setting forth that the parolee or probationer has, in the judgment of said parole or probation officer, violated the conditions of his parole or probation. Such written statement, delivered with the parolee or probationer by the arresting officer to the official in charge of the institution from which the parolee was released, the county jail or other place of detention, shall be sufficient warrant for the detention of the probationer or parolee. The parole and probation officer shall at once notify the commission, or the court, of the arrest and detention of the parolee or probationer, and shall submit in writing a report showing in what manner the parolee or probationer is alleged to have violated the condition of his or her parole or probation. In counties where there are misdemeanor probation officers in addition to department of correction parole or probation officers, those officers shall have the same authority conferred upon department of correction parole or probation officers in this section, to arrest a misdemeanor probationer without a warrant for misdemeanor probation violations occurring in the officer's presence as otherwise provided in 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.

Approved April 7, 1994.

CHAPTER 425
(S.B. No. 1549)

AN ACT

RELATING TO LABELING OF LUBRICANTS BLENDED WITH RE-REFINED/RECYCLED OIL AND THE SIZE OF TYPE ON CONTAINERS; AMENDING SECTION 37-2515, IDAHO CODE, TO PROVIDE LABELING REQUIREMENTS FOR CONTAINERS OF LUBRICANTS BLENDED WITH RECYCLED OIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2516, IDAHO CODE, TO PROVIDE LABELING REQUIREMENTS FOR PRODUCTS BLENDED WITH RECLAIMED OIL; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 37-2515, Idaho Code, be, and the same is hereby amended to read as follows:

37-2515. SIGN OR LABEL ON CONTAINERS -- CONTAINERS OF ONE ~~(1)~~ GALLON OR LESS. Except as provided in this act containers of reclaimed oil which is sold or offered for sale or delivery shall bear a superimposed sign or label of rectangular shape not less than four (4) by six (6) inches containing the words "reclaimed motor oil" or "lubricating oil, reclaimed" in red letters of gothic type over a white background with a stroke of not less than one-eighth inch (1/8") in width and not less than three-fourths inch (3/4") in height.

On all containers of reclaimed oil which is sold or offered for sale of one (1) gallon or less, a superimposed sign or label of rectangular shape of not less than two (2) by three (3) inches containing the words "reclaimed motor oil" or "lubricating oil, reclaimed," in red letters of gothic type over a white background with a stroke of not less than one-sixteenth inch (1/16") in width and not less than one-half inch (1/2") in height shall be sufficient.

Lubricants blended with re-refined/recycled oil shall be labeled as such. The size type on containers of one (1) gallon or less shall be at least one-eighth inch (1/8") high and on containers larger than one (1) gallon at least one-fourth inch (1/4") high.

SECTION 2. That Section 37-2516, Idaho Code, be, and the same is hereby amended to read as follows:

37-2516. PRODUCT BLENDED WITH RECLAIMED OIL. If any reclaimed oil is used in blending or compounding in any other petroleum product sold or offered for sale or delivery the fact of such blending or compounding shall be indicated on all containers in the manner required by this act for containers of reclaimed oil.

Lubricants blended with re-refined/recycled oil shall be labeled as such. The size type on containers of one (1) gallon or less shall be at least one-eighth (1/8) inch high and on containers larger than one (1) gallon at least one-fourth (1/4) inch high.

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 April 1, 1994.

Approved April 7, 1994.

CHAPTER 426
(S.B. No. 1551)

AN ACT

RELATING TO ADOPTION; AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE AN EXCLUSION TO A SOCIAL INVESTIGATION FOR A GRANDPARENT SEEKING ADOPTION UNLESS ORDERED BY A COURT; AND AMENDING SECTION 16-2005, IDAHO CODE, TO DEFINE ABANDONMENT WHEN A GRANDPARENT IS SEEKING TERMINATION, TO FURTHER DEFINE CONDITIONS FOR TERMINATION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 16-1506, Idaho Code, be, and the same is hereby amended to read as follows:

16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child shall be commenced by the filing of a petition together with a copy thereof. Said petition shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the county in which said person or persons reside. The petitioners shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the name and address of the petitioner or petitioners, the name of the child proposed to be adopted and the name by which it shall be known if and when adopted, the degree of relationship of the child, if any, to the petitioner or petitioners and the names of any person or agency whose consent to said adoption is necessary. At the time fixed for hearing such petition the person adopting a child, and the child adopted, and the spouse of petitioner if a natural parent of the child, must appear before the court of the county wherein the petition was filed. Petitioner shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated.

(2) Any person or persons whose consent is required shall execute such consent in writing, in a form consistent with the provisions of subsection f. of section 16-2005, Idaho Code, which consent being filed in the court where the application is made, shall be deemed a sufficient appearance on the part of such person or persons. If any adoptive parent, or a person not a minor being adopted by a resident adult under the provisions of section 16-1501, Idaho Code, is a member of the armed services and is unable to attend the hearing, his appearance and testimony shall be received by means of deposition, which shall be filed in the court at the time of the hearing.

(3) Prior to the placement for adoption of any child in the home of prospective adoptive parents, it shall be required that a thorough social investigation of the prospective adoptive family and all of its members, consistent with the rules regarding such investigations promulgated by the department of health and welfare, shall be completed and that a positive recommendation for adoptive placement shall have been made. In those instances where the prospective adoptive parent is married to the birth parent or is the grandparent of the child to be adopted, such social investigation shall be completed with regard to the prospective adoptive parent only upon order of the court. In exigent circumstances where the prospective adoptive parents are determined by the court to have been unable to complete a social investigation of the family with a positive recommendation prior to the time the child is placed in the home, the child shall remain in the home unless the court determines the best interests of the child are served by other placement. If exigent circumstances exist, a social investigation shall be initiated within five (5) days of placement. Once initiated, all studies shall be completed within sixty (60) days. Upon the filing of a petition to adopt a minor child by a person unrelated to the child or unmarried to a natural parent of the child and at the discretion of the court upon the filing of any other petition for adoption, a copy of such petition, together with a statement containing the full names and permanent addresses of the child and the petitioners, shall be served by the court receiving the petition within five (5) days on the director of the department of health and welfare by registered mail or personal service. It shall then be the duty of the said director, through the personnel of the department or through such qualified child-placing children's adoption agency incorporated under chapter 3, title 30, Idaho Code, as the director may designate, to verify the allegations of the petition, and as soon as possible not exceeding thirty (30) days after service of the petition on the director to make a thorough investigation of the matter to include in all cases information as to the alleged date and place of birth and as to parentage of the child to be adopted as well as the source of all such information and report his findings in writing to the court. The investigative report shall include reasonably known or available medical and genetic information regarding both natural parents and sources of such information as well as reasonably known or available providers of medical care and services to the natural parents. A copy of all medical and genetic information compiled in the investigation shall be made available to the adopting family by the department or other investigating children's adoption agency prior to entry of the final order of adoption. The petition, statement and all other papers, records or files relating to the adoption, including the preplacement investigation and recommendation, shall be returned to the court with the investigative report. The department of health and welfare or other children's adoption agency may require the petitioner to pay all or any part of the costs of the investigation. If the report disapproves of the adoption of the child, motion may be made to the court to dismiss the petition.

(4) Proceedings for termination of parent-child relationship in accordance with chapter 20, title 16, Idaho Code, and proceedings for adoption may be consolidated and determined at one (1) hearing pro-

vided that all of the requirements of this chapter as well as chapter 20, title 16, Idaho Code, be fully complied with.

SECTION 2. That Section 16-2005, Idaho Code, be, and the same is hereby amended to read as follows:

16-2005. CONDITIONS UNDER WHICH TERMINATION MAY BE GRANTED. The court may grant an order terminating the relationship where it finds one or more of the following conditions exist:

a. The parent has abandoned the child by having willfully failed to maintain a normal parental relationship, including but not limited to reasonable support or regular personal contact; failure of the parent to maintain this relationship without just cause for a period of one (1) year shall constitute prima facie evidence of abandonment under this section. Provided further, that where termination is sought by a grandparent seeking to adopt the child, willful failure of the parent to maintain a normal parental relationship as provided herein, without just cause, for six (6) months shall constitute prima facie evidence of abandonment.

b. The parent has neglected or abused the child. Neglect as used herein shall mean a situation in which the child lacks parental care necessary for his health, morals and well-being.

c. The presumptive parent is not the natural parent of the child.

d. The parent is unable to discharge parental responsibilities because of mental illness or mental deficiency, and there are reasonable grounds to believe the condition will continue for a prolonged indeterminate period and will be injurious to the health, morals or well-being of the child.

e. If termination is found to be in the best interest of the parent and child, where the petition has been filed by a parent or through an authorized agency, or interested party.

f. Where a consent to termination in the manner and form prescribed by this act has been filed by the parent(s) of the child in conjunction with a petition for adoption initiated by the person or persons proposing to adopt the child, or where the consent to termination has been filed by a licensed adoption agency, no subsequent hearing on the merits of the petition shall be held. Consents required by this act must be witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person consenting resides or is present, whether within or without the county, and shall be substantially in the following form:

IN THE DISTRICT COURT OF THE .... JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ....

In the Matter of the termination)
of the parental rights of)
.....)
.....)

I (we), the undersigned, being the .... of ...., do hereby give my (our) full and free consent to the complete and absolute termination of my (our) parental right(s), to the said ...., who was born ...., 19.., unto ...., hereby relinquishing completely and forever, all legal rights, privileges, duties and obligations, including all rights of inheritance to and from the said ...., and I (we) do hereby

expressly waive my (our) right(s) to hearing on the petition to terminate my (our) parental relationship with the said ...., and respectfully request the petition be granted.

DATED: ...., 19...

.....

STATE OF IDAHO)
) ss.
COUNTY OF ....)

On this .... day of ...., 19.., before me, the undersigned ...., ... (Judge or magistrate) of the District court of the .... Judicial District of the state of Idaho, in and for the county of ...., personally appeared ...., known to me (or proved to me on the oath of ....) to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he (she, they) executed the same.

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

..... (District Judge or Magistrate)

~~(~~g.~~)~~ Unless a consent to termination signed by the parent(s) of the child has been filed by an adoption agency licensed in the state of Idaho, or unless the consent to termination was filed in conjunction with a petition for adoption of the child, the court shall hold a hearing.

h. In the case of a father's parental relationship, where the father has failed to file notice of claim to paternity and willingness to assume responsibility as provided in section 16-1513(3), Idaho Code.

Approved April 7, 1994.

CHAPTER 427
(S.B. No. 1552, As Amended in the House)

AN ACT

RELATING TO INSURANCE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 52, TITLE 41, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A PURPOSE, TO DEFINE TERMS, TO PROVIDE APPLICABILITY AND SCOPE, TO PROVIDE RESTRICTIONS RELATING TO PREMIUM RATES, TO PROVIDE FOR RENEWABILITY OF COVERAGE, TO PROVIDE FOR AVAILABILITY OF COVERAGE, TO REQUIRE A NOTICE OF INTENT TO OPERATE AS A RISK-ASSUMING CARRIER OR A REINSURING CARRIER, TO PROVIDE FOR AN APPLICATION TO BECOME A RISK-ASSUMING CARRIER, TO PROVIDE APPLICATION OF ADMINISTRATIVE PROCEDURES, AND TO PROVIDE STANDARDS TO ASSURE FAIR MARKETING; AMENDING SECTION 41-4703, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 41-4704, IDAHO CODE, TO PROVIDE LIMITATION UPON APPLICABILITY; AMENDING SECTION 41-4706, IDAHO CODE, TO REVISE RESTRICTIONS RELATING TO AGE BASED RATING FACTORS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-4707, IDAHO CODE, TO PROVIDE LIMITS UPON THE REQUIREMENT FOR NOTIFICATION OF DECISION NOT TO RENEW; AMENDING SECTION 41-4708,

IDAHO CODE, TO FURTHER DEFINE THE APPLICABILITY OF COVERAGE; AMENDING SECTION 41-4711, IDAHO CODE, TO PROVIDE APPLICATION TO AN INDIVIDUAL CARRIER REINSURANCE PROGRAM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4712, IDAHO CODE, TO PROVIDE PROMULGATION OF INDIVIDUAL HEALTH BENEFIT PLANS; AMENDING SECTION 41-4713, IDAHO CODE, TO PROVIDE FOR PERIODIC MARKET EVALUATION INCLUDING INDIVIDUAL HEALTH INSURANCE; AMENDING SECTION 41-4714, IDAHO CODE, TO PROVIDE FOR WAIVER OF CERTAIN STATE LAWS; AMENDING SECTION 41-4716, IDAHO CODE, TO FURTHER DEFINE THE STANDARDS TO ASSURE FAIR MARKETING; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE AND APPLICATION.

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

SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 52, Title 41, Idaho Code, and to read as follows:

CHAPTER 52
INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT

41-5201. SHORT TITLE. This chapter shall be known and may be cited as the "Individual Health Insurance Availability Act."

41-5202. PURPOSE. The purpose and intent of this chapter is to promote the availability of health insurance coverage to persons not covered by employment based insurance regardless of their health status or claims experience, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules regarding renewability of coverage, to establish limitations on the use of preexisting condition exclusions, to provide for the adoption of "basic" and "standard" health benefit plans to be offered to all individuals, to provide for the establishment of a reinsurance program, and to improve the overall fairness and efficiency of the individual health insurance market.

This chapter is not intended to provide a comprehensive solution to the problem of affordability of health care or health insurance.

41-5203. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that an individual carrier is in compliance with the provisions of section 41-5206, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means an agent as defined in section 41-1021, Idaho Code, or a broker as defined in section 41-1024, Idaho Code.

(4) "Base premium rate" means, as to a rating period, the lowest

premium rate charged or that could have been charged under a rating system by the individual carrier to individuals with similar case characteristics for health benefit plans with the same or similar coverage.

(5) "Basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-4712, Idaho Code.

(6) "Board" means the board of directors of the program established pursuant to section 41-4711, Idaho Code.

(7) "Carrier" means any entity that provides health insurance in this state. For purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, a self-funded health care plan, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(8) "Case characteristics" means demographic or other objective characteristics of an individual that are considered by the individual carrier in the determination of premium rates for the individual, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

(9) "Committee" means the health benefit plan committee created pursuant to section 41-4712, Idaho Code.

(10) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(11) "Dependent" means a spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(12) "Director" means the director of the department of insurance of the state of Idaho.

(13) "Eligible individual" means an Idaho resident individual or dependent of an Idaho resident who does not receive health insurance benefits subject to the regulation of chapter 47, title 41, Idaho Code, and who is under the age of sixty-five (65) years. An "eligible individual" can be the dependent of an eligible employee as defined in section 41-4703(14), Idaho Code, which eligible employee is receiving health insurance benefits subject to the regulation of chapter 47, title 41, Idaho Code, provided that no insurer shall be required to issue a basic or standard health benefit plan to any individual who is covered under any other arrangement that provides benefits equal to or better than the basic or standard plan.

(14) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(15) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement

indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance, or nonrenewable short-term coverage issued for a period of twelve (12) months or less.

(16) "Index rate" means, as to a rating period for individuals with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(17) "New business premium rate" means, as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the individual carrier to individuals with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(18) "Plan of operation" means the plan of operation of the program established pursuant to section 41-4711, Idaho Code.

(19) "Premium" means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

(20) "Program" means the Idaho reinsurance program created in section 41-4711, Idaho Code.

(21) "Qualifying previous coverage" and "qualifying existing coverage" means benefits or coverage provided under:

(a) Medicare or medicaid; or

(b) Any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a health maintenance organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(22) "Rating period" means the calendar period for which premium rates established by a carrier are assumed to be in effect.

(23) "Reinsuring carrier" means a carrier participating in the reinsurance program pursuant to section 41-4711, Idaho Code.

(24) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(25) "Risk-assuming carrier" means a carrier whose application is approved by the director pursuant to section 41-5210, Idaho Code.

(26) "Individual carrier" means a carrier that offers health benefit plans covering eligible individuals and their dependents.

(27) "Standard health benefit plan" means a health benefit plan developed pursuant to section 41-4712, Idaho Code.

41-5204. APPLICABILITY AND SCOPE. To the extent permitted by federal law, the provisions of this chapter shall apply to any health benefit plan delivered or issued for delivery in the state of Idaho that provides coverage to eligible individuals or their dependents if not otherwise subject to the provisions of chapter 22, 40 or 47, title

41, Idaho Code.

(1) Except as provided in subsection (2) of this section, for the purposes of this chapter, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one (1) carrier and any restrictions or limitations imposed in this chapter shall apply as if all health benefit plans delivered or issued for delivery to individuals in this state by such affiliated carriers were insured by one (1) carrier.

(2) An affiliated carrier that is a health maintenance organization having a certificate of authority pursuant to the provisions of chapter 39, title 41, Idaho Code, may be considered to be a separate carrier for the purposes of this chapter.

(3) Unless otherwise authorized by the director, an individual carrier shall not enter into one (1) or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to individuals in this state if such arrangements would result in less than fifty percent (50%) of the insurance obligation or risk for such health benefit plans being retained by the ceding carrier. The provisions of sections 41-510, 41-511 and 41-514, Idaho Code, shall apply if an individual carrier cedes or assumes all of the insurance obligation or risk with respect to one (1) or more health benefit plans delivered or issued for delivery to individuals in this state.

41-5205. [RESERVED.]

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 twenty-five percent (25%) of the index rate.

(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.

(d) In the case of health benefit plans delivered or issued for delivery prior to the effective date of this chapter, a premium rate for a rating period may exceed the ranges set forth in subsections (1)(a) and (b) of this section for a period of three (3) years following the effective date of this chapter. In such case, the percentage increase in the premium rate charged to an individual for a new rating period shall 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; and

(ii) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the carrier's rate manual.

(e) (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.

(f) 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.

(g) The individual carrier shall not use case characteristics, other than age or gender, without prior approval of the director.

(h) 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 individuals under the age of twenty (20) years of age, and the same rating factor shall be applied on a quinquennial basis as to individuals twenty (20) years of age or older.

(i) 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.

41-5207. RENEWABILITY OF COVERAGE. (1) A health benefit plan subject to the provisions of this chapter shall be renewable with respect to the individual or dependents, at the option of the individual, except in any of the following cases:

(a) Nonpayment of the required premiums;

(b) Fraud or misrepresentation of the individual insured or his representatives. An individual whose coverage is terminated for fraud or misrepresentation shall not be deemed to be an "eligible individual" for a period of twelve (12) months from the effective date of the termination of the individual's coverage and shall not be deemed to have "qualifying previous coverage" under chapter 47 or 52, title 41, Idaho Code;

(c) Repeated misuse of a provider network provision;

(d) The individual carrier elects to nonrenew all of its health benefit plans delivered or issued for delivery to individuals in this state. In such a case the carrier shall:

(i) Provide advance notice of its decision under this paragraph to the director; and

(ii) Provide notice of the decision not to renew coverage to all affected individuals and to the director at least one hundred eighty (180) days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the director under the provisions of this paragraph shall be provided at least three (3) working days prior to the notice to the affected individuals; or

(e) The director finds that the continuation of the coverage would:

(i) Not be in the best interests of the policyholders or certificate holders; or

(ii) Impair the carrier's ability to meet its contractual obligations.

In such instance, the director shall assist affected individuals in finding replacement coverage.

(2) An individual carrier that elects not to renew a health benefit plan under the provisions of subsection (1)(d) of this section shall be prohibited from writing new business in the individual market in this state for a period of five (5) years from the date of notice to the director.

(3) In the case of an individual carrier doing business in one (1) established geographic service area of the state, the rules set forth in this subsection shall apply only to the carrier's operations in that service area.

41-5208. AVAILABILITY OF COVERAGE. (1) (a) Every individual carrier shall, as a condition of offering health benefit plans in this state to individuals, actively offer to individuals at least two (2) health benefit plans and provide enrollment to all persons in the first thirty (30) days of the calendar year and then on an orderly

rotation as determined by the director pursuant to rule between insurers for the remainder of the year. One (1) health benefit plan offered by each individual carrier shall be a basic health benefit plan and one (1) plan shall be a standard health benefit plan.

(b) An individual carrier shall issue a basic health benefit plan or a standard health benefit plan to any eligible individual that applies for either such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with the provisions of this chapter. The carrier may require certification of Idaho residency or dependency upon an Idaho resident.

(2) (a) An individual carrier shall file with the director, in a format and manner prescribed by the director, the basic health benefit plans and the standard health benefit plans to be used by the carrier. A health benefit plan filed pursuant to the provisions of this paragraph may be used by an individual carrier beginning thirty (30) days after it is filed unless the director disapproves its use.

(b) The director at any time may, after providing notice and an opportunity for a hearing to the individual carrier, disapprove the continued use by an individual carrier of a basic or standard health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

(3) Health benefit plans covering individuals shall comply with the following provisions:

(a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

(i) A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;

(ii) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or

(iii) A pregnancy existing on the effective date of coverage.

(b) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage to the extent such previous coverage provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than thirty (30) days prior to the effective date of the new coverage. In the case of replacement coverage from the same carrier, a preexisting condition will be covered for the first twelve (12) months for the lesser of:

(i) The benefits payable under the new policy; or

(ii) The benefits which would have been payable under the prior policy.

(c) An individual carrier shall not modify a basic or standard health benefit plan with respect to an individual or any dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(4) (a) An individual carrier shall not be required to offer coverage or accept applications pursuant to the provisions of subsection (1) of this section in the case of the following:

(i) To an individual, where the individual is not residing in the carrier's established geographic service area;

(ii) Within an area where the individual carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to individuals because of its obligations to existing groups or individuals.

(b) An individual carrier that cannot offer coverage pursuant to the provisions of subsection (4)(a)(ii) of this section may not offer coverage in the applicable area to new cases of employer groups with more than forty-nine (49) eligible employees or to any small employer groups or to any individuals until the later of one hundred eighty (180) days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to individuals and groups.

(5) An individual carrier shall not be required to provide coverage to individuals pursuant to the provisions of subsection (1) of this section for any period of time for which the director determines that requiring the acceptance of individuals in accordance with the provisions of subsection (1) of this section would place the individual carrier in a financially impaired condition.

(6) An individual carrier shall not be required to comply with the provisions of this section until the director has approved or adopted the revised plan of operation as provided in section 41-4711, Idaho Code.

41-5209. NOTICE OF INTENT TO OPERATE AS A RISK-ASSUMING CARRIER OR A REINSURING CARRIER. (1) (a) Each individual carrier shall notify the director within thirty (30) days of the effective date of this chapter of the carrier's intention to operate as a risk-assuming carrier or a reinsuring carrier. An individual carrier seeking to operate as a risk-assuming carrier shall make an application pursuant to the provisions of section 41-5210, Idaho Code.

(b) The decision shall be binding for a five (5) year period except that the initial decision shall be binding for two (2) years. The director may permit a carrier to modify its decision at any time for good cause shown.

(c) The director shall establish an application process for individual carriers seeking to change their status under the provisions of this subsection.

(2) A reinsuring carrier that applies and is approved to operate as a risk-assuming carrier shall not be permitted to continue to reinsure any health benefit plan with the program. Such a carrier shall pay a prorated assessment based upon business issued as a reinsuring

carrier for any portion of the year that the business was reinsured.

41-5210. APPLICATION TO BECOME A RISK-ASSUMING CARRIER. (1) An individual carrier may apply to become a risk-assuming carrier by filing an application with the director in a form and manner prescribed by the director.

(2) The director shall consider the following factors in evaluating an application filed under the provisions of subsection (1) of this section:

(a) The carrier's financial condition;

(b) The carrier's history of rating and underwriting individuals;

(c) The carrier's commitment to market fairly to all individuals in the state or its established geographic service area, as applicable;

(d) The carrier's experience with managing the risk of individuals; and

(e) The extent to which a carrier has and will be able to maintain reinsurance pursuant to the provisions of subsection (3) of section 41-5204, Idaho Code.

(3) The director shall provide public notice of an application by an individual carrier to be a risk-assuming carrier and shall provide at least a sixty (60) day period for public comment prior to making a decision on the application. If the application is not acted upon within ninety (90) days of the receipt of the application by the director, the carrier may request a hearing.

(4) The director may rescind the approval granted to a risk-assuming carrier under the provisions of this section if the director finds that:

(a) The carrier's financial condition will no longer support the assumption of risk from issuing coverage to individuals in compliance with the provisions of section 41-5208, Idaho Code, without the protection afforded by the program;

(b) The carrier has failed to market fairly to all individuals in the state or its established geographic service area, as applicable; or

(c) The carrier has failed to provide coverage to eligible individuals as required in section 41-5208, Idaho Code.

(5) An individual carrier electing to be a risk-assuming carrier shall not be subject to the provisions of section 41-4711, Idaho Code, except to the extent such individual carrier is subject to assessment for additional funding pursuant to the provisions of subsection (12)(c) of section 41-4711, Idaho Code.

41-5211. ADMINISTRATIVE PROCEDURES. The director shall promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, for the implementation and administration of the individual health coverage reform act.

41-5212. STANDARDS TO ASSURE FAIR MARKETING. (1) Each individual carrier shall actively market health benefit plan coverage, including the basic and standard health benefit plans, to eligible individuals in the state. If an individual carrier denies coverage to an individual on the basis of the health status or claims experience of the

individual or dependents, the individual carrier shall offer the individual the opportunity to purchase either a basic health benefit plan or a standard health benefit plan.

(2) (a) Except as provided in subsection (2)(b) of this section, no individual carrier or agent shall, directly or indirectly, engage in the following activities:

(i) Encouraging or directing individuals to refrain from filing an application for coverage with the individual carrier because of the health status, claims experience, industry, occupation or geographic location of the individual or dependents.

(ii) Encouraging or directing individuals to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the individual.

(b) The provisions of subsection (2)(a) of this section shall not apply with respect to information provided by an individual carrier or agent to an individual regarding the established geographic service area or a restricted network provision of an individual carrier.

(3) (a) Except as provided in subsection (2)(b) of this section, no individual carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent that provides for or results in the compensation paid to an agent for the sale of a health benefit plan to be carried because of the health status, claims experience, industry, occupation or geographic location of the individual.

(b) The provisions of paragraph (a) of this subsection shall not apply with respect to a compensation arrangement that provides compensation to an agent on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the individual.

(4) An individual carrier shall provide reasonable compensation, as provided under the plan of operation of the program, to an agent, if any, for the sale of a basic or standard health benefit plan.

(5) An individual carrier may provide commission or other compensation to an agent or other representative for the sale or servicing of an individual policy or certificate. The commission or compensation provided in subsequent (renewal) years must be the same as that provided in the first year or period and must be provided for no fewer than five (5) years.

(6) No individual carrier may terminate, fail to renew or limit its contract or agreement of representation with an agent for any reason related to the health status, claims experience, occupation or geographic location of the individuals placed by the agent with the individual carrier.

(7) Denial by an individual carrier of an application for coverage from an individual shall be in writing and shall state the reason or reasons for the denial.

(8) The director may establish rules setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to individuals in this state.

(9) (a) A violation of the provisions of this section by an individual carrier or an agent shall be an unfair trade practice pursuant to the provisions of section 41-1302, Idaho Code.

(b) If an individual carrier enters into a contract, agreement or other arrangement with a third party administrator to provide administrative, marketing or other services related to the offering of health benefit plans to individuals in this state, the third party administrator shall be subject to the provisions of this section as if it were an individual carrier.

SECTION 2. That Section 41-4703, Idaho Code, be, and the same is hereby amended to read as follows:

41-4703. DEFINITIONS. As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the director that a small employer carrier is in compliance with the provisions of section 41-4706, Idaho Code, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Agent" means an agent as defined in section 41-1021, Idaho Code, or a broker as defined in section 41-1024, Idaho Code.

(4) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

(5) "Basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 41-4712, Idaho Code.

(6) "Board" means the board of directors of the program established pursuant to section 41-4711, Idaho Code.

(7) "Carrier" means any entity that provides health insurance in this state. For the purposes of this chapter, carrier includes an insurance company, a hospital or professional service corporation, a fraternal benefit society, a health maintenance organization, a self-funded health care plan, any entity providing health insurance coverage or benefits to residents of this state as certificate holders under a group policy issued or delivered outside of this state, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(8) "Case characteristics" mean demographic or other objective characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small employer, provided that claim experience, health status and duration of coverage shall not be case characteristics for the purposes of this chapter.

(9) "Class of business" means all or a separate grouping of small

employers established pursuant to section 41-4705, Idaho Code.

(10) "Committee" means the health benefit plan committee created pursuant to section 41-4712, Idaho Code.

(11) "Control" shall be defined in the same manner as in section 41-3801(2), Idaho Code.

(12) "Dependent" means a spouse, and unmarried child under the age of nineteen (19) years, and unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.

(13) "Director" means the director of the department of insurance of the state of Idaho.

(14) "Eligible employee" means an employee who works on a full-time basis and has a normal work week of thirty (30) or more hours. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary or substitute basis.

(15) "Established geographic service area" means a geographic area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(16) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or health maintenance organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, ~~or~~ automobile medical payment insurance or nonrenewable short-term coverage issues for a period of twelve (12) months or less.

(17) "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(18) "Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period during which the individual is entitled to enroll under the terms of the health benefit plan, provided that the initial enrollment period is a period of at least thirty (30) days. However, an eligible employee or dependent shall not be considered a late enrollee if:

(a) The individual meets each of the following:

(i) The individual was covered under qualifying previous coverage at the time of the initial enrollment;

(ii) The individual lost coverage under qualifying previous coverage as a result of termination of employment or eligibility, the involuntary termination of the qualifying previous coverage, death of a spouse or divorce; and

(iii) The individual requests enrollment within thirty (30)

days after termination of the qualifying previous coverage.

(b) The individual is employed by an employer which offers multiple health benefit plans and the individual elects a different plan during an open enrollment period; or

(c) A court has ordered coverage be provided for a spouse or minor or dependent child under a covered employee's health benefit plan and request for enrollment is made within thirty (30) days after issuance of the court order.

(19) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered or which could have been charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(20) "Plan of operation" means the plan of operation of the program established pursuant to section 41-4711, Idaho Code.

(21) "Premium" means all moneys paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(22) "Program" means the Idaho small employer reinsurance program created in section 41-4711, Idaho Code.

(23) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or medicaid; or

(b) Any other group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws, including coverage provided by a health maintenance organization, hospital or professional service corporation, or a fraternal benefit society, that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(24) "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect.

(25) "Reinsuring carrier" means a small employer carrier participating in the reinsurance program pursuant to section 41-4711, Idaho Code.

(26) "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier ~~pursuant--to--chapter--34,-title--41,-Idaho-Code,-hospital-and-professional-service-corporations,-and-chapter-39,-title-41,-Idaho--Code,--health--maintenance--organizations,~~ to provide health care services to covered individuals.

(27) "Risk-assuming carrier" means a small employer carrier whose application is approved by the director pursuant to section 41-4710, Idaho Code.

(28) "Small employer" means any person, firm, corporation, partnership or association that is actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding calendar quarter, employed no more than forty-nine (49) eligible employees, the majority of whom were employed within this state. In determining the number of eligible employees, companies that are

affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered one (1) employer.

(29) "Small employer carrier" means a carrier that offers health benefit plans covering eligible employees of one (1) or more small employers in this state.

(30) "Standard health benefit plan" means a health benefit plan developed pursuant to section 41-4712, Idaho Code.

SECTION 3. That Section 41-4704, Idaho Code, be, and the same is hereby amended to read as follows:

41-4704. APPLICABILITY AND SCOPE. To the extent permitted by federal law, the provisions of this chapter shall apply to any health benefit plan delivered or issued for delivery in the state of Idaho that provides coverage to the employees of a small employer in this state if any of the following conditions are met:

(1) Any portion of the premium or benefits is paid by or on behalf of the small employer;

(2) An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium;

~~(3) Coverage for an eligible employee or a dependent is billed through a small employer, under a list billing or similar arrangement; or~~

(~~4~~3) The health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of section 162, section 125 or section 106 of the United States internal revenue code.

(~~5~~4) (a) Except as provided in subsection (b) of this section, for the purposes of this chapter, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one (1) carrier and any restrictions or limitations imposed in this chapter shall apply as if all health benefit plans delivered or issued for delivery to small employers in this state by such affiliated carriers were issued by one (1) carrier.

(b) An affiliated carrier that is a health maintenance organization having a certificate of authority pursuant to the provisions of chapter 39, title 41, Idaho Code, may be considered to be a separate carrier for the purposes of this chapter.

(c) Unless otherwise authorized by the director, a small employer carrier shall not enter into one (1) or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to small employers in this state if such arrangements would result in less than fifty percent (50%) of the insurance obligation or risk for such health benefit plans being retained by the ceding carrier. The provisions of sections 41-510 and 41-511, Idaho Code, shall apply if a small employer carrier cedes or assumes all of the insurance obligation or risk with respect to one (1) or more health benefit plans delivered or issued for delivery to small employers in this state.

SECTION 4. 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 provisions of 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 twenty-five percent (25%) of the index rate.

(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.

(f) In the case of health benefit plans delivered or issued for delivery prior to the effective date of this chapter, a premium rate for a rating period may exceed the ranges set forth in subsections (1)(a) and (b) of this section for a period of three (3) years following the effective date of this chapter. In such case, the percentage increase in the premium rate charged to a small

employer for a new rating period shall 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; and

(ii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business.

(g) (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.

(h) 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.

(i) The small employer carrier shall not use case characteristics, other than age or gender, without prior approval of the director.

(j) 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 individuals ~~over~~ under the age of ~~eighteen (18)~~ twenty (20) years of age ~~and under the age of thirty (30) years of age~~, and the same rating factor shall be applied on a quinquennial basis as to individuals ~~thirty (30)~~ twenty (20) years of age or older.

(k) The director may establish regulations 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 regulations 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 contracts; 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 docu-

mentation described in subsection (~~5~~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 5. That Section 41-4707, Idaho Code, be, and the same is hereby amended to read as follows:

41-4707. RENEWABILITY OF COVERAGE. (1) A health benefit plan subject to the provisions of this chapter shall be renewable with respect to all eligible employees or dependents, at the option of the small employer, except in any of the following cases:

(a) Nonpayment of the required premiums;

(b) Fraud or misrepresentation of the small employer or, with respect to coverage of individual insureds, the insureds or their representatives;

(c) Noncompliance with the carrier's minimum participation requirements;

(d) Noncompliance with the carrier's employer contribution requirements;

(e) Repeated misuse of a provider network provision;

(f) The small employer carrier elects to nonrenew all of its health benefit plans delivered or issued for delivery to small employers in this state. In such a case the carrier shall:

(i) Provide advance notice of its decision under this paragraph to the director in each state in which it is licensed; and

(ii) Provide notice of the decision not to renew coverage to all affected small employers and to the director ~~in each state in which an affected insured individual is known to reside~~ at least one hundred eighty (180) days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the director under the provisions of this paragraph shall be provided at least three (3) working days prior to the notice to the affected small employers; or

(g) The director finds that the continuation of the coverage would:

(i) Not be in the best interests of the policyholders or certificate holders; or

(ii) Impair the carrier's ability to meet its contractual obligations.

In such instance the director shall assist affected small employers in finding replacement coverage.

(2) A small employer carrier that elects not to renew a health benefit plan under the provisions of subsection (1)(f) of this section shall be prohibited from writing new business in the small employer market in this state for a period of five (5) years from the date of notice to the director.

(3) In the case of a small employer carrier doing business in one (1) established geographic service area of the state, the rules set

forth in this subsection shall apply only to the carrier's operations in that service area.

SECTION 6. That Section 41-4708, Idaho Code, be, and the same is hereby amended to read as follows:

41-4708. AVAILABILITY OF COVERAGE. (1) (a) Every small employer carrier shall, as a condition of ~~transacting business~~ offering health benefit plans in this state ~~with~~ to small employers, actively offer to small employers at least two (2) health benefit plans. One (1) health benefit plan offered by each small employer carrier shall be a basic health benefit plan and one (1) plan shall be a standard health benefit plan.

(b) (i) A small employer carrier shall issue a basic health benefit plan or a standard health benefit plan to any eligible small employer that applies for either such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with the provisions of this chapter.

(ii) In the case of a small employer carrier that establishes more than one (1) class of business pursuant to the provisions of section 41-4705, Idaho Code, the small employer carrier shall maintain and issue to eligible small employers at least one (1) basic health benefit plan and at least one (1) standard health benefit plan in each class of business so established. A small employer carrier may apply reasonable criteria in determining whether to accept a small employer into a class of business, provided that:

(A) The criteria are not intended to discourage or prevent acceptance of small employers applying for a basic or standard health benefit plan;

(B) The criteria are not related to the health status or claim experience of the small employer;

(C) The criteria are applied consistently to all small employers applying for coverage in the class of business; and

(D) The small employer carrier provides for the acceptance of all eligible small employers into one (1) or more classes of business.

The provisions of this paragraph shall not apply to a class of business into which the small employer carrier is no longer enrolling new small businesses.

(c) A small employer is eligible under the provisions of paragraph (b) of this section if it employed at least two (2) or more eligible employees within this state on at least fifty percent (50%) of its working days during the preceding calendar quarter.

(2) (a) A small employer carrier shall file with the director, in a format and manner prescribed by the director, the basic health benefit plans and the standard health benefit plans to be used by the carrier. A health benefit plan filed pursuant to the provisions of this paragraph may be used by a small employer carrier beginning thirty (30) days after it is filed unless the director disapproves its use.

(b) The director at any time may, after providing notice and an opportunity for a hearing to the small employer carrier, disapprove the continued use by a small employer carrier of a basic or standard health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

(3) Health benefit plans covering small employers shall comply with the following provisions:

(a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

(i) A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;

(ii) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or

(iii) A pregnancy existing on the effective date of coverage.

(b) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than thirty (30) days prior to the effective date of the new coverage. This paragraph does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan. In the case of replacement coverage from the same carrier, a preexisting condition will be covered for the first twelve (12) months for the lesser of:

(i) The benefits payable under the new policy; or

(ii) The benefits which would have been payable under the prior policy.

(c) A health benefit plan may exclude coverage for late enrollees for the greater of twelve (12) months or for a twelve (12) month preexisting condition exclusion; provided that if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed twelve (12) months from the date the individual enrolls for coverage under the health benefit plan.

(d) (i) Except as provided in subsection (d)(iv) of this section, requirements used by a small employer carrier in determining whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.

(ii) A small employer carrier may vary application of mini-

mum participation requirements and minimum employer contribution requirements only by the size of the small employer group.

(iii) In applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met.

(iv) A small employer carrier shall not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) (i) If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group or to only part of the group, except in the case of late enrollees as provided in paragraph (c) of this section.

(ii) A small employer carrier shall not modify a basic or standard health benefit plan with respect to a small employer or any eligible employee or dependent through riders, endorsements or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(4) (a) A small employer carrier shall not be required to offer coverage or accept applications pursuant to the provisions of subsection (1) of this section in the case of the following:

(i) To a small employer, where the small employer is not physically located in the carrier's established geographic service area;

(ii) To an employee, when the employee does not work or reside within the carrier's established geographic service area; or

(iii) Within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to the members of such groups because of its obligations to existing group policyholders and enrollees.

(b) A small employer carrier that cannot offer coverage pursuant to the provisions of subsection (4)(a)(iii) of this section may not offer coverage in the applicable area to new cases of employer groups with more than forty-nine (49) eligible employees or to any small employer groups until the later of one hundred eighty (180) days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to small employer groups.

(5) A small employer carrier shall not be required to provide coverage to small employers pursuant to the provisions of subsection (1) of this section for any period of time for which the director determines that requiring the acceptance of small employers in accor-

dance with the provisions of subsection (1) of this section would place the small employer carrier in a financially impaired condition.

(6) A small employer carrier shall not be required to comply with the provisions of this section until the director has approved or adopted the revised plan of operation as provided in section 41-4711, Idaho Code.

SECTION 7. That Section 41-4711, Idaho Code, be, and the same is hereby amended to read as follows:

41-4711. SMALL EMPLOYER AND INDIVIDUAL CARRIER REINSURANCE PROGRAM. (1) A reinsuring carrier shall be subject to the provisions of this section.

(2) There is hereby created a nonprofit entity to be known as the Idaho small employer and individual health reinsurance program.

(3) (a) The program shall operate subject to the supervision and control of the board. Subject to the provisions of subsection (3)(b) of this section, the board shall consist of eight (8) members appointed by the director plus the director or his designated representative, who shall serve as an ex-officio member of the board.

(b) (i) In selecting the members of the board, the director shall include representatives of small employers and small employer carriers, individual carriers and such other individuals determined to be qualified by the director. At least five (5) of the members of the board shall be representatives of reinsuring carriers and shall be selected from individuals nominated by small employer and individual carriers in this state pursuant to procedures and guidelines developed by the director.

(ii) In the event that the program becomes eligible for additional financing pursuant to the provisions of subsection (12)(c) of this section, the board shall be expanded to include two (2) additional members who shall be appointed by the director. In selecting the additional members of the board, the director shall choose individuals who represent carriers subject to assessment for additional financing identified in subsection (12)(c) of this section. The expansion of the board under the provisions of this subsection shall continue for the period that the program continues to be eligible for additional financing under the provisions of subsection (12)(c) of this section.

(c) The initial board members shall be appointed as follows: two (2) of the members to serve a term of two (2) years; three (3) of the members to serve a term of four (4) years; and three (3) of the members to serve a term of six (6) years. Subsequent board members shall serve for a term of three (3) years. A board member's term shall continue until his successor is appointed.

(d) A vacancy in the board shall be filled by the director. A board member may be removed by the director for cause.

(4) Within sixty (60) days of the effective date of this chapter, each small employer and individual 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 and individuals in this state in the previous calendar year.

(5) Within one hundred eighty (180) days after the appointment of the initial board, 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 within one hundred eighty (180) days after its appointment, 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, within one hundred eighty (180) days of the submission of the plan of operation by the board or within one hundred eighty (180) days of the expiration of the period of time for such submission by the board. 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 administering carrier, which carrier shall be a properly licensed or authorized carrier in this state, and setting forth the powers and duties of the administering carrier;

(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 basic health benefit plan or a standard 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 basic or standard 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.

(d) A reinsuring individual carrier may reinsure any eligible individual or dependent within a period of sixty (60) days following commencement of the coverage with the individual. A newly eligible dependent of an individual may be reinsured within sixty (60) days of the commencement of such coverage.

(e) (i) The program shall not reimburse a reinsuring carrier with respect to the claims of a reinsured individual, employee or dependent until the carrier has incurred an initial level of claims for such individual, employee or depend-

ent 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 shall 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~~f) A ~~small employer~~ reinsuring carrier may terminate reinsurance with the program for one (1) or more of the reinsured individuals, employees or dependents ~~of a small employer~~ on any anniversary of the health benefit plan.

(~~f~~g) 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 and individuals pursuant to this section. The methodology shall include a system for classification of small employers and individuals that reflects the types of case characteristics commonly used by small employer and individual carriers in the state. The methodology shall provide for the development of base reinsurance premium rates which shall be multiplied by the factors set forth in subsection (10)(b) of this section to determine the premium rates for the program. The base reinsurance premium rates shall be established by the board, subject to the approval of the director, and shall be set at levels which reasonably approximate gross premiums ~~and shall be~~ charged to small employers or individuals by small employer or individual 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 ~~follows:~~

~~(i) An entire small employer group may be reinsured for a rate that is one and one-half (1.5) times the base reinsurance premium rate for the group established pursuant to the provisions of this paragraph.~~

~~(ii) An eligible employee or dependent may be reinsured for a rate that is five (5) times the base reinsurance premium rate for the individual established pursuant to the provisions of this paragraph~~ 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) Prior to March 1 of each 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 the total program expenses by a fraction, the numerator of which shall be the carrier's total number of resident insured persons, including spouses and dependents, under the carrier's health benefit plans and policies or certificates of insurance for specific disease, 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 number of resident insured persons, including spouses and dependents, insured under all health benefit plans in this state.

(iii) In determining the number of resident insured persons under the provisions of subsection (12)(c)(ii) of this section, the director shall insure that each person who is covered by a health benefit plan or who is reinsured with excess insurance is counted once with respect to any assessment. For that purpose, the director shall require each carrier that obtains reinsurance for its insureds and certificate holders to include in its count of insureds and certificate holders all insureds and certificate holders whose coverage is reinsured in whole or in part. The director shall allow a carrier who is a reinsurer to exclude from its number of insureds and its certificate holders those that have been counted by the primary insurer for the purpose of determining its assessment under the provisions of this section.

(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 individuals or groups with the program until such time as it pays the assessments.

(13) 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.

(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 basic and standard 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 ~~on-going~~ ongoing service to the small employer and individual, the levels of compensation currently used in the industry and the overall costs of coverage to small employers and individuals 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 to the director, an annual report. The report shall state the number of resident persons insured under the carrier's health benefit plan.

SECTION 8. That Section 41-4712, Idaho Code, be, and the same is hereby amended to read as follows:

41-4712. HEALTH BENEFIT PLAN COMMITTEE. (1) The director shall appoint a health benefit plan committee. The committee shall be composed of representatives of carriers, small employers, health care providers and consumers.

(2) The committee shall recommend the form and level of coverages to be made available by small employer and individual carriers pursuant to sections 41-4708 and 41-5208, Idaho Code, with an emphasis on making coverage available for preventive care. The plan designs for the small employer market shall not necessarily be the same as the

plan designs for the individual market.

(3) The committee shall recommend benefit levels, cost sharing levels, exclusions and limitations for the basic health benefit plan and the standard health benefit plan. The committee shall also design a basic health benefit plan and a standard health benefit plan which contain benefit and cost sharing levels that are consistent with the basic method of operation and the benefit plans of health maintenance organizations, including any restrictions imposed by federal law.

(a) The plans recommended by the committee may include cost containment features such as:

(i) Utilization review of health care services, including review of medical necessity of hospital and physician services;

(ii) Case management;

(iii) Selective contracting with hospitals, physicians and other health care providers;

(iv) Reasonable benefit differentials applicable to providers that participate or do not participate in arrangements using restricted network provisions; and

(v) Other managed care provisions.

(b) The committee shall submit the health benefit plans described in paragraph (3)(a) of this section to the director for approval within one hundred eighty (180) days after the appointment of the committee. The director shall promulgate the approved plans pursuant to the provisions of section 41-4715, Idaho Code.

(c) Small employer carriers desiring to issue a basic health benefit plan or a standard health benefit plan differing from the form and level of coverage developed by the committee and approved by the director shall submit such plan to the committee for review to insure that such proposed basic or standard plan is commensurate with the benefit levels, cost-sharing levels, exclusions, and limitations for such a plan as developed by the committee pursuant to the provisions of this section. The committee shall forward the proposed plan to the director with a recommendation for approval or rejection.

SECTION 9. That Section 41-4713, Idaho Code, be, and the same is hereby amended to read as follows:

41-4713. PERIODIC MARKET EVALUATION. The board, in consultation with members of the committee, shall study and report at least every three (3) years to the director on the effectiveness of ~~this~~ chapters 47 and 52, title 41, Idaho Code. The report shall analyze the effectiveness of the chapters in promoting rate stability, product availability, and coverage affordability. The report may contain recommendations for actions to improve the overall effectiveness, efficiency and fairness of the small group and individual health insurance marketplace. The report shall address whether carriers and agents are fairly and actively marketing or issuing health benefit plans to small employers and individuals in fulfillment of the purposes of the chapters. The report may contain recommendations for market conduct or other regulatory standards or action.

SECTION 10. That Section 41-4714, Idaho Code, be, and the same is hereby amended to read as follows:

41-4714. WAIVER OF CERTAIN STATE LAWS. No law requiring the coverage of a health care service or benefit, or requiring the reimbursement, utilization or inclusion of a specific category of licensed health care practitioner, shall apply to a basic and/or standard health benefit plan delivered or issued for delivery to small employers and individuals in this state pursuant to the provisions of ~~this~~ chapters 47 and 52, title 41, Idaho Code.

SECTION 11. That Section 41-4716, Idaho Code, be, and the same is hereby amended to read as follows:

41-4716. STANDARDS TO ASSURE FAIR MARKETING. (1) Each small employer carrier shall actively market health benefit plan coverage, including the basic and standard health benefit plans, to eligible small employers in the state. If a small employer carrier denies coverage to a small employer on the basis of the health status or claims experience of the small employer or its employees or dependents, the small employer carrier shall offer the small employer the opportunity to purchase either a basic health benefit plan ~~and~~ or a standard health benefit plan.

(2) (a) Except as provided in subsection (2)(b) of this section, no small employer carrier or agent shall, directly or indirectly, engage in the following activities:

(i) Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer;

(ii) Encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(b) The provisions of subsection (2)(a) of this section shall not apply with respect to information provided by a small employer carrier or agent to a small employer regarding the established geographic service area or a restricted network provision of a small employer carrier.

(3) (a) Except as provided in subsection (2)(b) of this section, no small employer carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent that provides for or results in the compensation paid to an agent for the sale of a health benefit plan to be varied because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(b) The provisions of subsection (a) of this section shall not apply with respect to a compensation arrangement that provides compensation to an agent on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.

(4) A small employer carrier shall provide reasonable compensation, as provided under the plan of operation of the program, to an agent, if any, for the sale of a basic or standard health benefit plan.

(5) No small employer carrier may terminate, fail to renew or limit its contract or agreement of representation with an agent for any reason related to the health status, claims experience, occupation or geographic location of the small employers placed by the agent with the small employer carrier.

(6) No small employer carrier or agent may induce or otherwise encourage a small employer to separate or otherwise exclude an employee from health coverage or benefits provided in connection with the employee's employment.

(7) Denial by a small employer carrier of an application for coverage from a small employer shall be in writing and shall state the reason or reasons for the denial.

(8) The director may establish regulations setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to small employers in this state.

(9) (a) A violation of the provisions of this section by a small employer carrier or an agent shall be an unfair trade practice pursuant to the provisions of section 41-1302, Idaho Code.

(b) If a small employer carrier enters into a contract, agreement or other arrangement with a third-party administrator to provide administrative, marketing or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator shall be subject to the provisions of this section as if it were a small employer carrier.

SECTION 12. SEVERABILITY. The provisions of this act 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 chapter.

SECTION 13. EFFECTIVE DATE. The provisions of this act shall be effective July 1, 1994. An individual carrier shall not be required to comply with the provisions of sections 41-5205, 41-5206 and 41-5207, Idaho Code, until January 1, 1995.

Approved April 7, 1994.

CHAPTER 428
(S.B. No. 1560, As Amended)

AN ACT

RELATING TO PUBLIC SCHOOL FUNDING; REPEALING SECTIONS 33-1002E, 33-2005 AND 33-2005A, IDAHO CODE; AMENDING SECTION 33-1002, IDAHO CODE, TO INCORPORATE EXISTING SPECIAL PROGRAMS, SPECIAL ALLOCATIONS AND THE SALARY-BASED APPORTIONMENT, TO INCREASE THE LOCAL DISTRICT CONTRIBUTION CALCULATION TO FOUR TENTHS PERCENT, AND TO

REVISE THE COMPUTATION OF ELEMENTARY SUPPORT UNITS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1002B, IDAHO CODE, TO PROVIDE COURT-ORDERED PUPIL TUITION-EQUIVALENCY ALLOWANCE; AMENDING SECTION 33-1004, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004, IDAHO CODE, TO PROVIDE THE METHOD OF CALCULATING STAFF ALLOWANCE; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004A, IDAHO CODE, TO PROVIDE THE EXPERIENCE AND EDUCATION MULTIPLIER; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004C, IDAHO CODE, TO PROVIDE FOR CALCULATION OF THE BASE SALARY AND TO PROVIDE THE METHOD OF CALCULATING THE EDUCATION AND EXPERIENCE INDEX; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004D, IDAHO CODE, TO REQUIRE REPORTS FOR DISTRICT EMPLOYEES; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004E, IDAHO CODE, TO PROVIDE THE METHOD OF CALCULATING A SCHOOL DISTRICT'S SALARY-BASED APPORTIONMENT; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1004F, IDAHO CODE, TO PROVIDE THE METHOD OF DETERMINING THE BENEFIT APPORTIONMENT; AMENDING SECTION 33-1006, IDAHO CODE, TO INCLUDE THE EMPLOYER'S SHARE OF BENEFITS AS AN ALLOWABLE COST OF THE TRANSPORTATION SUPPORT PROGRAM; AMENDING SECTION 33-1007, IDAHO CODE, TO STRIKE FUNDING FROM THE EXCEPTIONAL EDUCATION SUPPORT PROGRAM; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1015, IDAHO CODE, TO REQUIRE CERTAIN EMPLOYER CONTRIBUTIONS FOR SCHOOL LUNCH PERSONNEL; AMENDING SECTION 59-1115, IDAHO CODE, TO STRIKE REQUIREMENTS FOR THE STATE BOARD OF EDUCATION TO BUDGET FOR AND PAY TO THE SCHOOL DISTRICTS THE EMPLOYER'S PORTION OF SOCIAL SECURITY TAX; REPEALING SECTION 59-1323, IDAHO CODE; AND PROVIDING AN EFFECTIVE DATE, PROVIDING IMPLEMENTING CONDITIONS TO BE MET, AND PROVIDING THAT THIS ACT SHALL BE NULL AND VOID IF SPECIFIED CONDITIONS ARE NOT MET.

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

SECTION 1. That Sections 33-1002E, 33-2005 and 33-2005A, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State ~~and County~~ Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues ~~and any balance or deficit in the county school fund~~ to determine the total state ~~and county~~ funds.

2. From the total state ~~and county~~ funds subtract the following amounts needed for ~~the state's share of~~ support of special programs provided by a school district:

a. Court-ordered pupil tuition-equivalency allowance as provided

in section 33-1002B, Idaho Code;

b. ~~T~~transportation support program as provided in section 33-1006, Idaho Code;~~,-and-the-amount-needed-for-the-state's--share of--the--exceptional-education-support-program-as-provided-in-section-33-1007,-Idaho-Code,~~

c. Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

d. The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;

e. The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

f. Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

g. Salary based apportionment calculated as provided in section 33-1004 through 33-1004F, Idaho Code;

h. For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of $300 per support unit;

i. For programs to provide basic curriculum necessary to enable students to enter academic or vocational post secondary education programs, an allocation of $300 per support unit for the 1994-95 school year only;

j. For provision of teacher supplies to facilitate classroom instruction, an allocation of $200 per support unit for the 1994-95 school year only; and

k. For expenditure as provided by the public school technology program, $10,400,000 for the 1994-95 school year;

l. For additional school innovation pilot project grants based on recommendations of the Idaho school reform committee, $2,000,000 for the 1994-95 school year; and

m. Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the state ~~and-county~~ educational support funds.

~~2~~3. Local Districts' Contribution Calculation.

a. Without including any allowance as a credit for prepaid taxes, as provided by section 63-1607, Idaho Code, the local districts' contribution shall be~~:~~

~~(1)--Thirty--hundredths--percent--(.30%)--during-fiscal-year,-1987-1988;~~

~~(2)--Thirty-one-and-one-half-hundredths-percent-(.315%)--during-fiscal-year,-1988-1989;~~

~~(3)--Thirty-three--and--one-tenth--hundredths-percent-(.331%) during-fiscal-year,-1989-1990;~~

~~(4)--Thirty-four-and-seven-tenths-hundredths-percent--(.347%) during-fiscal-year,-1990-1991;~~

~~(5)--Thirty-six-hundredths-percent-(.36%)-during-fiscal-year,-1991-1992~~ four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter,

of the total state adjusted market value for assessment purposes

for the previous year, and~~:~~

~~(1)--Thirty--hundredths--percent--(.30%)--during-fiscal-year, 1987-1988;~~

~~(2)--Thirty-one-and-one-half-hundredths-percent-(.315%)--during-fiscal-year,-1988-1989;~~

~~(3)--Thirty-three--and--one-tenth--hundredths-percent-(.331%) during-fiscal-year,-1989-1990;~~

~~(4)--Thirty-four-and-seven-tenths-hundredths-percent--(.347%) during-fiscal-year,-1990-1991;~~

~~(5)--Thirty-six-hundredths-percent-(.36%)-during-fiscal-year, 1991-1992~~ four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter,

of the equivalent valuation for the previous year as defined in section 33-1014, Idaho Code.

~~b.--The--educational--support--program--shall--provide--from-state sources-to-each-school-district-on-a-support-unit-basis,-an-amount that-is-equal-to,-or-greater-than,-the-amount-of-the-state's-share which-was-provided-during-the-preceding-fiscal-year.~~

~~3~~4. Educational Support Program Distribution Funds. Add the local districts' contribution, subsection 3. of this section, and the state ~~and--county~~ educational support program funds, subsection 2. of this section, together to secure the total educational support program distribution funds.

~~4~~5. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules ~~and-regulations~~ setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. In computing the average daily attendance the entire school year shall be used except that the twenty-eight (28) weeks having the ~~best~~ highest average daily attendance, not necessarily consecutive, may be used. When a school is closed because of storm, flood, failure of the heating plant, loss or damage to the school building, quarantine or order of any city, county or state health agency, or for reason believed by the board of trustees to be in the best interests of the health, safety or welfare of the pupils, the board of trustees having certified to the state department of education the cause and duration of such closure, the average daily attendance for such day or days of closure shall be considered as being the same as for the days when the school actually was in session. For illness or accident that necessitates an absence from school for more than ten (10) consecutive school days, the school district may include homebound students in its total attendance, provided that academic instruction has been given by appropriate certified professional staff employed by the district.

~~5~~6. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of elementary support units, computation of secondary support units, computation of kindergarten support units, ~~and~~ computation of exceptional education support units, and computation of alternative high school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support

units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

~~28-Weeks-ADA~~ Average Daily Attendance	~~ADA-Per-Unit~~ Attendance Divisor	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

~~28-Weeks-ADA~~ Average Daily Attendance	~~ADA-Per-Unit~~ Attendance Divisor	Minimum Units Allowed
300 or more ADA....		
	..23...grades 4,5 & 6....	15
	..23...grades 1,2 & 3....1993-94	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA..	20.....	8.4
110 to 159.99 ADA..	19.....	6.8
71.1 to 109.99 ADA..	16.....	4.7
51.7 to 71.0 ADA..	15.....	4.0
33.6 to 51.6 ADA..	13.....	2.8
16.6 to 33.5 ADA..	12.....	1.4
1.0 to 16.5 ADA..	n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

~~28-Weeks-ADA~~ Average Daily Attendance	~~ADA-Per-Unit~~ Attendance Divisor	Minimum Units Allowed
750 or more	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

~~28-Weeks-ADA~~ Average Daily Attendance	~~ADA-Per-Unit~~ Attendance Divisor	Minimum Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1

8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

COMPUTATION OF ALTERNATIVE HIGH SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative high school secondary support units shall be applicable only for programs approved by the state department of education following ~~the~~ rules ~~and regulations~~ established by the state board of education.

6~~7~~. State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations ~~for border district--approved contracts--as provided in section 33-1403, Idaho Code, and exceptional child approved contracts as provided in section 33-2004(2), Idaho Code~~ specified in subsection 2. of this section, by the total state support units to secure the state distribution factor per support unit.

~~7~~8. District Share of State ~~and County~~ Funds for Educational Support Program. Ascertain a district's share of state ~~and--county~~ funds for the educational support program as follows:

a. District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be the rate determined under subsection ~~2~~3. of this section.

b. District Support Units. The number of support units for each school district in the state shall be determined as follows:

(1) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the actual average daily attendance of all kindergarten, elementary and secondary students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for the subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(3) The total number of support units of the district shall

be the sum of the total support units for regular students, subsection ~~7~~8.b(1) of this section, and the support units allowance for the approved exceptional child program, subsection ~~7~~8.b(2) of this section.

c. ~~Border District Allowance. In any school district which abuts upon the border of another state, and the resident pupils of the district attend school in the other state as provided in section 33-1403, Idaho Code, the state superintendent of public instruction shall determine the approved costs necessary to meet the educational needs of the students. The approved costs shall be allowed as a part of the district's total educational support program.~~

~~d. Exceptional Child Approved Contract Allowance. In any district where resident exceptional children are educated by contract as provided in section 33-2004(2), Idaho Code, the state superintendent of public instruction shall determine the approved costs. The approved costs shall be allowed as a part of the district's total educational support program.~~

~~e. Court ordered Pupil Tuition Equivalency Allowance. Districts which educate pupils placed by Idaho court order in licensed group homes, agencies, institutions or juvenile detention facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.~~

~~f.~~ Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of ~~border district contracts and the approved amount for the exceptional child contracts~~ programs of the district provided in subsection 2. of this section to secure the district's total allowance for the educational support program.

g~~d~~. District Share. To secure the district's share of state ~~and county~~ apportionment, subtract the amount of the local district contribution calculation, subsection ~~7a~~ 3. of this section, from the amount of the total district allowance, subsection ~~7e~~ 8.c. of this section. The contract salary of every noncertificated teacher shall be subtracted from the district's share.

~~h. Exceptional Child Tuition Equivalency Allowance. Districts which educate school age exceptional children residing in state institutions, licensed and certified intermediate care facilities, or licensed private nonprofit residential facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per child. This district allowance shall be in addition to exceptional child unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.~~

SECTION 3. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1002B, Idaho Code, and to read as

follows:

33-1002B. COURT-ORDERED PUPIL TUITION-EQUIVALENCY ALLOWANCE. Districts which educate pupils placed by Idaho court order in licensed group homes, agencies, institutions or juvenile detention facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

SECTION 4. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-100~~4~~02E. PUPILS ATTENDING SCHOOL IN ANOTHER STATE. In any school district which abuts upon the border of another state, and the resident pupils of said district attend schools in the other state as provided in section 33-1403, Idaho Code, the total number of such pupils shall be considered as being in attendance in a separate school of their home district, kindergarten, elementary or secondary as the case may be.

SECTION 5. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004, Idaho Code, and to read as follows:

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

1. Determine the total support units for the district in the manner provided in section 33-1002 8.b.;

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

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

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

5. Additional conditions governing staff allowance:

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

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

(1) The instructional staff allowance shall be calculated

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

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

(3) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the 1994-95 school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in paragraphs (1) and (2) of this subsection, and by an additional one-half (1/2) instructional staff allowance.

c. Only instructional, administrative and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

SECTION 6. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004A, Idaho Code, and to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

EXPERIENCE AND EDUCATION

Years	BA	BA+12	BA+24	MA BA+36	MA+12 BA+48	MA+24 BA+60	MA+36 ES/DR
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710

Years	BA	BA+12	BA+24	MA BA+36	MA+12 BA+48	MA+24 BA+60	MA+36 ES/DR
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in an accredited public school or in an accredited private or parochial school shall be credited.

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed.

SECTION 7. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004C, Idaho Code, and to read as follows:

33-1004C. BASE SALARY -- EDUCATION AND EXPERIENCE INDEX. The base salary shall be reviewed annually by the legislature.

The statewide education and experience index (or state average index, or state index) is the average of all qualifying employees, instructional and administrative respectively. It is determined by totaling the index value for all qualifying employees and dividing by the number of employees.

SECTION 8. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004D, Idaho Code, and to read as follows:

33-1004D. REPORTING -- IDAHO BASIC EDUCATIONAL DATA SYSTEM. For each employee of the school district, a report shall be made in a format prescribed by the state superintendent of public instruction, which shall include sufficient identifying information to provide individual verification, education, teaching experience, and other district employment information. The form shall be filed with the state department of education not later than October 15 of each school year.

SECTION 9. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1004E, Idaho Code, and to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first

determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of $19,328. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004 2., Idaho Code. The resulting amount is the district's salary-based apportionment for instructional staff.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of $28,700. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004 3., Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply $15,000 by the district classified staff allowance determined as provided in section 33-1004 4., Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 10. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as section 33-1004F, Idaho Code, and to read as follows:

33-1004F. OBLIGATIONS TO RETIREMENT AND SOCIAL SECURITY BENEFITS. 1. Based upon the actual salary-based apportionment, as determined in section 33-1004E, Idaho Code, there shall be allocated that amount required to meet the employer's obligations to the public employee retirement system and to social security.

2. If a district's qualifying salaries total more than the district's salary-based apportionment, there shall be allocated an additional amount to meet the employer's obligation to the public employee retirement system and to social security equal to two-thirds (2/3) of the additional obligation for the school year 1994-95. If a

district's qualifying salaries total more than the district's salary-based apportionment, there shall be allocated an additional amount to meet the employer's obligation to the public employee retirement system and to social security equal to one-third (1/3) of the additional obligation for the school year 1995-96. Thereafter, the benefit allocation shall be based solely upon the provisions of subsection 1. of this section.

SECTION 11. That Section 33-1006, Idaho Code, be, and the same is hereby amended to read as follows:

33-1006. TRANSPORTATION SUPPORT PROGRAM. The state board of education shall determine what costs of transporting pupils, including maintenance, operation and depreciation of vehicles, insurance, salaries of drivers, and any other costs, shall be allowable in computing the transportation support program of school districts. Each school district shall maintain records and make reports as are required for the purposes of this section.

The transportation support program of a school district shall be based upon the allowable costs of:

1. Transporting public school pupils one and one-half (1 1/2) miles or more to school;

2. Transporting pupils less than one and one-half (1 1/2) miles as provided in section 33-1501, Idaho Code, when approved by the state board of education;

3. The costs of payments when transportation is not furnished, as provided in section 33-1503, Idaho Code;

4. The costs of providing transportation to and from approved school activities as may be approved by ~~regulations~~ rules of the state board of education;

5. ~~Anticipated---additional--costs--for--transporting--additional pupils-in-a-new-district-the-boundaries-of-which--have--been--extended and--which--as--a--newly-organized-district-is-operating-for-the-first time-in-the-year-when-transportation-allowances-authorized-are--apportioned--and--paid~~ The employer's share of contributions to the public employee retirement system and to social security.

The state's share of the transportation support program shall be eighty-five percent (85%) of allowable transportation costs of the district for the next preceding year.

SECTION 12. That Section 33-1007, Idaho Code, be, and the same is hereby amended to read as follows:

33-1007. EXCEPTIONAL EDUCATION ~~SUPPORT~~ PROGRAM REPORT. ~~The--state board--of--education-shall-determine-the-allowable-costs-for-providing approved-programs-of-education--for--exceptional--students,--including allowable-salaries-of-certified-and-approved-ancillary-personnel.~~

The state department of education shall report annually to the legislature the status of the exceptional education support program. The report shall include, but not be limited to, data concerning the number of persons served, both handicapped and gifted, the districts which operate programs and the nature of the program, the money distributed pursuant to the provisions of the exceptional education sup-

port program, and estimated number of persons, both handicapped and gifted, requiring but not receiving services. The report shall be filed not later than the fifteenth day of the legislative session and may include recommendations of the board relating to administrations of the program.

~~The--exceptional--education--support--program-of-a-school-district shall-be-based-on-an-amount-up-to-and-including-eighty--percent--(80%) of--the-allowable-salaries-of-certified-and-approved-ancillary-personnel,-as-provided-in-section-33-2002A,-Idaho-Code.~~

SECTION 13. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1015, Idaho Code, and to read as follows:

33-1015. STATE REVENUE MATCHING UNDER THE NATIONAL SCHOOL LUNCH ACT. In school districts where personnel are employed to operate a school lunch program partially funded under provisions of the national school lunch act, all employer paid contributions to the social security administration and Idaho's public employee retirement system for school lunch personnel shall be paid from funds received by school districts from the state general account appropriation for public school support.

SECTION 14. That Section 59-1115, Idaho Code, be, and the same is hereby amended to read as follows:

59-1115. EMPLOYER'S PORTION OF SOCIAL SECURITY TAX FOR SCHOOL DISTRICT PERSONNEL. ~~The-state-board-of-education-shall-include-in-the budget-request-for-general-account-appropriations-an-amount--necessary to--fund--the--employer's-share-of-social-security-tax-for-school-district-personnel.~~ The board of trustees of each class of school district, shall pay the employer's social security tax for its personnel, as required by federal law.

~~The--board--of--trustees-of-each-class-of-school-district,-at-such times-as-prescribed-by-the-department-of-education,-shall--certify--to the--department--of--education--the-amount-of-money-paid-by-the-school district-for-the-employer's-share-of-social-security-tax-for-its--personnel.~~ The department of education shall ~~reimburse~~ transmit to the school districts from the appropriation made for that purpose the amount determined in section 33-1004F, Idaho Code. ~~Any-deficiency-in the-amount-appropriated-for-that-purpose-shall-become--the--obligation of--the-state-of-Idaho.-Any-appropriated-amount-in-excess-of-the-total needed-for-that-purpose-shall-be-paid-into-the--public--school--income fund.~~

SECTION 15. That Section 59-1323, Idaho Code, be, and the same is hereby repealed.

SECTION 16. For 1994-95 only, the district share shall be adjusted to provide that each district receives not less than one hundred eight percent (108%) of the 1993-94 distribution of state educational dollars less the special program allocations in Sections

33-1002, 33-1007A and 33-2006, Idaho Code. The provisions of this act shall be in full force and effect on and after July 1, 1994, except that this act shall be null and void and of no force and effect if the appropriation to the educational support program is insufficient to guarantee that each individual school district receives an amount for 1994-95 which is at least equal to one hundred eight percent (108%) of the 1993-94 distribution of state educational dollars less the special program allocations in Sections 33-1002, 33-1007A and 33-2006, Idaho Code. A finding by the state superintendent of public instruction, based upon the calculations required by the provisions of Chapter 10, Title 33, Idaho Code, as amended by this act, against the actual appropriation, that the appropriation is insufficient, shall negate the provisions of this act.

Approved April 7, 1994.

CHAPTER 429
(S.B. No. 1561)

AN ACT

RELATING TO ELECTRICAL AND NATURAL CONSUMPTION FROM PUMPING; AMENDING SECTION 9-340, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 388, LAWS OF 1993, TO PROVIDE CERTAIN RECORDS OF THE PUBLIC UTILITIES COMMISSION TO BE EXEMPT FROM DISCLOSURE AND TO MAKE A TECHNICAL CORRECTION; AMENDING TITLE 62, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 13, TITLE 62, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE FOR SUBMISSION OF PUMPING DATA BY ELECTRIC AND NATURAL AND MANUFACTURED GAS SUPPLIERS, TO PROVIDE FOR ADOPTION OF PROCEDURES, TO PROVIDE FOR REIMBURSEMENT FOR DATA SUBMITTED AND TO PROVIDE FOR DATA TO BE SUPPLIED TO THE DEPARTMENT OF WATER RESOURCES.

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

SECTION 1. That Section 9-340, Idaho Code, as amended by Section 2, Chapter 388, Laws of 1993, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section mean information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable

by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

(4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(11) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records;

(f) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

(i) Such information shall be available upon request to a law enforcement agency; and

(ii) The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written

request shall include the name, date of birth and social security number of the person for whom the information is requested.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(13) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(14) Any personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(15) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

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

(18) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commis-

sion, under the provisions of section 63-3045B, Idaho Code.

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

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

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

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

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision making.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests sub-

mitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(31) (a) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the state auditor prior to release of the related final audit and all other records or materials in the possession of the office of the state auditor that would otherwise be confidential or exempt from disclosure.

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

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

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

(34) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home

address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(37) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(38) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(39) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(40) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual

amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided, however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(~~40~~1) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(42) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

SECTION 2. That Title 62, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 13, Title 62, Idaho Code, and to read as follows:

CHAPTER 13
ELECTRICAL AND NATURAL AND MANUFACTURED GAS CONSUMPTION FROM PUMPING

62-1301. LEGISLATIVE INTENT. The legislature of the state of Idaho recognizes that the issue of ground water depletion requires careful evaluation and study. Pertinent to such evaluation and study is the electric and natural and manufactured gas consumption of motors pumping water from wells.

62-1302. SUBMISSION OF PUMPING DATA BY ELECTRIC AND GAS SUPPLIERS. Upon receipt of a request from the Idaho department of water resources, filed in accordance with procedures of the Idaho public utilities commission, all suppliers of electric power, or natural or manufacturer gas, including those otherwise excepted under section 61-104, Idaho Code, shall submit an annual report after the close of the irrigation season. The report shall contain electric or gas consumption data for all accounts that are categorized as irrigation customers in geographic areas designated by the commission.

62-1303. ADOPTION OF PROCEDURES. The Idaho public utilities commission, after notice and hearing pursuant to its rules of practice and procedure, shall promulgate rules that are necessary to implement the procedures for submission of electric and gas consumption reports. Such procedures shall provide that only the Idaho department of water resources may request electric and gas consumption data. In implementing such rules, the commission shall limit the submission of data to customer name, service location, customer account number, and power or gas consumption.

62-1304. COMPENSATION TO SUPPLIERS. Electric or gas suppliers that are required to submit consumption reports shall be entitled to claim reimbursement for the preparation of the required data, under procedures established by the commission. Reimbursement for the costs incurred in preparing and submitting the data will be paid by the Idaho department of water resources.

62-1305. SUBMISSION OF DATA TO IDAHO DEPARTMENT OF WATER RESOURCES. As directed by the public utilities commission, electric and natural and manufactured gas suppliers shall forward consumption reports to the department of water resources in the manner prescribed by the commission rules.

Approved April 7, 1994.

CHAPTER 430
(S.B. No. 1562, As Amended)

AN ACT

RELATING TO THE INSTALLATION AND MAINTENANCE OF MEASURING DEVICES AND REPORTING REQUIREMENTS FOR SURFACE AND GROUND WATER USE; AMENDING SECTION 42-701, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO REQUIRE THE INSTALLATION AND MAINTENANCE OF MEASURING DEVICES ON ALL PUBLIC WATER DIVERSIONS INCLUDING GROUND WATER DIVERSIONS, TO PROVIDE THAT UPON APPROVAL OF THE DIRECTOR AN APPROPRIATOR MAY AS AN ALTERNATIVE TO INSTALLING AND MAINTAINING A MEASURING DEVICE AGREE TO SUPPLY THE DIRECTOR WITH TECHNICAL DATA THAT TOGETHER WITH POWER USAGE DATA MAY BE USED TO DETERMINE WATER DIVERSION AMOUNTS, TO PROVIDE ENFORCEMENT PROCEDURES AUTHORIZING THE DIRECTOR TO REQUIRE UPON WRITTEN NOTICE THAT ALL APPROPRIATORS OF THE PUBLIC WATERS OF THE STATE REPORT THEIR ANNUAL WATER DIVERSION AMOUNTS, TO PROVIDE FOR THE COLLECTION OF A MAXIMUM ANNUAL REPORTING FEE OF TWENTY-FIVE DOLLARS PER DIVERSION, TO PROVIDE THAT DEFINED DOMESTIC AND STOCK WATERING USES ARE EXEMPT FROM THE MEASURING DEVICE AND REPORTING REQUIREMENTS OF THE SECTION, AND TO PROVIDE FOR TECHNICAL CHANGES AND PROPER TERMINOLOGY CHANGES TO THE SECTION; AMENDING SECTION 42-237a, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO ORDER THE INSTALLATION AND MAINTENANCE OF APPROVED MEASURING DEVICES CONSISTENT WITH THE PURPOSES OF SECTION 42-701, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-701, Idaho Code, be, and the same is hereby amended to read as follows:

42-701. INSTALLATION AND MAINTENANCE OF CONTROLLING WORKS AND MEASURING DEVICES BY WATER APPROPRIATORS -- PROCEDURE UPON FAILURE TO INSTALL AND MAINTAIN -- MEASURING AND REPORTING OF DIVERSIONS -- PENALTY FOR FAILURE TO COMPLY -- REPORT FILING FEE. (1) The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources suitable headgates and controlling works at the point where the water is diverted.~~, which~~ Each device shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point. ~~and~~ Each such appropriator shall construct and maintain, when required by the director of the department

of water resources, a rating flume or other measuring device at such point as is most practical in such canal, ~~or~~ ditch, wellhead or pipeline for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said canal, ditch, wellhead or pipeline from the stream, well or other source of public water. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources.~~; provided, that should any~~

(2) If an appropriator determines that installation and maintenance of a measuring device required by the director would be burdensome for his diversion, the appropriator may, upon approval of the director, execute an agreement with the director and submit to the director such information and technical data concerning the diversion and pumping facilities as the director determines necessary to establish the relationship of power usage to water withdrawal by any pump used to divert public water.

(3) Any appropriator or user of the public waters of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices, or has not executed an agreement in lieu of a measuring device as provided in subsection (2) of this section, upon receiving ten (10) days' notice from the director of the department of water resources within which to begin ~~to~~ and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the director of the department of water resources may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water ~~claimed~~ owned by such appropriator or user until ~~he~~ the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist~~; provided, that such~~ or the director may take action pursuant to sections 42-311, 42-350 and 42-351, Idaho Code, to enforce the requirement to construct, install or maintain such devices.

(4) The appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending upon the size and extent thereof, when due diligence has been used in the prosecution of such work.

(5) All appropriators of the public waters of the state of Idaho who are given thirty (30) days' written notice by the director prior to the beginning of the irrigation season but no later than March 15 of any year, shall measure their water diversions and report said diversions annually thereafter on a form approved by the director of the department of water resources. Such report shall include: a legal description of the point of diversion, the number assigned to each water right diverting from the public waters of the state, the maximum authorized rate of diversion, the maximum rate at which diversions have been made during the reporting period, the total volume diverted during the reporting period, and a description of the physical changes to the diversion works that have been made during the reporting period. The appropriator shall furnish each year the depth to water in any well prior to commencement of pumping the depth to water during

the pumping period, and the pressure in the pipe distribution system during diversion if the well is not free flowing. Failure to comply with such measurement and reporting requirements or the willful submittal of false or inaccurate data is a violation of the law controlling use of water under the right and is subject to the enforcement and penalty provisions of sections 42-311, 42-350 and 42-351, Idaho Code.

(6) The director of the department of water resources shall collect a report processing fee not to exceed twenty-five dollars ($25.00) per diversion required to be reported, including those diversions covered by an agreement in lieu of a measuring device as provided in subsection (2) of this section. Such fee shall be submitted with the annual report of diversions and well data. All such fees received by the department shall be deposited in the water administration account created pursuant to section 42-238a, Idaho Code, for use by the department to collect, analyze and report water use information and to regulate water withdrawal and use.

(7) All domestic uses, as defined in section 42-111, Idaho Code, and all stock watering uses, as defined in section 42-1401A(12), Idaho Code, shall be exempt from the measuring device installation and maintenance, measuring and reporting requirements of this section.

SECTION 2. That Section 42-237a, Idaho Code, be, and the same is hereby amended to read as follows:

42-237a. POWERS OF THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES. In the administration and enforcement of this act and in the effectuation of the policy of this state to conserve its ground water resources, the director of the department of water resources is empowered:

a. To require all flowing wells to be so capped or equipped with valves that the flow of water can be completely stopped when the wells are not in use.

b. To require both flowing and nonflowing wells to be so constructed and maintained as to prevent the waste of ground waters through leaky wells, casings, pipes, fittings, valves or pumps either above or below the land surface.

c. To prescribe uniform scientific methods to determine water levels in and calculate waters withdrawn from wells.

d. To go upon all lands, both public and private, for the purpose of inspecting wells, pumps, casings, pipes, and fittings, including wells used or claimed to be used for domestic purposes.

e. To order the cessation of use of a well pending the correction of any defect that the director of the department of water resources has ordered corrected.

f. To commence actions to enjoin the illegal opening or excavation of wells or withdrawal or use of water therefrom and to appear and become a party to any action or proceeding pending in any court or administrative agency when it appears to the director of the department of water resources that the determination of such action or proceeding might result in depletion of the ground water resources of the state contrary to the public policy expressed in this act.

g. To supervise and control the exercise and administration of

all rights hereafter acquired to the use of ground waters and in the exercise of this power he may by summary order, prohibit or limit the withdrawal of water from any well during any period that he determines that water to fill any water right in said well is not there available. To assist the director of the department of water resources in the administration and enforcement of this act, and in making determinations upon which said orders shall be based, he may establish a ground water pumping level or levels in an area or areas having a common ground water supply as determined by him as hereinafter provided. Water in a well shall not be deemed available to fill a water right therein if withdrawal therefrom of the amount called for by such right would affect, contrary to the declared policy of this act, the present or future use of any prior surface or ground water right or result in the withdrawing of the ground water supply at a rate beyond the reasonably anticipated average rate of future natural recharge. However, the director may allow withdrawal at a rate exceeding the reasonably anticipated rate of future natural recharge if the director finds it is in the public interest and if it satisfies the following criteria:

1. A program exists or likely will exist which will increase recharge or decrease withdrawals within a time period acceptable to the director to bring withdrawals into balance with recharge.

2. Holders of senior rights to use ground water will not be caused thereby to pump water from below the established reasonable pumping level or levels.

In connection with his supervision and control of the exercise of ground water rights the director of the department of water resources shall also have the power to determine what areas of the state have a common ground water supply and whenever it is determined that any area has a ground water supply which affects the flow of water in any stream or streams in an organized water district, to incorporate such area in said water district; and whenever it is determined that the ground water in an area having a common ground water supply does not affect the flow of water in any stream in an organized water district, to incorporate such area in a separate water district to be created in the same manner provided for in section 42-604 of title 42, Idaho Code. The administration of water rights within water districts created or enlarged pursuant to this act shall be carried out in accordance with the provisions of title 42, Idaho Code, as the same have been or may hereafter be amended, except that in the administration of ground water rights either the director of the department of water resources or the watermaster in a water district or the director of the department of water resources outside of a water district shall, upon determining that there is not sufficient water in a well to fill a particular ground water right therein by order, limit or prohibit further withdrawals of water under such right as hereinabove provided, and post a copy of said order at the place where such water is withdrawn; provided, that land, not irrigated with underground water, shall not be subject to any allotment, charge, assessment, levy, or budget for, or in connection with, the distribution or delivery of water.

<u>h. To order the installation and maintenance of approved measuring devices consistent with the purposes of section 42-701, Idaho Code.</u>

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

Approved April 7, 1994.

CHAPTER 431
(S.B. No. 1568)

AN ACT

RELATING TO LICENSES TO CARRY CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REQUIRE A BACKGROUND CHECK AND TO PROVIDE THAT A PERSON TWENTY-ONE YEARS OF AGE OR OLDER ISSUED A LICENSE TO CARRY A CONCEALED WEAPON OR A LICENSE RENEWAL ON OR AFTER JULY 1, 1994, IS EXEMPT FROM ANY REQUIREMENT TO UNDERGO A RECORDS CHECK AT THE TIME OF PURCHASE OR TRANSFER OF A FIREARM FROM A FEDERALLY LICENSED FIREARMS DEALER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county shall, within sixty (60) days after the filing of an application by any person who has been a resident of the state for a period of at least ninety (90) days utilizing the criteria contained in section 34-107, Idaho Code, for such determination, issue a license to the person to carry a weapon concealed on his person within this state for four (4) years from the date of issue. The citizen's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law; or

(b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year; or

(c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year; or

(d) Is a fugitive from justice; or

(e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802; or

(f) Is currently suffering or has been adjudicated as follows, based on substantial evidence:

(i) Lacking mental capacity as defined in section 18-210, Idaho Code; or

(ii) Mentally ill as defined in section 66-317(m), Idaho Code; or

(iii) Gravely disabled as defined in section 66-317(n), Idaho Code; or

(iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code; or

(g) Is or has been discharged from the armed forces under dishonorable conditions; or

(h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years has elapsed since disposition or pardon has occurred prior to the date on which the application is submitted; or

(i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license; or

(j) Is an alien illegally in the United States; or

(k) Is a person who having been a citizen of the United States, has renounced his or her citizenship; or

(l) Is under twenty-one (21) years of age; or

(m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapon license.

The license application shall be in triplicate, in a form to be prescribed by the director of the department of law enforcement, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The sheriff ~~may~~ shall require~~, as he deems appropriate on a case by case basis,~~ the licensee to submit his fingerprints in addition to the other information required in this subsection. The sheriff shall submit the fingerprints to the department of law enforcement for a records check of state and national databases. The license application shall contain a warning substantially as follows:

CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, social security number and picture of the licensee, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. Upon issuing a license under the provisions of this section, the sheriff will mail a copy to the director of the department of law enforcement.

(2) The fee for original issuance of a four (4) year license shall be twenty dollars ($20.00) paid to the sheriff for the purpose of enforcing the provisions of this chapter. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints ~~levied~~ lawfully required by any state or federal agency or department, and the cost of materials for the license ~~levied~~ lawfully required by any state agency or department, which costs shall be paid to the state.

(3) The fee for renewal of the license shall be twelve dollars ($12.00), provided, that no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license and that the fee shall be distributed to the sheriff for

the purpose of enforcing the provisions of this chapter.

(4) A licensee may renew a license if the licensee applies for renewal within ninety (90) days before or after the expiration date of the license. The sheriff shall require the licensee applying for renewal to submit his fingerprints. The sheriff shall submit the fingerprints to the department of law enforcement for a records check of state and national databases. A renewal license shall be valid for a period of four (4) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars ($10.00) in addition to the renewal fee. The fee shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

(5) Notwithstanding the requirements of this section, the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, dirk knife, bowie knife, dagger, pistol, revolver, or any other deadly or dangerous weapon. The provisions of this section shall not apply to any lawfully possessed shotgun or rifle.

(8) A county sheriff, deputy sheriff, or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(9) While in any motor vehicle, inside the limits or confines of any city or inside any mining, lumbering, logging or railroad camp a person shall not carry a concealed weapon on or about his person without a license to carry a concealed weapon. This shall not apply to any pistol or revolver located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled or unloaded.

(10) In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrants the issuance of the license to carry a concealed weapon. Such issuance

shall be subject to limitations which the issuing authority deems appropriate.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons:

(a) Officials of a county, city, state of Idaho, the United States, peace officers, guards of any jail, court appointed attendants or any officer of any express company on duty;

(b) Employees of the adjutant general and military division of the state where military membership is a condition of employment when on duty;

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutor's and their deputies;

(d) Any person outside the limits of or confines of any city, or outside any mining, lumbering, logging or railroad camp, located outside any city, while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity;

(e) Any publicly elected Idaho official;

(f) Retired peace officers with at least ten (10) years of service with the state or a political subdivision as a peace officer and who have been certified by the peace officer standards and training council.

(13) When issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following, provided the applicant may select which one:

(a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state; or

(b) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course; or

(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the department of law enforcement; or

(d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency; or

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service; or

(f) Is licensed or has been licensed to carry a firearm in this state or a county or municipality, unless the license has been revoked for cause; or

(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.

(14) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.

(15) The sheriff of the county where the license was issued or

the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons:

(a) Fraud or intentional misrepresentation in the obtaining of a license; or

(b) Misuse of a license, including lending or giving a license to another person, or duplicating a license, or using a license with the intent to unlawfully cause harm to a person or property; or

(c) The doing of an act or existence of a condition which would have been grounds for the denial of the license by the sheriff; or

(d) The violation of any of the terms of this section; or

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

(16) A person twenty-one (21) years of age or older issued a license to carry a concealed weapon or a license renewal on or after July 1, 1994, is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer.

(17) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this section.

Approved April 7, 1994.

CHAPTER 432
(S.B. No. 1569, As Amended)

AN ACT

RELATING TO RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING CHAPTER 9, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-955, IDAHO CODE, TO PROVIDE FOR LICENSING OF A FACILITY UPON A SPLIT IN OWNERSHIP OF THE FACILITY.

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

SECTION 1. That Chapter 9, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-955, Idaho Code, and to read as follows:

23-955. SPLIT OWNERSHIP FACILITY -- LICENSING. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a premise that has been, because of a split in ownership of the original premises, separated from a ski resort facility already licensed under the provisions of section 23-903, Idaho Code. The provisions of section 23-903, Idaho Code, applicable to original licensing of a ski resort shall also apply to any license

issued under this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not transferable.

Approved April 7, 1994.

CHAPTER 433
(S.B. No. 1575)

AN ACT

RELATING TO GROUND WATER RECHARGE PROJECTS; AMENDING SECTION 42-234, IDAHO CODE, TO RECOGNIZE THAT GROUND WATER RECHARGE PROJECTS ENHANCE THE FULL REALIZATION OF IDAHO WATER RESOURCES, TO PROVIDE THE EFFECT OF RIGHTS ACQUIRED PURSUANT TO PERMIT OR LICENSE, TO RECOGNIZE THAT INCIDENTAL GROUND WATER RECHARGE BENEFITS ARE OBTAINED FROM THE DIVERSION AND USE OF WATER FOR VARIOUS BENEFICIAL PURPOSES, BUT THAT SUCH INCIDENTAL RECHARGE MAY NOT BE USED AS THE BASIS FOR CLAIM OF A SEPARATE OR EXPANDED WATER RIGHT AND TO PROVIDE WHAT IS IN THE PUBLIC INTEREST; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-234, Idaho Code, be, and the same is hereby amended to read as follows:

42-234. GROUND WATER RECHARGE PROJECTS ~~IN--ST.--ANTHONY---AND REXBURG,--IDAHO~~ -- AUTHORITY OF DEPARTMENT TO GRANT PERMIT. (1) It is the policy of the state of Idaho to promote and encourage the optimum development and augmentation of the water resources of this state. The legislature deems it essential, therefore, that water projects designed to advance this policy be given maximum support. The legislature finds that the ~~pilot~~ projects to recharge ground water basins in ~~the--vicinity--of--St.--Anthony--and--Rexburg,~~ Idaho, ~~has enhanced~~ may enhance the full realization of our water resource potential by furthering water conservation and increasing the water available for beneficial use. ~~In--view-of-the-demonstrated-feasibility-of-the-project and-in-recognition-of-the-benefits-to-be-derived-from-its-continuation and-expansion,-the-legislature-deems-it-in-the--public--interest--that this--project--be--continued-and-expansions-of-this-project-be-encouraged.~~

(2) The legislature hereby declares that the appropriation and underground storage of water for purposes of ground water recharge ~~in the-vicinity-of-St.-Anthony-and-Rexburg,-Idaho~~ shall constitute a beneficial use and hereby authorizes the department of water resources to issue ~~to-the-authorities-responsible-for-the-implementation-and-expansion-of-this-recharge-project~~ a permit for the appropriation and underground storage of unappropriated waters in ~~the~~ an area of recharge. The rights acquired pursuant to any permit and license obtained as herein authorized shall be secondary to all prior per-

fected water rights, including those water rights for power purposes that may otherwise be subordinated by contract entered into by the governor and Idaho power company on October 25, 1984, and ratified by the legislature pursuant to section 42-203B, Idaho Code. Any right so granted shall be subject to depletion for surface storage or direct uses after a period of years sufficient to amortize the investment of the appropriator.

(3) The legislature further recognizes that incidental ground water recharge benefits are often obtained from the diversion and use of water for various beneficial purposes. However, such incidental recharge may not be used as the basis for claim of a separate or expanded water right. Incidental recharge of aquifers which occurs as a result of water diversion and use that does not exceed the vested water right of water right holders is in the public interest. The values of such incidental recharge shall be considered in the management of the state's water resources.

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 April 7, 1994.

CHAPTER 434
(S.B. No. 1601)

AN ACT

RELATING TO SALARIES OF THE STATE TAX COMMISSION; AMENDING SECTION 63-508, IDAHO CODE, TO INCREASE THE SALARIES OF MEMBERS OF THE STATE TAX COMMISSION.

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

SECTION 1. That Section 63-508, Idaho Code, be, and the same is hereby amended to read as follows:

63-508. COMPENSATION. Each member of the commission shall devote full time to the performance of duties and shall receive an annual salary of ~~forty-eight~~ fifty-five thousand ~~four hundred and eighty-five~~ dollars ~~($48,485)~~ ($55,000) notwithstanding the provisions of section 59-510, Idaho Code.

Approved April 7, 1994.

CHAPTER 435
(S.B. No. 1602)

AN ACT

RELATING TO THE SALARIES OF STATE ELECTIVE OFFICERS; AMENDING SECTION 59-501, IDAHO CODE, TO ADJUST THE SALARIES OF THE STATE ELECTIVE

OFFICERS FOR THE TERM COMMENCING IN JANUARY OF 1995; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 59-501, Idaho Code, be, and the same is hereby amended to read as follows:

59-501. SALARIES OF STATE ELECTIVE OFFICERS -- REGULAR PAYMENT -- TRAVELING EXPENSES -- FEES PROPERTY OF STATE. The governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general and superintendent of public instruction shall, during their continuance in office, and commencing on the first Monday in January, 1991 receive for their services compensation as follows:

Governor, ~~$75,000~~85,000 per annum;

Lieutenant governor, ~~$20,000~~22,500 per annum;

Secretary of state, ~~$62,500~~67,500 per annum;

State auditor, ~~$62,500~~67,500 per annum; said salary to be audited by the legislative council;

Attorney general, ~~$67,500~~75,000 per annum;

State treasurer, ~~$62,500~~67,500 per annum; and

State superintendent of public instruction, ~~$62,500~~67,500 per annum.

Such compensation shall be paid on regular pay periods as due out of the state treasury, and shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office; but no increase of compensation shall affect the salaries of such officers during their present terms of office; provided, however, that the actual and necessary expenses of the governor, lieutenant governor, secretary of state, attorney general, state auditor, state treasurer, and superintendent of public instruction while traveling within the state, or between points within the state, in the performance of official duties, shall be allowed and paid by the state; not however, exceeding such sum as shall be appropriated for such purpose.

Actual and necessary subsistence expenses of the governor while traveling in connection with the performance of official duties are hereby expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code. (Standard Travel Pay and Allowance Act of 1949).

No officer named in this section shall receive, for the performance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them, of any official duty, shall be collected in advance and deposited with the state treasurer to the credit of the state.

SECTION 2. This act shall be in full force and effect on and after the first Monday in January, 1995.

Approved April 7, 1994.

CHAPTER 436
(S.B. No. 1603)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR INFORMATION TECHNOLOGY.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Information Technology Program, the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 1994, through June 30, 1995. These one-time moneys shall be used to connect state agencies to the Capitol Mall Fiber Optic Network as recommended by the Information Technology Advisory Council.

FOR:	
Operating Expenditures	$100,000
Capital Outlay	73,000
TOTAL:	$173,000
FROM:	
General Fund	$173,000

Approved April 7, 1994.

CHAPTER 437
(S.B. No. 1605)

AN ACT

APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1995; APPROPRIATING MONEYS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION/STATE DEPARTMENT OF EDUCATION FOR THE IDAHO COUNCIL ON ECONOMIC EDUCATION; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO THE APPROPRIATION TO THE IDAHO COUNCIL ON ECONOMIC EDUCATION; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education the following amounts, to be expended according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$2,397,000	$1,324,800	$33,800	$ 309,300	$ 4,064,900
Federal Grant Fund	2,450,000	1,792,600		73,285,000	77,527,600
Public Instruction Fund	189,800	880,500		600	1,070,900
Driver Education Fund	110,900	134,000		1,879,100	2,124,000
Data Processing Services Fund	129,000	38,500			167,500
Student Tuition Recovery Fund		5,000		45,000	50,000
Agriculture in the Classroom Fund				11,800	11,800
TOTAL	$5,276,700	$4,175,400	$33,800	$75,530,800	$85,016,700

SECTION 2. There is hereby appropriated to the Superintendent of Public Instruction/State Department of Education for the Idaho Council on Economic Education the following amount, to be expended according to the designated expense class from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Trustee and Benefit Payments	$55,000
FROM:	
General Fund	$55,000

SECTION 3. It is legislative intent that the appropriation in Section 2 of this act shall be administered as a "challenge grant" to be matched dollar-for-dollar with funds from private sources.

SECTION 4. There is hereby reappropriated to the Superintendent of Public Instruction, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Superintendent of Public Instruction for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 5. The reappropriation granted in Section 4 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriation in Section 2 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies,

the amount reappropriated in Section 4 of this act shall be in the proportion that the reappropriation for the Superintendent of Public Instruction bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 6. It is legislative intent that an amount, not to exceed $1,000 of the General Fund moneys appropriated in Section 1 of this act, may be used at the discretion of the Superintendent of Public Instruction to assist in defraying expenses relating to or resulting from the discharge of his official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved April 7, 1994.

CHAPTER 438
(S.B. No. 1606)

AN ACT

APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1995; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Vocational Education the following amount, to be expended by the Division of Vocational Education for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND SUPERVISION:				
FROM:				
General Fund	$1,382,000	$248,500		$ 1,630,500
Federal Grant Fund	101,000	149,000		250,000
TOTAL	$1,483,000	$397,500		$ 1,880,500
B. GENERAL PROGRAMS:				
FROM:				
General Fund	$ 185,100	$ 33,300	$ 5,571,800	$ 5,790,200
Federal Grant Fund	183,100	20,400	4,813,000	5,016,500
Hazardous Materials/ Waste Enforcement Fund			66,800	66,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Hazardous Waste, Emergency and Monitoring Fund			61,900	61,900
TOTAL	$ 368,200	$ 53,700	$10,513,500	$10,935,400
C. POST-SECONDARY PROGRAMS:				
FROM:				
General Fund			$21,233,900	$21,233,900
Unrestricted Fund			189,800	189,800
TOTAL			$21,423,700	$21,423,700
D. DISPLACED HOMEMAKER PROGRAM:				
FROM:				
General Fund			$ 30,600	$ 30,600
Displaced Homemaker Fund		$ 5,000	135,000	140,000
Federal Grant Fund			341,300	341,300
TOTAL		$ 5,000	$ 506,900	$ 511,900
E. IDAHO STATE COUNCIL ON VOCATIONAL EDUCATION:				
FROM:				
Federal Grant Fund	$ 100,000	$ 50,000		$ 150,000
GRAND TOTAL	$1,951,200	$506,200	$32,444,100	$34,901,500

SECTION 2. There is hereby reappropriated to the State Board of Vocational Education for the Division of Vocational Education, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Division of Vocational Education for the period July 1, 1993, through June 30, 1994, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 3. The reappropriation granted in Section 2 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is zero, the reappropriation in Section 2 of this act is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1994, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 of this act shall be in the

proportion that the reappropriation for the Division of Vocational Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved April 7, 1994.

CHAPTER 439
(S.B. No. 1608)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF FAMILY AND CHILDREN SERVICES AND THE DIVISION OF COMMUNITY REHABILITATION FOR FISCAL YEAR 1995, AND IDENTIFYING PROGRAM ENHANCEMENTS; PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL FUND; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AND AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Family and Children Services and the Division of Community Rehabilitation the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 1994, through June 30, 1995, and identifying program enhancements:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
I. DIVISION OF FAMILY AND CHILDREN'S SERVICES:						
A. SOCIAL SERVICES:						
FROM:						
General Fund	$ 7,552,200	$2,522,600		$2,929,100		$13,003,900
Cooperative Welfare Fund (Other)	392,600	1,394,000		977,200		2,763,800
Cooperative Welfare Fund (Federal)	8,243,800	2,371,500		171,400		10,786,700
TOTAL	$16,188,600	$6,288,100		$4,077,700		$26,554,400

The appropriation in this section for Social Services contains the following program enhancements: $248,800 of the General Fund appropriation is provided for the purpose of increasing foster parent reimbursement rates by twenty dollars per month for all children under the age of thirteen, and by fifty dollars per month for those children over the age of thirteen.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
B. SUBSTANCE ABUSE:						
FROM:						
General Fund	$ 79,900	$ 48,900		$1,028,300		$1,157,100
Cooperative Welfare Fund (Other)		9,000				9,000
Alcoholism Treatment Fund	146,800	49,000		1,513,100		1,708,900
Cooperative Welfare Fund (Federal)	369,300	1,234,700		2,199,600		3,803,600
TOTAL	$596,000	$1,341,600		$4,741,000		$6,678,600

The appropriation in this section for Substance Abuse contains legislative intent that $100,000 of the appropriation be provided solely for the purchase of radio and television advertising, targeted to adolescents, with factual messages concerning alcohol, drugs, and tobacco. At least half of this amount shall be used for messages on alcohol.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
C. STATE YOUTH SERVICES CENTER:						
FROM:						
General Fund					$ 5,406,400	$ 5,406,400
Cooperative Welfare Fund (Other)					462,100	462,100
State Youth Training Center Income Fund					564,000	564,000
Cooperative Welfare Fund (Federal)					169,100	169,100
TOTAL					$ 6,601,600	$ 6,601,600
D. JUVENILE JUSTICE:						
FROM:						
General Fund	$ 1,404,400	$ 1,303,000		$ 2,978,400		$ 5,685,800
Cooperative Welfare Fund (Other)				134,900		134,900
Idaho Youth Corrections Fund		140,000				140,000
Cooperative Welfare Fund (Federal)		108,100		2,242,700		2,350,800
TOTAL	$ 1,404,400	$ 1,551,100		$ 5,356,000		$ 8,311,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
E. DETENTION AND ASSESSMENT:						
FROM:						
General Fund	$ 790,800	$ 541,800				$ 1,332,600
F. FAMILY SELF-SUPPORT:						
FROM:						
General Fund	$ 963,100	$ 771,500		$ 2,528,900		$ 4,263,500
Cooperative Welfare Fund (Federal)	1,325,900	1,759,500		6,586,400		9,671,800
TOTAL	$ 2,289,000	$ 2,531,000		$ 9,115,300		$ 13,935,300
DIVISION TOTAL	$21,268,800	$12,253,600		$23,290,000	$ 6,601,600	$ 63,414,000
II. DIVISION OF COMMUNITY REHABILITATION:						
A. COMMUNITY DEVELOPMENTAL DISABILITIES:						
FROM:						
General Fund	$ 6,375,500	$ 1,435,500		$ 1,687,600		$ 9,498,600
Cooperative Welfare Fund (Other)	1,858,700	24,900		31,400		1,915,000
Cooperative Welfare Fund (Federal)	1,097,900	523,900		1,771,400		3,393,200
TOTAL	$ 9,332,100	$ 1,984,300		$ 3,490,400		$ 14,806,800

The appropriation in this section for Community Developmental Disabilities contains the following program enhancements:

(1) $200,000 of the General Fund and $210,000 of the Cooperative Welfare Fund (Federal) is provided for the incremental implementation of a comprehensive early intervention system for serving all infants and toddlers with developmental delay, or who are at risk of delay.

(2) $200,000 of the General Fund appropriation is provided for Community Work and Supported Employment Services. These funds shall be distributed equally among the seven Health and Welfare Regions.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
B. IDAHO STATE SCHOOL AND HOSPITAL:						
FROM:						
General Fund					$ 5,899,800	$ 5,899,800
Cooperative Welfare Fund (Other)					487,700	487,700
Medical Assistance Fund					3,500	3,500
Cooperative Welfare Fund (Federal)					14,234,000	14,234,000
TOTAL					$20,625,000	$ 20,625,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
C. COMMUNITY MENTAL HEALTH SERVICES:						
FROM:						
General Fund	$ 7,385,000	$ 1,354,100		$ 585,500		$ 9,324,600
Cooperative Welfare Fund (Other)	3,882,900	534,800	$110,700	7,400		4,535,800
Cooperative Welfare Fund (Federal)	129,300	988,900		93,400		1,211,600
TOTAL	$11,397,200	$ 2,877,800	$110,700	$ 686,300		$ 15,072,000

The appropriation in this section for Community Mental Health contains the following program enhancements: $600,000 of the General Fund and $110,700 of the Cooperative Welfare Fund (Other) is provided to establish Assertive Community Treatment teams in each Health and Welfare Region.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
D. STATE HOSPITAL NORTH:						
FROM:						
General Fund					$ 3,847,200	$ 3,847,200
Cooperative Welfare Fund (Other)					282,300	282,300
Alcoholism Treatment Fund					319,900	319,900
State Hospital North Income Fund					665,300	665,300
Cooperative Welfare Fund (Federal)					74,600	74,600
TOTAL					$ 5,189,300	$ 5,189,300
E. STATE HOSPITAL SOUTH:						
FROM:						
General Fund					$ 8,230,500	$ 8,230,500
Cooperative Welfare Fund (Other)					2,100,000	2,100,000
State Hospital South Income Fund					1,973,000	1,973,000
TOTAL					$12,303,500	$ 12,303,500
F. STATE ECONOMIC OPPORTUNITY OFFICE:						
FROM:						
General Fund	$ 105,200	$ 11,800				$ 117,000
Cooperative Welfare Fund (Federal)	441,900	152,300		$12,821,900		13,416,100
TOTAL	$ 547,100	$ 164,100		$12,821,900		$ 13,533,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
G. ADULT SERVICES:						
FROM:						
General Fund	$ 1,226,700	$ 150,000		$ 71,000		$ 1,447,700
Cooperative Welfare Fund (Other)	190,900	27,500				218,400
TOTAL	$ 1,417,600	$ 177,500		$ 71,000		$ 1,666,100
DIVISION TOTAL	$22,694,000	$ 5,203,700	$110,700	$17,069,600	$38,117,800	$ 83,195,800
GRAND TOTAL	$43,962,800	$17,457,300	$110,700	$40,359,600	$44,719,400	$146,609,800

SECTION 2. As appropriated, the State Auditor shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. Notwithstanding any other provision of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources.

SECTION 4. There is hereby reappropriated to the Department of Health and Welfare for the Division of Family and Children Services and the Division of Community Rehabilitation any unexpended and unencumbered balances of the Cooperative Welfare Fund moneys, as appropriated in fiscal year 1994 for the Division of Family and Children Services and the Division of Community Rehabilitation, to be used for nonrecurring expenditures only for the period July 1, 1994, through June 30, 1995.

SECTION 5. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for the Division of Family and Children Services and the Division of Community Rehabilitation is hereby authorized to expend all receipts collected in the Division of Family and Children Services and the Division of Community Rehabilitation as noncognizable funds for the period July 1, 1994, through June 30, 1995.

Approved April 7, 1994.

CHAPTER 440
(S.B. No. 1614)

AN ACT

RELATING TO PUBLIC SCHOOL FUNDING; AMENDING SECTION 33-1002, IDAHO CODE, AS AMENDED BY SENATE BILL NO. 1560, AS AMENDED, BY THE SECOND REGULAR SESSION OF THE FIFTY-SECOND IDAHO LEGISLATURE, TO INCORPORATE THE EXCEPTIONAL CHILD TUITION-EQUIVALENCY ALLOWANCE; AND AMENDING SECTION 33-1002B, IDAHO CODE, AS ADDED BY SENATE BILL NO. 1560, AS AMENDED, BY THE SECOND REGULAR SESSION OF THE FIFTY-SECOND IDAHO LEGISLATURE, TO INCLUDE THE EXCEPTIONAL CHILD TUITION-EQUIVALENCY ALLOWANCE.

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

SECTION 1. That Section 33-1002, Idaho Code, as amended by Senate Bill No. 1560, as amended, by the Second Regular Session of the Fifty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

1. State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

2. From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

a. ~~Court-ordered--p~~Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

b. Transportation support program as provided in section 33-1006, Idaho Code;

c. Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

d. The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;

e. The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

f. Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

g. Salary based apportionment calculated as provided in section 33-1004 through 33-1004F, Idaho Code;

h. For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of $300 per support unit;

i. For programs to provide basic curriculum necessary to enable students to enter academic or vocational post secondary education programs, an allocation of $300 per support unit for the 1994-95

school year only;

j. For provision of teacher supplies to facilitate classroom instruction, an allocation of $200 per support unit for the 1994-95 school year only; and

k. For expenditure as provided by the public school technology program, $10,400,000 for the 1994-95 school year;

l. For additional school innovation pilot project grants based on recommendations of the Idaho school reform committee, $2,000,000 for the 1994-95 school year; and

m. Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the state educational support funds.

3. Local Districts' Contribution Calculation.

a. Without including any allowance as a credit for prepaid taxes, as provided by section 63-1607, Idaho Code, the local districts' contribution shall be four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter,

of the total state adjusted market value for assessment purposes for the previous year, and four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter,

of the equivalent valuation for the previous year as defined in section 33-1014, Idaho Code.

4. Educational Support Program Distribution Funds. Add the local districts' contribution, subsection 3. of this section, and the state educational support program funds, subsection 2. of this section, together to secure the total educational support program distribution funds.

5. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. In computing the average daily attendance the entire school year shall be used except that the twenty-eight (28) weeks having the highest average daily attendance, not necessarily consecutive, may be used. When a school is closed because of storm, flood, failure of the heating plant, loss or damage to the school building, quarantine or order of any city, county or state health agency, or for reason believed by the board of trustees to be in the best interests of the health, safety or welfare of the pupils, the board of trustees having certified to the state department of education the cause and duration of such closure, the average daily attendance for such day or days of closure shall be considered as being the same as for the days when the school actually was in session. For illness or accident that necessitates an absence from school for more than ten (10) consecutive school days, the school district may include homebound students in its total attendance, provided that academic instruction has been given by appropriate certified professional staff employed by the district.

6. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of elementary support units, computation of secondary support units, compu-

tation of kindergarten support units, computation of exceptional education support units, and computation of alternative high school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA....		
	..23...grades 4,5 & 6....	15
	..23...grades 1,2 & 3....1993-94	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA..	20.....	8.4
110 to 159.99 ADA..	19.....	6.8
71.1 to 109.99 ADA..	16.....	4.7
51.7 to 71.0 ADA..	15.....	4.0
33.6 to 51.6 ADA..	13.....	2.8
16.6 to 33.5 ADA..	12.....	1.4
1.0 to 16.5 ADA..	n/a.....	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more	18.5.....	47
400 - 749.99 ADA....	16.....	28
300 - 399.99 ADA....	14.5.....	22
200 - 299.99 ADA....	13.5.....	17
100 - 199.99 ADA....	12.....	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

COMPUTATION OF ALTERNATIVE HIGH SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12.....	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative high school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education.

7. State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection 2. of this section, by the total state support units to secure the state distribution factor per support unit.

8. District Share of State Funds for Educational Support Program. Ascertain a district's share of state funds for the educational support program as follows:

a. District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be the rate determined under subsection 3. of this section.

b. District Support Units. The number of support units for each school district in the state shall be determined as follows:

(1) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the actual average daily attendance of all kindergarten, elementary and secondary students approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for the sub-

section shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(3) The total number of support units of the district shall be the sum of the total support units for regular students, subsection 8.b(1) of this section, and the support units allowance for the approved exceptional child program, subsection 8.b(2) of this section.

c. Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection 2. of this section to secure the district's total allowance for the educational support program.

d. District Share. To secure the district's share of state apportionment, subtract the amount of the local district contribution calculation, subsection 3. of this section, from the amount of the total district allowance, subsection 8.c. of this section. The contract salary of every noncertificated teacher shall be subtracted from the district's share.

SECTION 2. That Section 33-1002B, Idaho Code, as amended by Senate Bill No. 1560, as amended, by the Second Regular Session of the Fifty-second Idaho Legislature, be, and the same is hereby amended, to read as follows:

33-1002B. ~~COURT-ORDERED~~ PUPIL TUITION-EQUIVALENCY ALLOWANCES. 1. Districts which educate pupils placed by Idaho court order in licensed group homes, agencies, institutions or juvenile detention facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

2. Districts which educate school age exceptional children residing in state institutions, licensed and certified intermediate care facilities, or licensed private nonprofit residential facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per child. This district allowance shall be in addition to exceptional child unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

Approved April 7, 1994.

CHAPTER 441
(S.B. No. 1615)

AN ACT

EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO APPROPRIATIONS IN THIS ACT; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR DESIGNATED AGENCIES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNEN-

CUMBERED GENERAL FUND BALANCES.

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

SECTION 1. It is legislative intent that the expenditure of funds appropriated in Section 2 of this act shall be at the direction of the State Council for Technology in Learning and in support of the Idaho Education Technology Initiative, Chapter 48, Title 33, Idaho Code.

SECTION 2. There is hereby appropriated to the State Board of Education and the Board of Regents for the University of Idaho for the designated agencies, the following amounts, from the general fund, to be expended for the Idaho Education Technology Initiative, for the period July 1, 1994, through June 30, 1995:

A. BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, UNIVERSITY OF IDAHO AND LEWIS-CLARK STATE COLLEGE:	
FROM:	
General Fund	$ 804,000
B. IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM:	
FROM:	
General Fund	$ 957,300
C. AGRICULTURAL RESEARCH AND EXTENSION:	
FROM:	
General Fund	$ 20,000
D. STATE LIBRARY BOARD:	
FROM:	
General Fund	$ 398,500
E. DIVISION OF VOCATIONAL EDUCATION:	
FROM:	
General Fund	$ 600,000
F. COMMUNITY COLLEGES:	
FROM:	
General Fund	$ 150,600
TOTAL	$2,930,400

SECTION 3. There is hereby reappropriated to the State Board of Education, any unexpended and unencumbered balances of the General Funds appropriated in this act, to be expended at the direction of the State Council for Technology in Learning for the period July 1, 1995, through June 30, 1996.

Approved April 7, 1994.

CHAPTER 442
(S.B. No. 1616)

AN ACT

EXPRESSING LEGISLATIVE INTENT REGARDING PHASE THREE OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM ENHANCEMENT; AND APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR, THE DEPARTMENT OF COMMERCE, THE DEPARTMENT OF ADMINISTRATION, THE DEPARTMENT OF REVENUE AND TAXA-

TION, THE DEPARTMENT OF FINANCE, THE DEPARTMENT OF INSURANCE, THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES, THE DEPARTMENT OF AGRICULTURE, THE SELF-GOVERNING AGENCIES, THE DEPARTMENT OF CORRECTION, THE DEPARTMENT OF LAW ENFORCEMENT, THE SUPERINTENDENT OF PUBLIC INSTRUCTION, THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS FOR THE UNIVERSITY OF IDAHO, THE DEPARTMENT OF HEALTH AND WELFARE, THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS, THE INDUSTRIAL COMMISSION, THE DEPARTMENT OF FISH AND GAME, THE DEPARTMENT OF PARKS AND RECREATION, THE DEPARTMENT OF LANDS, THE DEPARTMENT OF WATER RESOURCES, THE IDAHO TRANSPORTATION DEPARTMENT, THE LIEUTENANT GOVERNOR, THE ATTORNEY GENERAL, THE STATE TREASURER, THE STATE AUDITOR, THE SECRETARY OF STATE, THE PUBLIC UTILITIES COMMISSION, THE LEGISLATIVE COUNCIL AND THE SUPREME COURT.

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

SECTION 1. It is legislative intent that the amounts appropriated in the following sections shall be used as the employer share of increased benefit costs related to changes in the Public Employee Retirement System benefit formula, as implemented by House Bill No. 896, of the Second Regular Session, Fifty-second Idaho Legislature. The appropriations are summarized as follows:

FROM:	
General Fund	$2,416,600
Dedicated Funds	850,200
Federal Funds	484,200
Other Funds	104,700
TOTAL	$3,855,700

SECTION 2. There is hereby appropriated to the Office of the Governor the following amounts, to be expended for the designated agencies from the listed funds, for the period July 1, 1994, through June 30, 1995:

A. GOVERNOR'S OFFICE:	
FROM:	
General Fund	$ 4,700
Hazardous Waste Training, Emergency and Monitoring Fund	700
Federal Grant Fund	800
Miscellaneous Revenue Fund	800
TOTAL	$ 7,000
B. DIVISION OF FINANCIAL MANAGEMENT:	
FROM:	
General Fund	$ 5,900
Federal Grant Fund	400
Miscellaneous Revenue Fund	300
TOTAL	$ 6,600
C. PUBLIC EMPLOYEE RETIREMENT SYSTEM:	
FROM:	
PERSI Administrative Fund	$ 9,000
D. LIQUOR DISPENSARY:	
FROM:	
Liquor Control Fund	$ 28,300

E. STATE INSURANCE FUND:
FROM:

Petroleum Clean Water Trust Fund	$ 3,300
State Insurance Fund	32,500
TOTAL	$ 35,800

F. ENDOWMENT FUND INVESTMENT BOARD:
FROM:

General Fund	$ 1,200
Professional Services Fund	400
TOTAL	$ 1,600

G. OFFICE ON AGING:
FROM:

General Fund	$ 3,600

H. HUMAN RIGHTS COMMISSION:
FROM:

General Fund	$ 1,700
Federal Grant Fund	500
TOTAL	$ 2,200

I. COMMISSION FOR THE BLIND:
FROM:

General Fund	$ 3,700
Randolph Sheppard Fund	200
Rehabilitation Revenue and Refunds Fund	200
Federal Grant Fund	4,200
TOTAL	$ 8,300

J. COMMISSION ON WOMEN'S PROGRAMS:
FROM:

General Fund	$ 100

K. MILITARY DIVISION:
FROM:

General Fund	$ 9,200
Indirect Cost Recovery Fund	500
Federal Grant Fund	24,700
Miscellaneous Revenue Fund	100
TOTAL	$ 34,500
GRAND TOTAL	$ 137,000

SECTION 3. There is hereby appropriated to the Department of Commerce the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:
FROM:

General Fund	$ 8,000
Tourism Promotion Fund	2,100
Federal Grant Fund	2,200
TOTAL	$ 12,300

SECTION 4. There is hereby appropriated to the Department of Administration the following amounts, to be expended for the designated agencies from the listed funds, for the period July 1, 1994, through June 30, 1995:

A. DEPARTMENT OF ADMINISTRATION:
FROM:

General Fund	$	7,000
Permanent Building Fund		5,700
Administration and Accounting Services Fund		18,200
Employee Assistance Program Fund		100
Federal Surplus Property Revolving Fund		1,500
Employee Group Insurance Fund		1,100
Retained Risk Fund		1,500
TOTAL	$	35,100

B. PERSONNEL COMMISSION:
FROM:

Personnel Commission Fund	$	9,000
GRAND TOTAL	$	44,100

SECTION 5. There is hereby appropriated to the Department of Revenue and Taxation the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:
FROM:

General Fund	$	72,100
Federal Grant Fund		300
Administration and Accounting Fund		800
Administration and Accounting Services to Transportation Fund		7,400
Abandoned Property Trust - Unclaimed Property Fund		1,600
TOTAL	$	82,200

SECTION 6. There is hereby appropriated to the Department of Finance the following amount, to be expended from the listed fund, for the period July 1, 1994, through June 30, 1995:
FROM:

State Regulatory Fund	$	11,900

SECTION 7. There is hereby appropriated to the Department of Insurance the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:
FROM:

Self-Governing Operating Fund	$	12,600
Self-Governing State Fire Marshal Fund		2,300
Federal Grant Fund		500
TOTAL	$	15,400

SECTION 8. There is hereby appropriated to the Department of Labor and Industrial Services the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:
FROM:

General Fund	$	2,400
Electrical Fund		9,600
Building Fund		2,400
Plumbing Fund		5,300
Manufactured Housing Fund		300

Federal Grant Fund	500
Miscellaneous Revenue Fund	3,000
TOTAL	$ 23,500

SECTION 9. There is hereby appropriated to the Department of Agriculture the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 12,100
Water Pollution Control Fund	800
Agriculture in the Classroom Fund	100
Agricultural Inspection Fund	5,400
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	45,300
Agricultural Fees - Sheep Industry Regulation Fund	600
Agricultural Fees - Commercial Feed and Fertilizer Fund	1,500
Agricultural Fees - Pesticides Fund	4,000
Agricultural Fees - Livestock Disease Control Fund	2,700
Agricultural Fees - Dairy Inspection Fund	1,400
Agricultural Fees - Egg Inspection Fund	600
Agricultural Fees - Organic Food Products Fund	300
Federal Grant Fund	1,700
Seminars and Publications Fund	200
Laboratory Services Fund	600
Administration and Accounting Services Fund	1,500
Facilities Maintenance Fund	200
Agricultural Loans Fund	100
TOTAL	$ 79,100

SECTION 10. There is hereby appropriated to the Self-Governing Agencies the following amounts, to be expended for the designated agencies from the listed funds, for the period July 1, 1994, through June 30, 1995:

A. REGULATORY BOARDS:

FROM:

General Fund	$ 600
State Regulatory Fund	14,900
Federal Grant Fund	300
TOTAL	$ 15,800

B. LOTTERY COMMISSION:

FROM:

Lottery Fund	$ 9,900
GRAND TOTAL	$ 25,700

SECTION 11. There is hereby appropriated to the Department of Correction the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 199,600
Work Crews - Inmate Labor Fund	4,100
Parolee Supervision Fund	5,600

Federal Grant Fund	2,000
Miscellaneous Revenue Fund	100
TOTAL	$ 211,400

SECTION 12. There is hereby appropriated to the Department of Law Enforcement the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 49,000
Indirect Cost Recovery Fund	300
State Brand Board Fund	9,500
Idaho State Racing Commission Fund	1,700
Idaho Law Enforcement Fund	48,000
Peace Officers Fund	2,300
Hazardous Materials/Waste Enforcement Fund	800
Idaho Law Enforcement Telecommunications Fund	700
Federal Grant Fund	8,500
Miscellaneous Revenue Fund	400
TOTAL	$ 121,200

SECTION 13. There is hereby appropriated to the Superintendent of Public Instruction for the State Department of Education the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 12,900
Public Instruction Fund	1,000
Federal Grant Fund	13,500
Driver's Education Fund	600
Data Processing Services Fund	700
TOTAL	$ 28,700

SECTION 14. There is hereby appropriated to the State Board of Education and the Board of Regents for the University of Idaho the following amounts, to be expended for the designated agencies from the listed funds, for the period July 1, 1994, through June 30, 1995:

A. OFFICE OF THE STATE BOARD OF EDUCATION:

FROM:

General Fund	$ 3,800

B. IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND:

FROM:

General Fund	$ 25,000

C. DIVISION OF VOCATIONAL EDUCATION:

FROM:

General Fund	$ 106,000
Federal Grant Fund	1,500
TOTAL	$ 107,500

D. COMMUNITY COLLEGE SUPPORT:

FROM:

General Fund	$ 40,000

E. COLLEGES AND UNIVERSITIES:

FROM:

General Fund	$ 889,400

F. AGRICULTURAL RESEARCH AND EXTENSION SERVICE:
FROM:

General Fund	$ 114,700

G. HEALTH EDUCATION PROGRAMS
FROM:

General Fund	$ 5,000
Unrestricted Current Fund	300
TOTAL	$ 5,300

H. SPECIAL PROGRAMS:
FROM:

General Fund	$ 6,400

I. IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM:
FROM:

General Fund	$ 4,500
Federal Grant Fund	4,100
TOTAL	$ 8,600

J. STATE LIBRARY BOARD:
FROM:

General Fund	$ 8,100
Federal Grant Fund	700
TOTAL	$ 8,800

K. IDAHO HISTORICAL SOCIETY:
FROM:

General Fund	$ 5,100
Federal Grant Fund	2,400
Miscellaneous Revenue Fund	800
TOTAL	$ 8,300

L. DIVISION OF VOCATIONAL REHABILITATION:
FROM:

General Fund	$ 5,500
Federal Grant Fund	20,600
Miscellaneous Revenue Fund	100
Business and Industry Services Fund	200
TOTAL	$ 26,400
GRAND TOTAL	$1,244,200

SECTION 15. There is hereby appropriated to the Department of Health and Welfare the following amounts, to be expended for the designated divisions from the listed funds, for the period July 1, 1994, through June 30, 1995:

A. INDIRECT SUPPORT SERVICES:
FROM:

General Fund	$ 40,700
Cooperative Welfare Fund (Federal)	17,400
TOTAL	$ 58,100

B. DIVISION OF HEALTH:
FROM:

Emergency Medical Services Fund I and II	$ 3,400
Hazardous Waste Training, Emergency and Monitoring Fund	400
Water Pollution Control Fund	500
General Fund	11,500

Cooperative Welfare Fund (Federal)	13,600
Cooperative Welfare Fund (Other)	7,500
TOTAL	$ 36,900
C. DIVISION OF WELFARE:	
FROM:	
General Fund	$ 74,600
Cooperative Welfare Fund (Federal)	83,700
TOTAL	$ 158,300
D. DIVISION OF FAMILY AND CHILDREN SERVICES:	
FROM:	
General Fund	$ 140,000
Cooperative Welfare Fund (Federal)	8,000
TOTAL	$ 148,000
E. DIVISION OF ENVIRONMENT:	
FROM:	
Hazardous Waste Training, Emergency and Monitoring Fund	$ 9,300
Air Quality Permitting Fund	6,300
Water Pollution Control Fund	15,000
General Fund	4,400
Cooperative Welfare Fund (Federal)	43,600
Cooperative Welfare Fund (Other)	6,900
TOTAL	$ 85,500
F. VETERANS SERVICES:	
FROM:	
General Fund	$ 45,400
G. DIVISION OF COMMUNITY REHABILITATION:	
FROM:	
General Fund	$ 231,500
Cooperative Welfare Fund (Federal)	70,400
TOTAL	$ 301,900
H. INDEPENDENT COMMISSIONS AND COUNCILS:	
FROM:	
Domestic Violence Project Fund	$ 500
General Fund	2,100
TOTAL	$ 2,600
GRAND TOTAL	$ 836,700

SECTION 16. There is hereby appropriated to the Public Health Trust Fund for the Public Health Districts the following amount, from the listed fund, for the period July 1, 1994, through June 30, 1995:

FROM:	
General Fund	$ 94,200

SECTION 17. There is hereby appropriated to the Industrial Commission the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:	
Industrial Administration Fund	$ 25,900
Crime Victims Compensation Fund	1,200
TOTAL	$ 27,100

SECTION 18. There is hereby appropriated to the Department of

Fish and Game the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

Fish and Game Fund	$ 79,100
Fish and Game Set-Aside Fund	800
Federal Grant Fund	60,700
Fish and Game Expendable Trust Fund	500
TOTAL	$ 141,100

SECTION 19. There is hereby appropriated to the Department of Parks and Recreation the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 24,800
Indirect Cost Recovery Fund	700
Parks and Recreation Fund	6,600
Recreational Fuels Fund	2,400
Parks and Recreation Registration Fund	500
Federal Grant Fund	600
Public Recreation Enterprise Fund	700
Public Recreation Fund	2,500
Parks and Recreation Expendable Trust Fund	400
TOTAL	$ 39,200

SECTION 20. There is hereby appropriated to the Department of Lands the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 43,300
Department of Lands Fund	15,500
Water Pollution Control Fund	700
Federal Grant Fund	4,100
Fire Suppression Deficiency Fund	500
Land Improvement Fund	10,300
TOTAL	$ 74,400

SECTION 21. There is hereby appropriated to the Department of Water Resources the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 22,900
Indirect Cost Recovery Fund	2,100
Water Pollution Control Fund	800
Water Resources/Claims Adjudication Fund	4,300
Federal Grant Fund	5,800
Professional Services Fund	2,700
Petroleum Price Violation Escrow Fund	1,300
TOTAL	$ 39,900

SECTION 22. There is hereby appropriated to the Idaho Transportation Department the following amounts, to be expended for the designated divisions from the listed funds, for the period July 1, 1994, through June 30, 1995:

A. GENERAL SUPPORT DIVISION:
FROM:

State Highway Fund	$ 86,700

B. HIGHWAYS DIVISION:
FROM:

State Highway Fund	$ 330,300

C. AERONAUTICS DIVISION:
FROM:

State Aeronautics Fund	$ 3,300

D. PUBLIC TRANSPORTATION DIVISION:
FROM:

State Highway Fund	$ 1,700

E. INTERDEPARTMENTAL SERVICES DIVISION:
FROM:

State Aeronautics Fund	$ 400
State Highway Fund	400
TOTAL	$ 800
GRAND TOTAL	$ 422,800

SECTION 23. There is hereby appropriated to the Lieutenant Governor the following amount, to be expended from the listed fund, for the period July 1, 1994, through June 30, 1995:
FROM:

General Fund	$ 300

SECTION 24. There is hereby appropriated to the Attorney General the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:
FROM:

General Fund	$ 15,500
Federal Grant Fund	1,100
Consumer Protection Fund	600
Professional Services Fund	24,700
TOTAL	$ 41,900

SECTION 25. There is hereby appropriated to the State Treasurer the following amount, to be expended from the listed fund, for the period July 1, 1994, through June 30, 1995:
FROM:

Professional Services Fund	$ 3,600

SECTION 26. There is hereby appropriated to the State Auditor the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:
FROM:

General Fund	$ 6,100
Professional Services Fund	4,200
Data Processing Services Fund	12,200
TOTAL	$ 22,500

SECTION 27. There is hereby appropriated to the Secretary of State the following amounts, to be expended for the designated agen-

cies from the listed funds, for the period July 1, 1994, through June 30, 1995:

A. SECRETARY OF STATE:

FROM:

General Fund	$ 3,700
UCC Administrative Fund	2,300
TOTAL	$ 6,000

B. COMMISSION ON THE ARTS:

FROM:

General Fund	$ 1,600
Federal Grant Fund	1,200
TOTAL	$ 2,800
GRAND TOTAL	$ 8,800

SECTION 28. There is hereby appropriated to the Public Utilities Commission the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 1,200
State Regulatory Fund	12,900
TOTAL	$ 14,100

SECTION 29. There is hereby appropriated to the Legislative Council the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 13,300
Professional Services Fund	4,300
TOTAL	$ 17,600

SECTION 30. There is hereby appropriated to the Supreme Court the following amounts, to be expended from the listed funds, for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund	$ 32,200
Water Resources Adjudication Fund	2,600
TOTAL	$ 34,800

Approved April 7, 1994.

CHAPTER 443
(S.B. No. 1359, As Amended in the House)

AN ACT

RELATING TO SCHOOL PERSONNEL; AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1212, IDAHO CODE, TO PROVIDE THAT CERTIFIED SOCIAL WORKERS MEET THE REQUIREMENT FOR ELEMENTARY SCHOOL COUNSELORS.

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

SECTION 1. That Chapter 12, 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 33-1212, Idaho Code, and to read as follows:

33-1212. ELEMENTARY SCHOOL COUNSELORS. In recognition of the diverse and complicated demands upon students, their families and the public school system, the legislature finds that the counseling offered at the elementary school level should be flexible and responsive. For purposes of elementary counselor services, a counselor shall be defined as an individual who meets the requirements of an approved program of graduate study in school guidance and counseling from a college or university approved by the Idaho state board of education and who meets the requirements of rules adopted by the board, or an individual licensed as provided by chapter 32, title 54, Idaho Code, as a certified social worker and who meets the requirements of the state board of education.

The state board of education shall adopt rules to implement the provisions of this section, and shall specifically provide that certified social workers meet the requirement for elementary school counselors. A local school district may request a waiver from the state board of education of the counselor/counseling requirements, provided that data is submitted to and annually approved by the state elementary approval committee to substantiate that the intent of the board's rules in these areas is being met by an alternative program model.

Approved April 11, 1994.

CHAPTER 444
(S.B. No. 1339)

AN ACT

RELATING TO THE STATE SEAL; AMENDING CHAPTER 10, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1005A, IDAHO CODE, TO PROVIDE FOR THE INSCRIPTION OF AUTHORSHIP OF THE GREAT SEAL OF THE STATE OF IDAHO.

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

SECTION 1. That Chapter 10, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1005A, Idaho Code, and to read as follows:

59-1005A. AUTHORSHIP AND DESCRIPTION OF GREAT SEAL OF STATE. The inscription of authorship of the great seal of state shall appear as follows: 1891 EMMA EDWARDS GREEN - PAUL B. EVANS rev. 1957. The new inscription shall be located in the same place and manner as the previous inscription, using more space as is necessary. In gratitude for and as a tribute to Emma Edwards Green for her design of the Idaho state seal is her description of the seal in her own words:

"Before designing the seal, I was careful to make a thorough study of the resources and future possibilities of

the state. I invited the advice and counsel of every member of the legislature and other citizens qualified to help in creating a seal of state that really represented Idaho at that time. Idaho had been admitted into the Union on July 3rd, 1890, and on March 14, 1891, adopted my design for the great seal of the state of Idaho.

The question of woman suffrage was being agitated somewhat, and as leading men and politicians agreed that Idaho would eventually give women the right to vote, and as mining was the chief industry, and the mining man the largest financial factor at that time, I made the figure of the man the most prominent in the design, while that of the woman, signifying justice, as noted by the scales; liberty, as noted by the liberty cap on the end of the spear, and equality with man as denoted by her positions at his side, also signifies freedom. The pick and shovel held by the miner, and the ledge of rock beside which he stands, as well as the pieces of ore scattered about his feet, all indicate the chief occupation of the state. The stamp mill in the distance, which you can see by using a magnifying glass, is also typical of the mining interest of Idaho. The shield between the man and woman is emblematic of the protection they unite in giving the state. The large fir or pine tree in the foreground in the shield refers to Idaho's immense timber interests. The husbandman plowing on the left side of the shield, together with the sheaf of grain beneath the shield, are emblematic of Idaho's agricultural resources, while the cornucopias, or horns of plenty, refer to the horticultural. Idaho has a game law, which protects the elk and moose. The elk's head, therefore, rises above the shield. The state flower, the wild Syringa or Mock Orange, grows at the woman's feet, while the ripened wheat grows as high as her shoulder. The star signifies a new light in the galaxy of states. ... The river depicted in the shield is our mighty Snake or Shoshone River, a stream of great majesty.

In regard to the coloring of the emblems used in the making of the great seal of the state of Idaho, my principal desire was to use such colors as would typify pure Americanism and the history of the state. As Idaho was a virgin state, I robed my goddess in white and made the liberty cap on the end of the spear the same color. In representing the miner, I gave him the garb of the period suggested by such mining authorities as former United States Senator George Shoup, of Idaho, former Governor Norman B. Willey of Idaho, former Governor James H. Hawley of Idaho, and other mining men and early residents of the state who knew intimately the usual garb of the miner. Almost unanimously they said, "Do not put the miner in a red shirt." "Make the shirt a grayish brown," said Captain J.J. Wells, chairman of the seal committee. The "Light of the Mountains" is typified by the rosy glow which precedes the sunrise."

Approved April 11, 1994.

CHAPTER 445
(S.B. No. 1490)

AN ACT

RELATING TO FEES COLLECTED BY TAXING DISTRICTS; AMENDING CHAPTER 22, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2224A, IDAHO CODE, TO REQUIRE AN ADVERTISEMENT WHEN A TAXING DISTRICT INCREASES FEES OVER A CERTAIN PERCENTAGE, TO PROVIDE REQUIREMENTS FOR THE ADVERTISEMENT AND TO PROVIDE THE EFFECT OF FAILING TO ADVERTISE.

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

SECTION 1. That Chapter 22, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2224A, Idaho Code, and to read as follows:

63-2224A. ADVERTISEMENT OF FEE INCREASES. No taxing district may request a fee increase that exceeds one hundred five percent (105%) of the amount of the fee collected in the previous year, unless it advertises its intent to do so in a similar manner to that contained in section 63-2225, Idaho Code. Any taxing district that is required to advertise as provided in this section and which fails to do so shall have the validity of all or a portion of the fees it collects be voidable. A taxing district shall at a minimum, in the advertisement, list the amount of fees to be collected, the source of the fees, the percentage increase, any exemptions to the fees, an average cost of the fees per person, and any appeal procedures available to the imposition of the fees.

Approved April 11, 1994.

CHAPTER 446
(S.B. No. 1543)

AN ACT

RELATING TO THE WORKER'S COMPENSATION LAW; AMENDING SECTION 72-102, IDAHO CODE, TO FURTHER DEFINE THE TERM COMMUNITY SERVICE WORKER.

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

SECTION 1. That Section 72-102, Idaho Code, be, and the same is hereby amended to read as follows:

72-102. DEFINITIONS. Words and terms used in the workmen's compensation law, unless the context otherwise requires, are defined in the subsections which follow:

(1) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or

national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(2) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this law.

(3) "Burial expenses" mean a sum, not to exceed six thousand dollars ($6,000) for funeral and burial or cremation, together with the actual expenses of transportation of the employee's body to his place of residence within the United States or Canada.

(4) "Commission" means the industrial commission.

(5) "Community service worker" means any person who has been convicted of a criminal offense, any juvenile who has been found to be within the purview of chapter 18, title 16, Idaho Code, and who has been informally diverted under the provisions of section 16-1807A, Idaho Code, or any person or youth who has been diverted from the criminal or juvenile justice system and who performs a public service for any department, institution, office, college, university, authority, division, board, bureau, commission, council, or other entity of the state, or any city, county, school district, irrigation district or other taxing district authorized to levy a tax or an assessment or any other political subdivision <u>or any private not-for-profit agency which has elected worker's compensation insurance coverage for such person.</u>

(6) "Compensation" used collectively means any or all of the income benefits and the medical and related benefits and medical services.

(7) "Death" means death resulting from an injury or occupational disease.

(8) Dependency limitations.

(a) "Adopted" and "adoption" include cases where persons are treated as adopted as well as those of legal adoption unless legal adoption is specifically provided.

(b) "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption.

(c) "Child" includes adopted children, posthumous children, and acknowledged illegitimate children, but does not include stepchildren unless actually dependent.

(d) "Grandchild" includes children of legally adopted children and children of stepchildren, but does not include stepchildren of children, stepchildren of stepchildren, or stepchildren of adopted children unless actually dependent.

(e) "Parent" includes stepparents and parents by adoption.

(f) "Grandparent" includes parents of parents by adoption, but does not include parents of stepparents, stepparents of parents, or stepparents of stepparents.

(9) "Disability," for purposes of determining total or partial temporary disability income benefits, means a decrease in wage-earning capacity due to injury or occupational disease, as such capacity is affected by the medical factor of physical impairment, and by pertinent nonmedical factors as provided in section 72-430, Idaho Code.

(10) "Employee" is synonymous with "workman" and means any person who has entered into the employment of, or who works under contract of

service or apprenticeship with, an employer. It does not include any person engaged in any of the excepted employments enumerated in section 72-212, Idaho Code, unless an election as provided in section 72-213, Idaho Code, has been filed. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependents as herein defined, if the context so requires, or, where the employee is a minor or incompetent, to his committee or guardian or next friend.

(11) "Employer" means any person who has expressly or impliedly hired or contracted the services of another. It includes contractors and subcontractors. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workmen there employed. If the employer is secured, it means his surety so far as applicable.

(12) "Gender and number." The masculine gender includes the feminine and neuter; "husband" or "wife" includes "spouse"; the singular number includes plural and the plural the singular.

(13) "Income benefits" mean payments provided for or made under the provisions of this law to the injured employee disabled by an injury or occupational disease, or his dependents in case of death, excluding medical and related benefits.

(14) "Independent contractor" means any person who renders service for a specified recompense for a specified result, under the right to control or actual control of his principal as to the result of his work only and not as to the means by which such result is accomplished.

(15) "Injury" and "accident."

(a) "Injury" means a personal injury caused by an accident arising out of and in the course of any employment covered by the workmen's compensation law.

(b) "Accident" means an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury.

(c) "Injury" and "personal injury" shall be construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. The terms shall in no case be construed to include an occupational disease and only such nonoccupational diseases as result directly from an injury.

(16) "Medical and related benefits" mean payments provided for or made for medical, hospital, burial and other services as provided in this law other than income benefits.

(17) "Medical services" mean medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities and supplies.

(18) "Occupational diseases."

(a) "Occupational disease" means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment.

(b) "Contracted" and "incurred," when referring to an occupational disease, shall be deemed the equivalent of the term "arising out of and in the course of" employment.

(c) "Disablement," except in the case of silicosis, means the event of an employee's becoming actually and totally incapacitated because of an occupational disease from performing his work in the last occupation in which injuriously exposed to the hazards of such disease, and "disability" means the state of being so incapacitated.

(d) "Disablement," in the case of silicosis, means the event of first becoming actually incapacitated, because of such disease, from performing any work in any remunerative employment; and "disability" means the state of being so incapacitated.

(e) "Silicoses" mean the characteristic fibrotic condition of the lungs caused by the inhalation of silicon dioxide (SiO_2) dust.

(19) "Outworker" means a person to whom articles or materials are furnished to be treated in any way on premises not under the control or management of the person who furnished them.

(20) "Person" means the state or any political subdivision thereof, or any individual, partnership, firm, association, trust, corporation, including the state insurance fund, or any representative thereof.

(21) "Physician" means medical physicians and surgeons, ophthalmologists, otorhinolaryngologists, dentists, osteopaths, osteopathic physicians and surgeons, optometrists, podiatrists, chiropractic physicians, and members of any other healing profession licensed or authorized by the statutes of this state to practice such profession within the scope of their practice as defined by the statutes of this state and as authorized by their licenses.

(22) "Secretary" means the secretary of the commission.

(23) "Self-insurer" means an employer who has been authorized under the provisions of this law to carry his own liability to his employees covered by this law.

(24) "State" includes any state, district, commonwealth, zone or territory of the United States or any province of Canada.

(25) "Surety" means any insurer authorized to insure or guarantee payment of workmen's compensation liability of employers in any state; it also includes the state insurance fund, a self-insurer and an inter-insurance exchange.

(26) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone and the territories of the United States.

(27) "Wages" and "wage earning capacity" prior to the injury or disablement from occupational disease means the employee's money payments for services as calculated under section 72-419, Idaho Code, and shall additionally include the reasonable market value of board, rent, housing, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as part of his remuneration, and gratuities received in the course of employment from others than the employer. "Wages" shall not include sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

(28) "Wages" and "wage earning capacity" after the injury or dis-

ablement from occupational disease shall be presumed to be the actual earnings after the injury or disablement, which presumption may be overcome by showing that those earnings do not fairly and reasonably represent wage earning capacity; in such a case wage earning capacity shall be determined in the light of all factors and circumstances which may affect the worker's capacity to earn wages.

(29) "Work experience student" means any person enrolled in the public school districts of this state and who, as part of his instruction, is enrolled in a class or program for academic credit and for which the student is employed by, or works for, a private or governmental entity. The student need not receive wages from the private or governmental entity in order to be classified as a work experience student.

(30) "Workmen's compensation law" means and includes the workmen's compensation law of this state and any like or similar law of any state, United States, territory, or province of Canada.

Approved April 11, 1994.

CHAPTER 447
(H.B. No. 710, As Amended, As Amended)

AN ACT

RELATING TO THE CIGARETTE TAX AND THE TOBACCO PRODUCTS TAX; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 63-2506, IDAHO CODE, TO INCREASE THE TAX ON CIGARETTES BY TEN CENTS ON EACH PACK OF TWENTY CIGARETTES AND TO DISTRIBUTE TEN CENTS OF THE TAX COLLECTED PER PACK OF TWENTY CIGARETTES TO THE PUBLIC SCHOOL INCOME FUND TO BE UTILIZED FOR SUBSTANCE ABUSE PROGRAMS IN THE PUBLIC SCHOOL SYSTEM; AND AMENDING CHAPTER 25, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2552A, IDAHO CODE, TO INCREASE THE TAX ON TOBACCO PRODUCTS BY FIVE PER CENT OF THE WHOLESALE PRICE AND TO DISTRIBUTE THE REVENUE COLLECTED TO THE PUBLIC SCHOOL INCOME FUND TO BE UTILIZED FOR SUBSTANCE ABUSE PROGRAMS IN THE PUBLIC SCHOOL SYSTEM.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature finds that cigarette smoking and the use of other tobacco products cause more premature deaths and serious illnesses than any other lifestyle choice. Tragically, teenagers and young adults are taking up smoking and the use of other tobacco products, such as chewing tobacco, faster than any other age group. However, extensive studies have established that young smokers and tobacco product users are very sensitive to price variations; when the price of tobacco increases, consumption in this age group decreases dramatically. Therefore, the primary purpose of this legislation is to provide funding for substance abuse programs in the public school system. Reducing consumption of tobacco will improve the health of Idaho's citizens and reduce health care costs.

SECTION 2. That Section 63-2506, Idaho Code, be, and the same is

hereby amended to read as follows:

63-2506. IMPOSITION OF TAX. A tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of ~~100/200 of~~ one and four-tenths cent ($~~.01~~1.4¢) for each cigarette or twenty-eight cents (28¢) per pack of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. Ten cents (10¢) of the tax collected per pack of twenty (20) cigarettes shall be distributed to the public school income fund to be utilized for substance abuse programs in the public school system. The remaining moneys collected under the provisions of this section shall be distributed as specified in section 63-2520, Idaho Code.

SECTION 3. That Chapter 25, 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 63-2552A, Idaho Code, and to read as follows:

63-2552A. ADDITIONAL TAX IMPOSED -- RATE. (1) In addition to the tax imposed in section 63-2552, Idaho Code, from and after July 1, 1994, there is levied and there shall be collected an additional tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of five per cent (5%) of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor:

(a) Brings, or causes to be brought, into this state from without the state tobacco products for sale;

(b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or

(c) Ships or transports tobacco products to retailers in this state to be sold by those retailers.

(2) Each distributor, within twenty (20) days after July 1, 1994, shall file a report with the commission, in such form as the commission may prescribe, showing the tobacco products on hand on July 1, 1994, and the amount of tax due thereon. The tax imposed in this subsection shall be due and payable within twenty (20) days after July 1, 1994, and thereafter shall bear interest at the rate of one per cent (1%) per month.

(3) The tax collected pursuant to this section shall be distributed directly to the public school income fund to be utilized for substance abuse programs in the public school system.

Approved April 11, 1994.

CHAPTER 448
(H.B. No. 867, As Amended in the Senate)

AN ACT

RELATING TO THE PUBLIC SCHOOLS; SUNSETTING RULES OF THE STATE BOARD OF EDUCATION RELATING TO THE PUBLIC SCHOOLS, TO PROVIDE LEGISLATIVE

INTENT REGARDING THE EVALUATION OF RULES, TO PROVIDE FOR INPUT, AND TO PROVIDE FOR A REPORT AND RECOMMENDATIONS.

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

SECTION 1. All rules for the public schools of the state board of education, IDAPA 08.02, chapters 01 through 07, that were in effect as of April 1, 1994, that are not otherwise repealed by the state board of education or the legislature, shall be null and void effective April 1, 1996.

It is the intent of the legislature that the state board of education shall undertake a complete evaluation of all rules relating to the public schools to determine whether and how those rules promote a thorough system of education as described in section 33-1612, Idaho Code, (1994 Senate Bill 1291) and shall draft and promulgate new rules if necessary and consistent with a thorough system of education.

It is expected that the state board of education shall seek the active assistance of Idaho teachers, parents, administrators, state department of education, colleges of education at Boise State University, University of Idaho and Idaho State University, the teacher education program at Lewis-Clark State College, the Idaho state legislature, the office of the governor, and other appropriate agencies and organizations, both public and private, in evaluating existing rules and drafting and promulgating new rules that are necessary and consistent with a thorough system of education.

It is expected that if the state board of education identifies any state and federal statutes which should be amended to ensure more effective drafting and promulgation of rules that are necessary and consistent with a thorough system of education, the board shall report its initial recommended statutory changes to the Idaho state legislature on or before January 20, 1995, and shall report subsequent recommended statutory changes on or before January 20, 1996, and, with respect to recommended changes in federal law, shall report such recommendations to Idaho's U.S. Senators, U.S. Representatives and the U.S. Secretary of Education on or before January 20, 1996.

It is expected that, as part of the evaluation of public school rules, the state board of education shall develop comprehensive recommendations to redefine the mission, structure and authority of the state department of education and on or before January 20, 1996, shall recommend changes in state statutes as appropriate.

Approved April 11, 1994.

CHAPTER 449
(H.B. No. 982)

AN ACT

RELATING TO WATER RIGHTS; AMENDING CHAPTER 18, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1806, IDAHO CODE, TO PROVIDE A MORATORIUM ON APPROVAL OF APPLICATIONS TO APPROPRIATE WATER FOR CERTAIN WATER RIGHTS IN THE SNAKE RIVER BASIN; DECLARING AN EMER-

GENCY AND PROVIDING A SUNSET CLAUSE.

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

SECTION 1. That Chapter 18, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1806, Idaho Code, and to read as follows:

42-1806. MORATORIUM ON APPROVAL OF APPLICATIONS TO APPROPRIATE WATER. (1) Findings. On April 30, 1993, the director of the Idaho department of water resources adopted an amended moratorium order "In the Matter of Applications for Permits for the Diversion and Use of Surface and Ground Water within the Eastern Snake River Plain Area and the Boise River Drainage Area." This moratorium was adopted because of the continuing effect of a long-term drought. The effects of this drought continue to exist. In addition, changed irrigation practices have resulted in a reduction in the recharge of the aquifer. These factors have caused concerns regarding the water supply for water rights in some areas of the Snake Plain aquifer. In order to address the long-term management of the Snake Plain aquifer, the legislature has authorized a study to examine the implications of these changes. This study is expected to last two (2) years. Continuation of the current moratorium for the Eastern Snake Plain area is appropriate while these studies are undertaken.

(2) The portion of the director's moratorium entitled "In the Matter of Applications for Permits for the Diversion and Use of Surface and Ground Water within the Eastern Snake River Plain Area and the Boise River Drainage Area," dated April 30, 1993, relating to the Eastern Snake River Plain area is hereby approved and confirmed and shall continue in effect until December 31, 1997.

(3) Except as provided in subsection (2) of this section, nothing in this act shall preclude the director from maintaining or modifying the requirements of any existing moratoriums or initiating any new, more restrictive moratoriums relating to water resource administration of the state.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and shall be null, void and of no force and effect on and after December 31, 1997.

Approved April 11, 1994.

CHAPTER 450
(H.B. No. 986, As Amended)

AN ACT

RELATING TO WATER DISTRIBUTION; AMENDING SECTION 42-602, IDAHO CODE, TO CLARIFY THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES IS AUTHORIZED TO DISTRIBUTE WATER PURSUANT TO THE PROVISIONS OF

CHAPTER 6, TITLE 42, IDAHO CODE, ONLY WITHIN ORGANIZED WATER DISTRICTS; AMENDING SECTION 42-1701A, IDAHO CODE, TO CLARIFY THAT SUBSECTION (3) APPLIES TO DECISIONS, DETERMINATIONS, ORDERS OR ACTIONS OF THE DIRECTOR; AMENDING SECTION 42-237a, IDAHO CODE, TO REVISE POWERS OF THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES; AMENDING SECTION 42-237g, IDAHO CODE, TO PROVIDE FOR THE USE OF ADMINISTRATIVE ENFORCEMENT ACTIONS; AMENDING SECTION 42-351, IDAHO CODE, TO PROVIDE A PROCEDURE FOR ADMINISTRATIVE ENFORCEMENT ACTIONS AGAINST PERSONS ALLEGED TO BE DIVERTING WATER OR TO HAVE DIVERTED WATER WITHOUT A WATER RIGHT OR NOT IN CONFORMANCE WITH THE CONDITIONS OF A VALID WATER RIGHT; DECLARING AN EMERGENCY AND PROVIDING APPLICATION.

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

SECTION 1. That Section 42-602, Idaho Code, be, and the same is hereby amended to read as follows:

42-602. DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO SUPERVISE WATER DISTRIBUTION WITHIN WATER DISTRICTS. ~~It shall be the duty of t~~The director of the department of water resources ~~to~~ shall have ~~immediate~~ direction and control of the distribution of water from all ~~of the streams, rivers, lakes, ground water and other natural water sources in this state~~ natural water sources within a water district to the canals, ditches, pumps and other facilities diverting therefrom. Distribution of water within water districts created pursuant to section 42-604, Idaho Code, shall be accomplished ~~either (1)~~ by watermasters ~~appointed~~ as provided in this chapter and supervised by the director~~; or (2) directly by employees of the department of water resources under authority of the director in those areas of the state not constituted into water districts as provided in this chapter. The director must execute the laws relative to the distribution of water in accordance with rights of prior appropriation as provided in section 42-106, Idaho Code.~~

The director of the department of water resources shall~~, in the distribution of~~ distribute water ~~from the streams, rivers, lakes, ground water and other natural water sources, be governed by this title~~ in water districts in accordance with the prior appropriation doctrine. The provisions of chapter 6, title 42, Idaho Code, shall apply only to distribution of water within a water district.

SECTION 2. That Section 42-1701A, Idaho Code, be, and the same is hereby amended to read as follows:

42-1701A. HEARINGS BEFORE DIRECTOR -- APPEALS. (1) All hearings required by law to be held before the director shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code, and rules of procedure promulgated by the director.

(2) The director, in his discretion, may direct that a hearing be conducted by a hearing officer appointed by the director. In such event, the hearing officer shall have the duty to make a complete record of the evidence presented and duly received at the hearing and to prepare a proposal for decision in accordance with chapter 52,

title 67, Idaho Code, and rules of procedure promulgated by the director.

(3) Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the department of water resources or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing. The hearing shall be held and conducted in accordance with the provisions of subsections (1) and (2) of this section. Judicial review of any final order of the director issued following the hearing may be had pursuant to subsection (4) of this section.

(4) Any person who is aggrieved by a final decision or order of the director is entitled to judicial review. The judicial review shall be had in accordance with the provisions and standards set forth in chapter 52, title 67, Idaho Code.

SECTION 3. That Section 42-237a, Idaho Code, be, and the same is hereby amended to read as follows:

42-237a. POWERS OF THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES. In the administration and enforcement of this act and in the effectuation of the policy of this state to conserve its ground water resources, the director of the department of water resources in his sole discretion, is empowered:

a. To require all flowing wells to be so capped or equipped with valves that the flow of water can be completely stopped when the wells are not in use.

b. To require both flowing and nonflowing wells to be so constructed and maintained as to prevent the waste of ground waters through leaky wells, casings, pipes, fittings, valves or pumps either above or below the land surface.

c. To prescribe uniform scientific methods to determine water levels in and calculate waters withdrawn from wells.

d. To go upon all lands, both public and private, for the purpose of inspecting wells, pumps, casings, pipes, and fittings, including wells used or claimed to be used for domestic purposes.

e. To order the cessation of use of a well pending the correction of any defect that the director of the department of water resources has ordered corrected.

f. To commence actions to enjoin the illegal opening or excavation of wells or withdrawal or use of water therefrom and to appear and become a party to any action or proceeding pending in any court or administrative agency when it appears to the director of the department of water resources that the determination of such action or proceeding might result in depletion of the ground water resources of the

state contrary to the public policy expressed in this act.

g. To supervise and control the exercise and administration of all rights ~~hereafter acquired~~ to the use of ground waters and in the exercise of this discretionary power he may ~~by summary order,~~ initiate administrative proceedings to prohibit or limit the withdrawal of water from any well during any period that he determines that water to fill any water right in said well is not there available. To assist the director of the department of water resources in the administration and enforcement of this act, and in making determinations upon which said orders shall be based, he may establish a ground water pumping level or levels in an area or areas having a common ground water supply as determined by him as hereinafter provided. Water in a well shall not be deemed available to fill a water right therein if withdrawal therefrom of the amount called for by such right would affect, contrary to the declared policy of this act, the present or future use of any prior surface or ground water right or result in the withdrawing of the ground water supply at a rate beyond the reasonably anticipated average rate of future natural recharge. However, the director may allow withdrawal at a rate exceeding the reasonably anticipated rate of future natural recharge if the director finds it is in the public interest and if it satisfies the following criteria:

1. A program exists or likely will exist which will increase recharge or decrease withdrawals within a time period acceptable to the director to bring withdrawals into balance with recharge.

2. Holders of senior rights to use ground water will not be caused thereby to pump water from below the established reasonable pumping level or levels.

In connection with his supervision and control of the exercise of ground water rights the director of the department of water resources shall also have the power to determine what areas of the state have a common ground water supply and whenever it is determined that any area has a ground water supply which affects the flow of water in any stream or streams in an organized water district, to incorporate such area in said water district; and whenever it is determined that the ground water in an area having a common ground water supply does not affect the flow of water in any stream in an organized water district, to incorporate such area in a separate water district to be created in the same manner provided for in section 42-604 of title 42, Idaho Code. The administration of water rights within water districts created or enlarged pursuant to this act shall be carried out in accordance with the provisions of title 42, Idaho Code, as the same have been or may hereafter be amended, except that in the administration of ground water rights either the director of the department of water resources or the watermaster in a water district or the director of the department of water resources outside of a water district shall, upon determining that there is not sufficient water in a well to fill a particular ground water right therein by order, limit or prohibit further withdrawals of water under such right as hereinabove provided, and post a copy of said order at the place where such water is withdrawn; provided, that land, not irrigated with underground water, shall not be subject to any allotment, charge, assessment, levy, or budget for, or in connection with, the distribution or delivery of water.

SECTION 4. That Section 42-237g, Idaho Code, be, and the same is hereby amended to read as follows:

42-237g. PENALTIES. Any person violating any provision of this chapter, or any decision of the director of the department of water resources, or order of a local ground water board, shall be guilty of a misdemeanor and any continuing violation shall constitute a separate offense for each day during which such violation occurs, but nothing in this section or in the pendency or completion of any criminal action for enforcement hereof shall be construed to prevent the institution of any administrative enforcement action or civil action for injunctive or other relief for the enforcement of this chapter or the protection of rights to the lawful use of water.

SECTION 5. That Section 42-351, Idaho Code, be, and the same is hereby amended to read as follows:

42-351. ILLEGAL DIVERSION OR USE OF WATER -- INJUNCTIVE RELIEF -- ~~CEASE--AND-DESIST-ORDERS~~ ADMINISTRATIVE ENFORCEMENT ACTION. (1) If the director of the department of water resources finds, on the basis of available information, that a person is diverting water or has diverted water from a natural watercourse or from a ground water source without having obtained a valid water right to do so or is applying water or has applied water not in conformance with ~~the-conditions-of~~ a valid water right, then the director of the department of water resources shall have the discretion to take action against such person. The director may file an action seeking injunctive relief or may ~~issue-an-order-directing-the-person-to-cease-and-desist-the-activity--or--activities-alleged-to-be-in-violation-of-applicable-law-or-of any-existing-water-right.-A-cease-and-desist-order-may-direct--compliance-with-applicable-law-and-with-any-existing-water-right-or-may-provide-a-time-schedule-to-bring-the-person's-action-into-compliance-with applicable--law-and-with-any-existing-water-right~~ commence an administrative enforcement action by issuing the person a written notice of violation directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or any existing water right. The notice of violation shall be served upon the alleged violator in person or by certified mail. The notice of violation shall identify the alleged violation and specify whether that person is diverting water or has diverted water without a water right or is applying water or has applied water not in conformance with a valid water right. The notice of violation shall state the remedy, including any restoration and mitigation measures, and the civil penalty the director seeks for redress of the violation and contain a statement of findings of fact and conclusions of law that provide a factual and legal basis for the initiation of the administrative enforcement action.

(2) ~~Any--order--to--cease-and-desist-shall-contain-a-statement-of findings-of-fact-and-of-conclusions-of-law-that-provide-a-factual--and legal--basis--for-the-order-of-the-director-of-the-department-of-water resources.~~

~~(3)--The-director-of-the-department-of-water-resources-shall-serve a-copy-of-any-such-order-on-the-person-who-is-the-subject-of-the-cease~~

~~and desist order by personal service or by certified mail. Service by certified mail shall be complete upon receipt of the certified mail. Personal service may be completed by department personnel or a person authorized to serve process under the Idaho rules of civil procedure.~~

~~(4) The person who is the subject of the cease and desist order shall have a right to an administrative hearing before the department, if requested in writing within fourteen (14) days from the date of service of the cease and desist order, and the right to judicial review, all as provided in section 42-1701A, Idaho Code.~~

~~(5) If the person who is the subject of the cease and desist order fails to comply with the order within the time limit set in the order the director may seek, by and through the attorney general, injunctive relief in the district court pending the outcome of the department proceeding. In such action, brought against a person for diverting water without having obtained a valid water right to do so, the director need not allege or prove that irreparable injury to the state or to other water users will occur should the preliminary injunction or permanent injunction not be issued, or that the remedy at law is inadequate, and the preliminary injunction, or permanent injunction shall issue without such allegations and without such proof.~~ The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference concerning the alleged violation. A written response may be required within fifteen (15) days of a receipt of the notice of violation by the person to whom it is directed. If a recipient of a notice of violation contacts the department within fifteen (15) days of the receipt of the notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty (20) days of the receipt of the notice unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in subsection (4) of this section.

(3) The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstances of the alleged violation and, where appropriate, to present a proposal for remedying the damage caused by the violation and assuring future compliance. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty. The consent order shall be effective immediately upon signing by both parties and shall preclude any civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain in any appropriate district court, specific performance of the consent order and such other relief as authorized by law. If the parties cannot reach agreement of a consent order within sixty (60) days after the receipt of the notice of violation, or if the recipient does not request a compliance conference, the director may commence and prosecute a civil enforcement action in district court in accordance with subsection (4) of this section.

(4) The director may initiate a civil enforcement action through

the attorney general as provided in subsection (6) of this section. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to be diverting water or has diverted water without a water right or applying water or has applied water not in conformance with the conditions of a valid water right. The director shall not be required to bring an administrative enforcement action before initiating a civil enforcement action. If the person who is the subject of the notice of violation fails to cease and desist the activity or activities constituting the alleged violation within the time limits set in the notice of violation, the director may seek, by and through the attorney general, injunctive relief in the district court pending the outcome of the administrative enforcement action. In such action, brought against a person for diverting water without having obtained a valid water right to do so, the director need not allege or prove that irreparable injury to the state or to other water users will occur should the preliminary injunction not be issued, or that the remedy at law is inadequate, and the preliminary injunction, or permanent injunction shall issue without such allegations and without such proof.

(5) Any person determined in a civil enforcement action to have willfully and knowingly or after notice diverted water without a water right or applied water not in conformance with a valid water right shall be liable for a civil penalty as provided in section 42-352, Idaho Code. No action taken pursuant to this section shall relieve any person from any civil action and damages that may exist for injury or damages resulting from diverting water without a water right or applying water not in conformance with the conditions of a valid water right.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and shall apply to all calls for distribution of water pending at the time of passage and approval.

Approved April 11, 1994.

CHAPTER 451
(H.B. No. 988)

AN ACT

APPROPRIATING GENERAL FUND MONEYS TO THE WATER MANAGEMENT FUND; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO UTILIZATION OF THE MONEYS FOR AQUIFER RECHARGE; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO UTILIZATION OF THE MONEYS TO INVESTIGATE PUMPING ALTERNATIVES; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO REPORTING REQUIREMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the General Fund,

for deposit in the Water Management Fund, the sum of $75,000 to be used for the Lower Snake Plain Aquifer Recharge Demonstration Project.

SECTION 2. Of the amount appropriated in Section 1 of this act, the Idaho Water Resources Board will provide a grant not to exceed $50,000 to the Lower Snake Plain Aquifer Recharge District for the purpose of aquifer recharge utilizing the North Side Canal Company conveyance system.

SECTION 3. Of the amount appropriated in Section 1 of this act, the Idaho Water Resources Board will provide a grant not to exceed $25,000 to investigate pumping alternatives as potential mitigation for loss of spring water for irrigation purposes.

SECTION 4. The grantees shall provide a full accounting and report of the funds expended for the purposes of this act to the Water Resources Board and the Idaho Legislature no later than July 1, 1995. Any unspent and unencumbered balances of the amount appropriated in Section 1 of this act remaining on June 30, 1995, shall be transferred back to the General Fund by the State Auditor.

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 April 11, 1994.

CHAPTER 452
(H.B. No. 989, As Amended)

AN ACT

RELATING TO WATER RIGHTS AND THE MOVEMENT OF SALMON; STATING LEGISLATIVE INTENT; AMENDING SECTION 4, CHAPTER 101, LAWS OF 1992, TO EXTEND THE SUNSET CLAUSE BY ONE YEAR; AND PROVIDING A PROCEDURE FOR THE PROVISIONS OF THIS ACT TO BECOME EFFECTIVE.

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

SECTION 1. STATEMENT OF LEGISLATIVE INTENT. (1) In 1992, the Idaho Legislature enacted Section 42-1763A, Idaho Code, as an interim measure to help facilitate the development of a long-term recovery plan for the Snake River salmon listed under the Endangered Species Act. Section 42-1763A, Idaho Code, specifically provides that water may be rented for use as part of "a regional coordinated effort to enhance salmon migration" provided "other parties are making a proportional contribution to solving the salmon migration problem."

(2) The Legislature of the State of Idaho is not satisfied that the federal agencies charged with operating the Federal Columbia River Power System have mandated or implemented regional contributions to restore Snake River salmon on a proportional basis. Specifically, the National Marine Fisheries Service, Corps of Engineers, and Bonneville

Power Administration have relied heavily on flow augmentation from upstream reservoirs and have not made sufficient progress on measures to improve salmon survival at the downstream dams on the lower Snake and Columbia rivers.

(3) The failure of the federal government to adequately protect salmon at the dams on the lower Snake and Columbia rivers led the State of Idaho to challenge the federal plan for hydropower dam operations, which relies heavily on flow augmentation from upstream reservoirs. On March 28, 1994, Federal Judge Malcolm Marsh declared the plan invalid and directed the federal dam operating agencies to devise a new plan. The federal dam operating agencies should respond to the court's order by adopting a plan that properly balances upstream and downstream measures for salmon protection.

(4) The State of Idaho remains committed to playing its appropriate part in a regionally developed plan that will ensure the return of listed salmon to fishable levels. Although the National Marine Fisheries Service, Corps of Engineers, and Bonneville Power Administration have not made sufficient progress to date towards reducing salmon mortality at the mainstem dams, the Legislature of the State of Idaho finds it in the public interest to extend Section 42-1763A, Idaho Code, for an additional year through January 1, 1996, on the expectation that the federal agencies will likewise act in good faith to ensure that the new biological opinion requires proportional contributions by all parties. Any water made available through this section shall be obtained only from willing lessors. It is the intent of the Legislature of the State of Idaho that further extensions of this Section will be provided only if other parties make sufficient progress toward providing a proportional contribution to solving the salmon migration problem.

SECTION 2. That Section 4, Chapter 101, Laws of 1992, be, and the same is hereby amended to read as follows:

> SECTION 4. Section 2 of this act shall be null, void and of no force and effect on and after January 1, 199~~5~~6.

SECTION 3. This act shall be in full force and effect when the Governor shall make a proclamation that the U.S. Bureau of Reclamation has agreed to withdraw or hold in abeyance for a period of one (1) year its applications for transfer of water rights in the Payette River Basin.

Approved April 11, 1994.

CHAPTER 453
(S.B. No. 1330, As Amended in the House)

AN ACT

RELATING TO DAY CARE CENTERS; AMENDING SECTION 39-1105, IDAHO CODE, TO DELETE AN EXEMPTION FROM CRIMINAL HISTORY CHECKS AND TO EXTEND CRIMINAL HISTORY CHECKS TO PERSONS TWELVE YEARS OF AGE AND OLDER UNDER CONDITIONS SPECIFIED.

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

SECTION 1. That Section 39-1105, Idaho Code, be, and the same is hereby amended to read as follows:

39-1105. CRIMINAL HISTORY CHECKS. The department shall obtain a criminal history check on the owners, operators~~,~~ and employees ~~and volunteers~~ of a day care center who have direct contact with children~~; provided, however, that owners, operators, employees and volunteers who have continuously resided in the county in which the day care center is located for three (3) years immediately preceding the date of the application shall not be required to provide a criminal history check~~, and on all volunteers and other individuals twelve (12) years of age or older who have unsupervised direct contact with children in a day care center. The criminal history check shall include the following for all persons subject to the provisions of this section who are eighteen (18) years of age or older:

(1) Statewide criminal identification bureau;
(2) Federal bureau of investigation (FBI) criminal history;
(3) National crime information center; and
(4) Statewide child abuse register.

Criminal history checks on those persons under eighteen (18) years of age shall include a check of the juvenile justice records of adjudications of the magistrate division of the district court, county probation services and department of health and welfare records as authorized by the minor and his parent or guardian.

Approved April 11, 1994.

CHAPTER 454
(H.B. No. 969)

AN ACT

RELATING TO THE SNAKE RIVER BASIN ADJUDICATION; AMENDING SECTION 42-1401, IDAHO CODE, TO PROVIDE FURTHER LEGISLATIVE INTENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-1401A, IDAHO CODE, TO PROVIDE CLARIFIED DEFINITIONS; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1401B, IDAHO CODE, TO PROVIDE FOR THE ROLE OF THE DIRECTOR IN AN ADJUDICATION; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1401C, IDAHO CODE, TO PROVIDE THE ROLE OF STATE AGENCIES IN AN ADJUDICATION; AMENDING SECTION 42-1402, IDAHO CODE, TO PROVIDE CERTAIN DECREED RIGHTS ON APPURTENANT LAND TO BE BASED ON FEDERAL LAW; AMENDING SECTION 42-1403, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR MAY ISSUE A CERTIFICATE OF DECREED WATER RIGHTS; AMENDING SECTION 42-1404, IDAHO CODE, TO REVISE PROCEDURES IN PRIVATE ADJUDICATIONS OF WATER RIGHTS; AMENDING SECTION 42-1405, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE THAT CERTAIN WATER RIGHTS ARE DETERMINED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTIONS 42-1410 THROUGH 42-1413, IDAHO CODE, AND TO CLARIFY WHICH PARTIES ARE INVOLVED WITH SUPPLEMENTAL ADJUDICATION

OF WATER RIGHTS; REPEALING SECTION 42-1405a, IDAHO CODE; AMENDING SECTION 42-1406, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE CLARIFICATION OF ADJUDICATION IN PUBLIC INTEREST; AMENDING SECTION 42-1406A, IDAHO CODE, TO REDESIGNATE AND UNCODIFY THE SECTION, AND TO REVISE PROCEDURES FOR COMMENCEMENT OF ADJUDICATION; AMENDING SECTION 42-1407, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PETITION REQUIREMENTS; AMENDING SECTION 42-1408, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO CLARIFY VENUE; AMENDING SECTION 42-1408A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROCEDURES FOR SERVICE OF NOTICE; AMENDING SECTION 42-1409, IDAHO CODE, TO REVISE REQUIREMENTS FOR NOTICE OF CLAIM; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1409A, IDAHO CODE, TO PROVIDE FOR AMENDMENTS OF NOTICE OF CLAIMS; AMENDING SECTION 42-1410, IDAHO CODE, TO REVISE PROCEDURES FOR EXAMINATION OF WATER SYSTEMS AND OF CLAIMS FOR WATER RIGHTS ARISING UNDER STATE LAW; AMENDING SECTION 42-1411, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL PREPARE A PRELIMINARY REPORT ON RIGHTS ACQUIRED UNDER STATE LAW IN ANY GENERAL ADJUDICATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1411A, IDAHO CODE, TO PROVIDE FOR SERVICE OF NOTICE AND DETERMINATION OF WATER RIGHTS ESTABLISHED UNDER FEDERAL LAW; AMENDING SECTION 42-1412, IDAHO CODE, TO REQUIRE RESPONSES TO OBJECTIONS TO WATER RIGHTS IN THE DIRECTOR'S PRELIMINARY REPORT AND TO IDENTIFY ISSUES TO BE HEARD; AMENDING SECTION 42-1413, IDAHO CODE, TO PROVIDE FOR PREPARATION OF AND FILING A FINAL DECREE; AMENDING SECTION 42-1414, IDAHO CODE, TO PROVIDE FOR FEES FOR FILING NOTICE OF CLAIMS UNDER STATE LAW WITH THE DIRECTOR; AMENDING SECTION 42-1415, IDAHO CODE, TO REVISE PROCEDURES FOR ENFORCEMENT OF FILING FEES; REPEALING SECTIONS 42-1416 AND 42-1416A, IDAHO CODE; AMENDING SECTION 42-1417, IDAHO CODE, TO PROVIDE INTERIM ADMINISTRATION OF WATER RIGHTS IN ACCORDANCE WITH THE DIRECTOR'S FINAL ADJUDICATION OF WATER RIGHTS OR AS MODIFIED BY COURT ORDER, TO PROVIDE FOR WATER RIGHTS ESTABLISHED UNDER FEDERAL LAW AND TO PROVIDE FOR FORMATION OF A WATER DISTRICT; AMENDING SECTION 42-1420, IDAHO CODE, TO PROVIDE THAT THE DECREE ENTERED IN A GENERAL ADJUDICATION SHALL BE CONCLUSIVE AS TO THE NATURE AND EXTENT OF ALL WATER RIGHTS AND TO PROVIDE THE EFFECT OF A WATER RIGHT LICENSE; AMENDING SECTION 42-1421, IDAHO CODE, TO REVISE PROCEDURES FOR ADJUDICATION OF UNPERFECTED WATER RIGHTS AND TO PROVIDE WHEN THE DIRECTOR RETAINS JURISDICTION; AMENDING SECTION 42-1422, IDAHO CODE, TO REVISE THE DUTIES AND POWERS OF A SPECIAL MASTER; AMENDING SECTION 42-1423, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1423, IDAHO CODE, TO PROVIDE FOR ATTORNEYS FEES; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1425, IDAHO CODE, TO PROVIDE FOR ACCOMPLISHED TRANSFERS OF WATER RIGHTS AND THE PUBLIC INTEREST; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1426, IDAHO CODE, TO PROVIDE FOR ENLARGEMENTS AND WAIVER OF MANDATORY PERMIT REQUIREMENTS; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1427, IDAHO CODE, TO PROVIDE FOR DESCRIPTIONS OF WATER RIGHTS AND PROVIDE FOR

REPORTING AND DECREEING ELEMENTS OF A DECREED OR LICENSED WATER RIGHT; TO PROVIDE THE EFFECT OF AMENDMENTS IN THIS ACT TO ADJUDICATIONS STILL PENDING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-1401, Idaho Code, be, and the same is hereby amended to read as follows:

42-1401. LEGISLATIVE INTENT. The legislature finds and declares that the state laws and procedures for the adjudication of rights to the use of water need to be modified:

(1) to provide a statutory procedure for incorporating a negotiated agreement between a federal reserved water right claimant and the state of Idaho into an adjudication;

(2) to provide a more efficient method for adjudications;

(3) to assure that state laws and procedures provide a fair and impartial forum for the adjudication of the rights of all claimants; and

(4) to assure that state laws and procedures are adequate as a matter of federal law to adjudicate ~~the~~ all water rights ~~of--all~~ claimed to have been established under federal ~~reserved-water-right claimants~~ law and to administer such rights.

SECTION 2. That Section 42-1401A, Idaho Code, be, and the same is hereby amended to read as follows:

42-1401A. DEFINITIONS. The following terms are defined for purposes of this chapter as follows:

(1) "Claimant" means any person asserting ownership of rights to the use of water within the state of Idaho or on whose behalf ownership of rights to the use of water is asserted.

(2) "Consumptive use" means the amount of water that does not remain in the water system after use or is not returned to the water system through return flows or seepage, whether or not treatment for purposes of maintaining water quality is required before the water may be returned to the water system. "Consumptive use" for an irrigation water right shall be based upon the most water consumptive crop that can be grown in the area during the period of the year when water is used for irrigation. "Consumptive use" is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code.

(3) "Department" means the Idaho department of water resources.

(4) "Director" means collectively the director of the Idaho department of water resources and the Idaho department of water resources.

(5) "Domestic use" is defined in section 42-111, Idaho Code.

(6) "General adjudication" means an action both for the judicial determination of the extent and priority of the rights of all persons to use water from any water system within the state of Idaho that ~~binds-all-persons,-including-unknown-parties~~ is conclusive as to the nature of all rights to the use of water in the adjudicated water system, except as provided in section 42-1420, Idaho Code, and for the

administration of those rights.

(7) "Party" means ~~the director,~~ any person who is a claimant~~,~~ or any person who is served or joined.

(8) "Person" means an individual, a partnership, a trust, an estate, a corporation, a municipal corporation, the state of Idaho or any political subdivision, the United States, an Indian tribe, or any other public or private entity, except that "person" does not include the director of the department or the department.

(9) "Private adjudication" means an action commenced in accordance with section 42-1404, Idaho Code, for the judicial determination of both the extent and priority of the rights of named ~~parties~~ persons to the use of water from any water system within the state of Idaho, for which a general adjudication has not been commenced or completed, that binds only those persons joined ~~as parties~~ in the action and for the administration of such rights.

(10) "Purchaser" means any successor in interest of a claimant, whether the interest is acquired by purchase, gift, inheritance, or other means.

(11) "Supplemental adjudication" means an action commenced in accordance with section 42-14~~05~~24, Idaho Code, for the judicial determination of both the extent and priority of the rights of ~~the plaintiff(s)~~ a person to the use of water from any water system within the state of Idaho which has been adjudicated in a general adjudication or in a private adjudication.

(12) "Stock watering use" means the use of water solely for livestock or wildlife where the total ~~use~~ diversion is not in excess of thirteen thousand (13,000) gallons per day.

(13) "Water system" includes all rivers, streams, lakes, springs, ground waters, or other sources within this state, ~~including all water subject to claims based upon federal law,~~ including any river system or other source, as used in 43 U.S.C. section 666.

SECTION 3. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1401B, Idaho Code, and to read as follows:

42-1401B. ROLE OF THE DIRECTOR IN AN ADJUDICATION. (1) The director's role under this chapter is as an independent expert and technical assistant to assure that claims to water rights acquired under state law are accurately reported in accordance with the procedures of chapter 14, title 42, Idaho Code. The director shall make recommendations as to the extent of beneficial use and administration of each water right under state law and may use uniform parameters for quantification of beneficial use recommended for rights within climatic regions of the state.

(2) The director shall not be a claimant on behalf of the state or any subdivision of the state in an adjudication.

(3) The director shall not be a party to an adjudication.

SECTION 4. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1401C, Idaho Code, and to read as

follows:

42-1401C. ROLE OF STATE AGENCIES OTHER THAN THE IDAHO DEPARTMENT OF WATER RESOURCES IN AN ADJUDICATION. (1) Each state agency, and the Idaho water resource board may file a claim and appear separately in any adjudication through the attorney general. This section shall not apply to the Idaho department of water resources.

(2) The attorney general may appear in any adjudication and shall represent the position of the state of Idaho.

SECTION 5. That Section 42-1402, Idaho Code, be, and the same is hereby amended to read as follows:

42-1402. DECREED RIGHTS APPURTENANT TO LAND -- ~~FEDERAL-RESERVED~~ WATER RIGHTS ESTABLISHED UNDER FEDERAL LAW EXCEPTED. In allotting the waters of any water system by the district court according to the rights and priorities of those using such waters, such allotment shall be made to the use to which such water is beneficially applied, except where ~~federal-reserved~~ water rights established under federal law are involved, in which case the allotment shall be made in accordance with federal law. The right confirmed by such decree or allotment shall be appurtenant to and shall become a part of the land on which the water is used, and such right will pass with the conveyance of such land, and such decree shall describe the land to which such water shall become so appurtenant~~, except in the case of a federal-reserved water right~~. The amount of water so allotted shall never be in excess of the amount actually used for beneficial purposes for which such right is claimed, or in the case of a ~~federal-reserved~~ water right established under federal law, in excess of ~~the~~ that amount determined by federal law.

SECTION 6. That Section 42-1403, Idaho Code, be, and the same is hereby amended to read as follows:

42-1403. CERTIFIED COPIES OF ALLOTMENTS. It shall be the duty of the clerk of the district court in each of the counties of this state to prepare at the expense of the county, and transmit without delay to the department of water resources by express or registered mail, a certified copy of the allotments of the various streams, made by the district court and now on file in the offices of the district court in the various counties of the state: provided, that said clerk may, in place of such transcript, transmit such original records of such decrees as are recorded in books kept for that purpose. Immediately upon receipt of said transcripts or said original records, it shall be the duty of the department to record them in ~~a book kept for that purpose~~ its files, and to classify and arrange said decrees by placing all the rights to water of one stream and its tributaries together, and the department shall send to each ~~water commissioner~~ watermaster a certified copy of the allotments made by the district court of all the streams within his district. And when an allotment of the waters of a stream shall be made by the district court, the clerk of such district court shall immediately prepare, at the expense of the county, and transmit to the department of water resources, a certified copy of the

decree allotting such waters. The director may issue an abstract of decreed water right which shall describe the elements of a water right as contained in the water right decree.

SECTION 7. That Section 42-1404, Idaho Code, be, and the same is hereby amended to read as follows:

42-1404. PRIVATE ACTIONS FOR ADJUDICATION OF WATER RIGHTS. (1) Any claimant may file suit in the district court for the county in which the point of diversion or place of use of the claimed right is located for the purpose of adjudicating rights to the use of water from any water system for which a general adjudication has not been commenced or completed. The claimant shall set forth in his complaint the claimed water right in a notice of claim form furnished by the director. The claimant shall ~~name as defendants the director and~~ join all claimants of rights to the use of water from the water system whose joinder is necessary to resolve the dispute over rights to the use of water from the water system. The claimant shall also publish notice of the action in the manner specified in subsection (2)(b) of section 42-1408A, Idaho Code.

(2) ~~If the director determines that the public interest and necessity will be served by a general adjudication of water rights, the director may submit a counterclaim in the form of a petition to the court for an order commencing a general adjudication and the adjudication shall proceed in the manner specified in sections 42-1406 and 42-1407 through 42-1423, Idaho Code.~~

~~(3) If the director determines that the public interest and necessity will not be served by a general adjudication of water rights, the action may proceed as described in subsections (4) through (7) of this section as an adjudication of the rights of all persons joined pursuant to subsection (1) of this section~~ Any party who may be injured and who objects to the water right claimed by the claimant shall, within forty-five (45) days of the date of first publication of notice, file with the district court written notice of such objection stating the reasons for the objection. A copy of the objection shall be served upon the claimant, all other parties of record in the action, the watermasters, and the director.

(~~4~~3) Any claimant of a right to the use of water from the water system being adjudicated shall be entitled to intervene and have ~~his or her~~ the claimed right adjudicated. Any such claimant requesting intervention shall set forth the claimed water right in a notice of claim form furnished by the director. The court may request a director's report of the director, as described in section 42-1411, Idaho Code, as to those rights to be determined.~~, in which case t~~The director shall advise the district court as to whether the director will commence an examination of the water system in accordance with the provisions of section 42-1410, Idaho Code. If the director elects not to conduct an examination, the adjudication shall proceed based on the description of the water right in the notice of claim form. Each claimant shall have the burden of proof of establishing each element of a water right described in the claimants notice of claim form.

(~~5~~4) The director shall provide to the court an estimate of the costs that will be incurred in conducting the examination and in pre-

paring the director's report and an approximate time when the director's report will be completed. The court shall order the claimants of the rights to be determined to submit a notice of claim to the director in accordance with section 42-1409, Idaho Code, except that the fee as described in section 42-1414, Idaho Code, shall not apply. Upon the completion of claims-taking, the director shall bill each claimant for a claim fee equal to that claimant's proportionate share of the total estimated cost to the state relative to that claimant's share of the total amount of water claimed by all claimants or for an amount as determined by the court. Any notice of claim for a water right for which the fee is unpaid after thirty (30) days from billing by the director shall be incomplete and may be rejected ~~by the director~~. Prior to filing of the report with the court, the claimants shall pay the balance of the department's verified costs or be refunded any unused estimated costs advanced to the department in the same proportion as described above. In the event that a claimant shall contest the department's costs, the court shall then determine the reasonable costs to be paid by each claimant.

(~~6~~5) Notice of the filing of the director's report shall be given and objections to the director's report shall be made and heard as provided in sections 42-1411 and 42-1412, Idaho Code. ~~The adjudication shall otherwise proceed in accordance with the Idaho rules of civil procedure.~~

(6) The decree, which shall be entered pursuant to section 42-1412, Idaho Code, 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 determine all other matters necessary for the efficient administration of the water rights. The decree shall be conclusive as to the rights determined in the proceeding only as to those persons party to the proceeding.

(7) Any party who has appeared and is aggrieved by the decree of the district court may appeal in accordance with the Idaho appellate rules.

SECTION 8. That Section 42-1405, Idaho Code, be, and the same is hereby amended to read as follows:

42-140~~5~~24. SUMMARY SUPPLEMENTAL ADJUDICATION OF WATER RIGHTS. (1) Where an adjudication of a water system has been commenced prior to July 1, 1986, or where an adjudication of a water system has been commenced pursuant to subsection (3) of section 42-1404, Idaho Code, resulting in a decree of any court of competent jurisdiction, and thereafter it appears that any claimant having the right to the use of any part of those waters was not included in the decree as a party, and the right was not determined thereby, or that a claimant subsequent to the decree has acquired any right to the use of those waters, the claimant may bring an action to have such right adjudicated in the manner specified in subsection (3) of this section.

(2) Where a general adjudication of a water system has been commenced or enlarged after July 1, 1986, pursuant to sections 42-1406~~5~~ or 42-1406~~A~~, Idaho Code, resulting in a decree of any court of competent jurisdiction, and thereafter, it appears that a claimant subse-

quent to the decree has acquired any right to the use of those waters, or that a claimant who possesses a water right designated in paragraphs (a) through (d) of subsection (1) of section 42-1420, Idaho Code, did not have those water rights determined, the claimant may bring an action to have those water rights adjudicated in the manner specified in subsection (3) of this section.

(3) The following procedure shall be used for any supplemental adjudication:

(a) A c~~C~~laimant may bring an action in the district court ~~of the county wherein the point of diversion or place of use of the claimed right is located against the watermaster having charge of the distribution of the water source in which the claimant asserts an interest, or if there be no watermaster thereof, then against the director, provided that if the action is brought against the watermaster notice thereof shall be mailed by certified mail by the filing party to the director, at the time of service upon the watermaster~~ that originally heard the general adjudication to conduct a supplemental adjudication of the water rights of the claimant; and

(b) The claimant shall, in his complaint, set forth his acceptance as binding upon him of all prior applicable decrees and the findings of fact and conclusions of law upon which they are based, shall request the commencement of a supplemental adjudication and shall set forth the claimed water right in a notice of claim form furnished by the director and attached to the complaint. Thereupon, the district court shall issue a summons ~~cause~~ and it shall be served upon the ~~defendant~~ state of Idaho and the United States; and

(c) After return of service of summons, the claimant shall cause to be published once a week for not less than three (3) weeks, a notice of the pendency and purpose of the action in such newspaper or newspapers as the judge of the district court may order, which notice shall contain the title of the court and the cause, the name and post-office address of the ~~plaintiff~~ claimant, the date of priority of the water right claimed, the source of the water supply, the amount of water claimed, in general the nature of the water use, the approximate location of the point of diversion, and the place of use; and

(d) Any person who may be injured and who objects to the water right claimed by the ~~plaintiff~~ claimant, as described in the published notice, shall, within forty-five (45) days of the date of the first publication of notice, file with the district court written notice of such objection stating the reasons for the objection. A copy of the objection shall be served upon the ~~plaintiff, the watermasters, the director and~~ claimant, upon all other parties of record in the action, the watermasters, and the director; and

(e) The district court may request that the director determine the water rights in accordance with the procedures set forth in sections 42-1410 through 42-1413, Idaho Code; and

(f) The director, within thirty (30) days after the ~~expiration of the time fixed to file an objection with the court~~ district court requests the director to prepare a director's report in accordance

with sections 42-1410 through 42-1413, Idaho Code, shall file with the court notification as to whether the director will conduct an examination of the water rights claimed in the complaint ~~and whether--the--director--will,-prepare-for-submittal-to-the-court-a report-as-described-in-section-42-1411,-Idaho-Code,-as-applicable. The-director-may-commence-an-examination-of-the--water--system--in accordance--with--the-provisions-of-section~~ in accordance with the procedures set forth in sections 42-1410 through 42-1413, Idaho Code~~.~~; and

(g) Notification to the court that ~~a-report~~ the director will ~~be prepared~~ proceed in accordance with sections 42-1410 through 42-1413, Idaho Code, shall include an approximation of the time when the director's report will be completed, and an estimate of the director's costs that will be incurred in conducting the examination and in preparing the report~~.~~s; and

(h) The claimant ~~Plaintiff~~ shall then be required to advance to the director, the estimated costs to be incurred by the director in conducting the examination and in preparing the reports. Prior to the filing of the director's report with the court, the ~~plaintiff~~ claimant shall pay the balance of the director's verified costs or be refunded any unused estimated costs advanced to the director. In the event that the claimant shall contest the director's costs, the court shall then determine the reasonable costs to be paid by the claimant; and

(~~f~~i) The director shall file the report with the court upon completion and shall send a copy thereof to all parties to the action. Objections to the report of the director and hearing upon the objections shall be in accordance with the provisions of section 42-1412, Idaho Code; and

(~~g~~j) For those cases in which the director notifies the district court that the director does not intend to ~~prepare-a-report~~ proceed in accordance with sections 42-1410 through 42-1413, Idaho Code, the cause may thereafter be brought on for hearing in open court, and any ~~party~~ claimant having filed a timely objection with the court may appear and defend against the claim~~;--provided--that the--court--in--such-a-case-may,-upon-motion-and-good-cause-shown, order-the-director-to-prepare-a-report-in-accordance-with--subsections-(3)(e)-and-(3)(f)-hereof~~.

(4) The court's decree shall determine the rights of the ~~plaintiff~~ claimant in accordance with the proof submitted but subject to the terms of the original decree or decrees. 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, except that a decree for any adjudication commenced prior to July 1, 1986, need not contain a determination of the annual volume of consumptive use. The decree shall also determine all other matters necessary for the efficient administration of the water rights. Whereupon water shall be distributed to the claimant in accordance therewith and in the same manner as though the claimant's right had been included in the decree or decrees.

(5) Any ~~party-to-said~~ person who has appeared in the action may appeal in accordance with the Idaho appellate rules from the decree entered in the action hereby authorized to be brought.

SECTION 9. That Section 42-1405a, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 42-1406, Idaho Code, be, and the same is hereby amended to read as follows:

42-1406~~5~~. GENERAL ADJUDICATION -- PUBLIC INTEREST. (1) ~~Upon petition signed by f~~Five (5) or more or a majority of the users of water from any water system ~~requesting a determination of the rights of the various claimants of water from the that system, if~~ may petition the director to request the attorney general to file an action to commence a general adjudication. If the director deems that the public interest and necessity will be served by a determination of the water rights of that water system, the director shall ~~petition the court for an order commencing a general adjudication of the rights of the claimants from the water system, in accordance with sections 42-1407 and 42-1408, Idaho Code~~ request the attorney general to file an action to commence the general adjudication.

(2) If the director deems that the public interest and necessity will be served by a determination of the water rights of any water system, the director, upon his own initiative, may ~~file a petition for entry of an order commencing~~ request the attorney general to file an action to commence a general adjudication.

SECTION 11. That Section 42-1406A, Idaho Code, be, and the same is hereby amended to read as follows:

~~42-1406A.~~ SNAKE RIVER BASIN ADJUDICATION -- COMMENCEMENT. (1) Effective management in the public interest of the waters of the Snake River basin requires that a comprehensive determination of the nature, extent and priority of the rights of all users of surface and ground water from that system be determined. Therefore, the director of the department of water resources shall petition the district court to commence an adjudication within the terms of the McCarran amendment, 43 U.S.C. section 666, of the water rights of the Snake River basin either through initiation of a new proceeding or the enlargement of an ongoing adjudication proceeding. The petition shall describe:

(a) The boundaries of the system within the state to be adjudicated;

(b) Any class of water users within the system and the boundaries of any hydrologic sub-basins within the system for which the director intends to proceed separately with respect to the actions required or authorized to be taken pursuant to sections 42-1408 through 42-1414, Idaho Code; and

(c) The uses of water, if any, within the system that are recommended to be excluded from the adjudication proceeding.

(2) Upon issuance of an order by the district court which:

(a) Authorizes the director to commence an investigation and determination of the various water rights to be adjudicated within the system;

(b) Defines the boundaries of the system within the state to be adjudicated;

(c) Defines the classes of water users within the system and the

boundaries of any hydrologic sub-basins within the system for which proceedings may advance separately pursuant to sections 42-1408 through 42-1414, Idaho Code; and

(d) Defines any uses of water excluded from the adjudication proceedings; the adjudication shall proceed in the manner provided under the provisions of chapter 14, title 42, Idaho Code, with the exception of sections 42-1406 ~~and 42-1407~~, Idaho Code.

(3) ~~In exercising his authority under subsection (1) of this section, the director of the department of water resources:~~

~~(a) Shall petition the district court to commence an adjudication of the water rights of all of the Snake River basin within the state of Idaho upstream from the point at which the Snake River leaves the state of Idaho and enters the state of Oregon in section 14, township 4 north, range 6 west, Boise Meridian;~~

~~(b) May petition the district court to commence an adjudication of the water rights of the main stem of the Snake River which forms the boundary between the state of Idaho and the states of Oregon and Washington. The director may include within his petition under this paragraph any unadjudicated tributaries. The director shall not include in the petition filed under this paragraph any adjudicated tributary unless the United States, or other parties whose consent is necessary, refuse to consent to the jurisdiction of the district court to adjudicate all federal or Indian water rights claims pursuant to the McCarran amendment, 43 U.S.C. section 666~~ On November 19, 1987, the fifth judicial district court in and for the county of Twin Falls issued an order commencing an adjudication of the Snake River basin pursuant to this section. By this act, the legislature is amending the procedures that govern that proceeding. To the extent that the provisions of this section conflict with other provisions of this chapter, as amended, such other provisions shall govern.

SECTION 12. That Section 42-1407, Idaho Code, be, and the same is hereby amended to read as follows:

42-140~~7~~6. GENERAL ADJUDICATION -- CONTENTS OF PETITION. (1) A petition for a general adjudication shall contain among other things, the following:

(a) a description of the proposed boundaries of the water system to be adjudicated and administered;

(b) a statement of why the public interest and necessity would be served by a general adjudication;

(c) a list of counties where the water system proposed to be adjudicated and administered is located and a designation of whether all or only a portion of the county is included within the boundaries of the proposed general adjudication;

(d) a description of the general method proposed to ascertain and to serve claimants not disclosed following completion of the service required by paragraphs (a) through (d) of subsection (2) of section 42-1408~~A~~, Idaho Code; and

(e) a prayer for relief requesting the district court to enter an order that commences the general adjudication.

(2) A petition for entry of an order commencing a general adjudi-

cation shall be captioned: "In Re the General Adjudication of Rights to the Use of Water From the ..... Water System." Such action shall have no other caption.

SECTION 13. That Section 42-1408, Idaho Code, be, and the same is hereby amended to read as follows:

42-1408~~7~~. GENERAL ADJUDICATION -- VENUE -- NOTICE OF FILING -- COMMENCEMENT ORDER. (1) A general adjudication shall be brought in any district court in which any part of the water system within the state of Idaho is located. The clerk of the district court in which the petition is filed shall send to the supreme court a true and certified copy of the petition. The supreme court, by order, shall assign the judge to preside over the general adjudication. Venue of the general adjudication shall be determined by order or rule of the supreme court and venue of hearings under the general adjudication shall be determined by order of the presiding judge.

(2) The director shall prepare, in plain and concise language, and publish a notice of filing of a petition for entry of an order commencing a general adjudication for three (3) consecutive weeks in a newspaper of general circulation published in each county in which any part of the water system proposed to be adjudicated is located. If there is no newspaper published within a county, then the notice shall be published in a newspaper having general circulation in that county. The date set for hearing on the petition shall not be less than twenty (20) days after the last date of publication. The director shall serve the notice of filing a petition on the United States and on the state of Idaho. The director shall file affidavit(s) of service of the notice of filing with the district court upon completion of service.

(3) The notice of filing shall contain:

(a) a description of the boundaries of the water system proposed for the general adjudication;

(b) a statement of the date, place, and time of hearing before the district court;

(c) a concise statement of the matters proposed to be considered before the district court; and

(d) a statement that the district court will hear evidence and legal argument from any person in response to any matter raised by the petition.

(4) With respect to a general adjudication commenced pursuant to section 42-1406~~5~~, Idaho Code, if the district court determines that the public interest and necessity will be served by a general adjudication, the district court shall enter an order that includes the following:

(a) a provision that commences the general adjudication;

(b) a description of the boundaries of the water system for which a general adjudication is commenced;

(c) a list of counties where the water system to be adjudicated and administered is located and a designation of whether all or only a portion of the county is included within the boundaries of the general adjudication;

(d) a provision that requires all claimants to file a notice of claim or negotiated agreement for all water rights from the water

system, except that the court may exclude those types of water rights designated in paragraph (a) of subsection (1) of section 42-1420, Idaho Code;

(e) a determination of the method of service for claimants not disclosed following completion of the service required by paragraphs (a) through (d) of subsection (2) of section 42-1408A, Idaho Code; and

(f) a statement that the files of the district court will contain affidavits of service and other documents stating the persons served with a copy of the notice of order commencing the general adjudication.

(5) Upon entry of a commencement order, the general adjudication shall proceed in accordance with this chapter.

(6) Promptly upon entry of the commencement order, the clerk of the district court shall send a certified copy of the order to the director, and shall serve notice of entry of the order on all persons appearing before the court in accordance with the Idaho rules of civil procedure~~;--except--that--the--director-may-prepare-and-provide-to-the clerk,-sufficient-copies-of--a--notice--of--entry--of--the--order--for service~~.

SECTION 14. That Section 42-1408A, Idaho Code, be, and the same is hereby amended to read as follows:

42-1408A. SERVICE OF NOTICE OF ORDER COMMENCING A GENERAL ADJUDICATION. (1) Upon entry of a district court's order commencing a general adjudication, the director shall prepare a notice of order, using plain and concise language, that contains the following information or enclosures:

(a) an order commencing a general adjudication has been entered, the date of entry of the order, and the district court that entered the order;

(b) an illustration of the boundaries of the water system to be adjudicated and administered;

(c) that section 42-1409, Idaho Code, requires in a general adjudication all claimants, except as specifically excluded by law, to file for each water right, a notice of claim on a form furnished by the director; failure to file a required notice of claim will result in a court determination that no water right exists for the use of water for which the required notice of claim was not filed;

(d) a notice of claim is required for any water right license and for any water right permit on file for which the director requires a permit holder to file a notice of claim in accordance with section 42-1409, Idaho Code; a notice of claim may be filed for any other water right permit;

(e) a notice of claim is not required for a water right evidenced by an application on file with the department;

(f) a notice of claim, if the court order excludes any uses from an adjudication, may be filed for the excluded use prior to the filing of the director's report with the district court and the right will be determined, even though a notice of claim is not required;

(g) a notice of claim is not required for any person who receives

water solely by virtue of ownership of shares of stock in, or by being located within the boundaries of, a water delivery organization, if the water delivery organization holds legal title to the water right and if the water delivery organization files a notice of claim;

(h) the date set by the director for filing a timely notice of claim, which shall not be less than ninety (90) days after service;

(i) that section 42-1409A, Idaho Code, imposes substantial restrictions on the filing of amended or late notices of claim;

(j) the locations at which the notice of claim forms will be available ~~and at which a reasonably detailed map of the boundaries of the water system will be posted~~;

(~~j~~k) section 42-1414, Idaho Code, requires each claimant, other than those exempted by federal law, to pay a variable fee to the director with a notice of claim; failure to pay the fee will result in rejection of the notice of claim; failure to file a timely notice of claim will result in the assessment of a late fee in the amount of fifty dollars ($50.00) or fifteen per cent (15%) of the original filing fee, whichever is greater;

(~~k~~l) section 42-1409, Idaho Code, requires that all purchasers of a water right inquire of the director whether a notice of claim has been filed, and if not, to file a notice of claim, except as specifically excluded by law, and that all claimants and purchasers provide the director written notice of any change in ownership, along with some evidence of ownership or of any change in mailing address; and

(~~l~~m) the files of the district court will contain affidavits of service or other documents stating the persons served with a copy of the notice of order.

(2) The director shall serve copies of the notice of order ~~on the parties to the general adjudication~~ as follows:

(a) the director shall serve the notice of order on the state of Idaho and the United States;

(b) the director shall serve the notice of order on claimants other than the persons in paragraph (a) of subsection (2) of this section, initially by publication once a week for three (3) consecutive weeks in a newspaper of general circulation published in each county in which any part of the water system, which is the subject of the general adjudication, is located. If there is no newspaper published within a county, then the copies shall be published in a newspaper having general circulation in that county;

(c) the director shall post the notice of order in each county courthouse, county recorder's office, and county assessor's office in which any part of the water system is located. The director shall complete the posting on or before the date of the last publication within each county;

(d) the director shall serve the notice of order by ordinary mail on each person listed as owning real property on the real property assessment roll within the boundaries of the water system to be adjudicated at the address listed on the real property assessment roll; and

(e) the director shall file a copy of the notice of order com-

mencing a general adjudication in the office of the county recorder in each county in which any part of the water system is located; notwithstanding the provisions of section 5-505, Idaho Code, the notice, from the time it is filed with the recorder for record, is constructive notice of the contents thereof within the county in which the notice is recorded, to subsequent purchasers and mortgagees.

(3) The director shall send the notice of order by ordinary mail to all persons who submit a written request to the director to be notified of the commencement of an adjudication. The director may circulate copies in any additional manner the director deems appropriate.

(4) Upon expiration of the period for filing notices of claims, the director shall conduct a second round of service in conformance with this subsection. The director shall compare the notices of claims with department records and other information reasonably available to determine whether there are any rights to water from the water system for which no notice of claim was filed. In the event the director determines that not all claimants have filed claims, the director shall make a reasonably diligent effort in accordance with the court order to determine the land to which the possible claim is appurtenant, the last known owner of that land, and the last known address of that owner. The director shall prepare a second round notice of order. The director shall serve ~~a~~ this notice ~~of--order~~ on the last known owner in accordance with the court order. The notice shall contain the information specified in subsection (1) of this section, except that the notice shall state ~~the~~ a final date for filing notices of claims. The final date shall be an additional period of time, in no case less than ~~thirty~~ ninety (~~3~~90) days from the date the notice is served, in which the notice of claim must be received by the director.

(5) The director shall file with the district court such proof of service as may be required to demonstrate compliance with the above requirements.

SECTION 15. That Section 42-1409, Idaho Code, be, and the same is hereby amended to read as follows:

42-1409. NOTICE OF CLAIM. (1) The director shall prepare and furnish ~~at no cost two (2)~~ on request a standard notice of claim forms~~. One (1) notice of claim form shall be for use by any claimant claiming a water right acquired under state law. The other notice of claim form shall be for use by any claimant claiming a water right reserved under federal law, unless the state of Idaho and the federal reserved water rights claimant have described the water right in a negotiated agreement and have submitted a copy of that agreement to the director.~~

~~(2)~~ The notice of claim form ~~for use by any claimant who claims a water right acquired under state law~~ shall include the following:

(a) the name and address of the claimant;

(b) the source of water;

(c) the quantity of water claimed:

(i) the quantity of water claimed to be used for water rights acquired under state law shall describe the rate of diversion or, for an instream flow claim, a rate of water flow in cubic feet per second or the ~~quantity~~ annual volume

of diversion of water ~~stored~~ for use or storage in acre-feet per year, or both;

(ii) the quantity of water claimed for water rights established under federal law shall describe for each and every purpose the rate of present and future water diversion or, in the case of an instream flow claim the rate of flow in cubic feet per second or annual volume of present and future diversion in acre-feet per year or both;

(d) the date of priority claimed:

(i) the date of priority claimed for water rights acquired under state law shall be from any license, permit, or decree; or if the right is not based upon a license, permit, or decree, then the date when the water was first applied to beneficial use;

(ii) the date of priority claimed for water rights established under federal law shall be from the documents creating the federal reservation;

(e) the number thereof, if founded upon a right on file with the department; or if the right is founded upon judicial decree not on file with the department, then the title of the court and cause, number of the action and the date of entry;

(f) the legal description of the existing 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;

(g) the purpose(s) of use and the period of use:

(i) the purpose(s) of use for water rights acquired under state law shall describe each purpose of use and the period of the year when water is used for each purpose;

(ii) the purpose(s) of use for a water right established under federal law shall describe the purposes for which the water included in the claim is presently being used, if at all, and the period of the year when water is necessary for the designated purposes;

(h) a legal description of the place of use:

(i) the legal description of the place of use for water rights acquired under state law shall describe the land where the water is beneficially used; 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;

(ii) the legal description of the place of use for a water right established under federal law shall describe the federal reservation and shall also include a map designating for each consumptive use the existing or proposed place of use;

(i) the dates of any changes or enlargements in use for water rights acquired under state law, including the dimension of the diversion works as originally constructed and as enlarged;

(j) the annual volume of consumptive use; ~~and~~

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

(l) such remarks and other ~~facts~~ 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 ~~may require to show the extent and nature of the right and to show compliance with the law in acquiring the right claimed.~~

~~(3) The other notice of claim form shall be for use by any claimant who claims a water right reserved under federal law, unless the state of Idaho and the federal reserved water rights claimant have described the water right in a negotiated agreement and have submitted a copy of that agreement to the director. The notice of claim form shall include the following, as applicable:~~

~~(a) the name and address of the claimant;~~

~~(b) the source of water;~~

~~(c) the total quantity of water claimed to be reserved for each and every purpose, including all present and future uses;~~

~~(d) the date of priority claimed;~~

~~(e) the legal description of existing 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(s) for which the water included in the claim is presently being used, if at all;~~

~~(g) the period of the year when water is necessary for the designated purposes;~~

~~(h) a legal description of the reservation;~~

~~(i) a map designating for each consumptive use the existing or proposed place of use;~~

~~(j) the annual volume of consumptive use;~~

~~(k) a list of document(s) creating the federal reservation; and~~

~~(l) such other facts as the court may require to define the right in accordance with federal law.~~

(4) ~~A claimant may amend a notice of claim form at any time prior to the filing of the director's report required by section 42-1411, Idaho Code.~~ With respect to any water right for which a change was approved by the director pursuant to sections 42-211 or 42-222, Idaho Code, after filing the notice of claim and prior to filing of the director's report, the claimant shall amend the notice of claim consistent with the determination of the director on the change. ~~If a claimant increases in an amended notice of claim the amount of water claimed, the amount of land irrigated or the kilowatt capacity of the generating facility, the claimant shall pay upon filing the amended notice of claim an additional variable fee in accordance with the rates set forth in section 42-1414, Idaho Code. Claimants shall be entitled to return of filing fees or late fees only where the fee was miscalculated at the time the original or amended notice of claim was filed.~~

(5) Each claimant shall sign and verify under oath that the statements contained in a notice of claim or amended notice of claim are true and correct.

(6) All claimants of water rights that are included in a general adjudication shall file with the director a notice of claim ~~or negotiated agreement of federal reserved water rights~~ for all water rights, except for those types of water rights designated in paragraphs (a) through (d) of subsection (1) of section 42-1420, Idaho Code. ~~Any claimant may file a notice of claim or negotiated agreement for any water right designated in paragraphs (a) through (d) of subsection (1)~~

~~of--section--42-1420,--Idaho--Code,--at-any-time-before-the-director's report-is-filed-with-the-district-court.~~

(5) Any person who fails to submit a required notice of claim ~~or negotiated--agreement~~ shall be deemed to have been constructively served with notice of a general adjudication by publication and mailing as required by section 42-1408~~A~~, Idaho Code.

(~~7~~6) Each purchaser of a water right from the water system shall inquire of the director whether a notice of claim has been filed, and if not, shall file a notice of claim in accordance with this section. All claimants and purchasers shall provide the director written notice of any change in ownership or of any change in mailing address during the pendency of a general adjudication. All purchasers shall submit some evidence of ownership along with the notice of change of ownership.

~~(8)--If--a--claimant-files-a-notice-of-claim-after-the-date-set-by the-director-in-the-notice-mailed-or-served-in-accordance-with-subsections-(2),-(3),-or-(4)-of-section-42-1408A,-Idaho-Code,-or--with--subsection--(9)-of-this-section;-the-claimant-shall-pay-the-fee-set-forth in-section-42-1414,-Idaho-Code,-and-in-addition,-the-amount--of--fifty dollars-($50.00)-or-fifteen-per-cent-(15%)-of-the-original-filing-fee, whichever-is-greater.-The-district-court-or-the-director-may-waive-the late-processing-fee-or-a-portion-thereof-for-good-cause.~~

(9~~7~~) At least one hundred twenty (120) days prior to filing of the director's report with the court, the director may notify each holder of a permit or license to appropriate water from the water system, for which proof of beneficial use was filed after entry of the court's order commencing a general adjudication, to file a notice of claim within ~~ninety--(90)~~ thirty (30) days of mailing of the notice. The director shall notify the holder of the permit or license by certified mail at the most recent address shown in the records of the department.

(~~10~~8) The district court or director may extend the time for filing a notice of claim.

SECTION 16. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1409A, Idaho Code, and to read as follows:

42-1409A. AMENDMENT OF NOTICE OF CLAIMS -- LATE NOTICE OF CLAIMS. (1) A claimant may amend a notice of claim or file a late notice of claim at any time prior to the final date for filing notices of claim in the notice of second round service as provided in subsection (4) of section 42-1408, Idaho Code.

(2) A claimant may amend the name and address of a claimant at any time.

(3) A claimant may amend a notice of claim or file a late notice of claim after the final date for filing notices of claims in the notice of second round service for good cause shown to the district court or the director.

(4) No amendments to a notice of claim or late notices of claim shall be allowed except as authorized in subsection (1), (2) or (3) of this section.

SECTION 17. That Section 42-1410, Idaho Code, be, and the same is hereby amended to read as follows:

42-1410. EXAMINATION OF WATER SYSTEM AND OF CLAIMS. (1) Upon entry of the court's order commencing a general adjudication, or as ~~required~~ provided in sections 42-1404 or 42-14~~05~~24, Idaho Code, the director shall commence an examination of the water system, the canals and ditches and other works, and the uses being made of water diverted from the water system for water rights acquired under state law. The examination shall continue in a manner and for such a period of time as the director determines is necessary to evaluate the extent and nature of each water right for which a notice of claim under state law has been filed. The director may conduct any fact-finding hearing necessary for a full and adequate disclosure of the facts.

(2) The director and other employees of the department shall have authority to go upon all lands, both public and private, for the purpose of investigating the uses of water from any water source and may require the cooperation of the claimant in investigating the claimant's water use. The employee investigating the claimant's use shall make a reasonable effort to contact the claimant to schedule a date and approximate time for the examination. If the well or diversion works are located in a building other than an unlocked structure used solely for housing the well or other diversion works in which there is no reasonable expectation of privacy, the employee shall only enter the building in the absence of a court order after requesting and receiving the permission of the claimant or other occupant. The director may request the district court to issue an order compelling inspection and subpoenas requiring the attendance of any witness or the production of documents in accordance with the Idaho rules of civil procedure.

(3) ~~The provisions of subsections (1) and (2) of this section shall not apply to federally recognized Indian reservations unless pursuant to court order or tribal consent.~~

~~(4) The director shall prepare a map or maps of the water system to be adjudicated in such detail as the director deems appropriate to assist the claimants in preparing notices of claims and objections to the director's report.~~

~~(5)~~ Any maps prepared by the director ~~pursuant to subsection (4) of this section~~ shall be available for inspection at the offices of the department and any other locations the director may designate, for the purpose of assisting any claimant in preparing and filing claims and objections to the director's report.

SECTION 18. 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 report shall consist of three (3) parts. The first part of the report shall contain the director's determination of the rights to the use of water from the water system in accordance with the provisions of subsection (2) of this section and a description of the water system. The second part of the report shall contain an abstract of each notice of claim or nego-~~

~~tiated--agreement--for--all-water-rights-reserved-under-federal-law-in accordance-with-the-provisions-of-subsection-(3)-of-this-section.--The third-part-of-the-report-shall-contain-the-notices-of-claim-or-negotiated--agreements--filed-by-any-claimants-of-rights-reserved-under-federal-law~~ 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.

(2) The director shall determine the following elements ~~with respect--to--all~~, 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 use in cubic feet per second or ~~the-quantity~~ annual volume of diversion of water ~~stored~~ 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) the annual volume of consumptive use; ~~and~~

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

(k) such remarks and other matters as are necessary ~~to-define~~ 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 ~~shall-abstract-the-notices-of-claim-or-negotiated-agreements-for-all-water-rights-reserved-under-federal--law.--The abstract--shall-summarize-the-notices-of-claim-or-negotiated-agreement for-all-water-rights-reserved-under-federal-law-but-shall--not--change in--any--substantive-manner-the-claimed-or-negotiated-water-right.-The abstract-shall-include-the--following--elements,--as--applicable:~~ 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.

~~(a)--the-name-and-address-of-the-claimant;~~

~~(b)--the-source-of-water;~~

~~(c)--the-total-quantity-of-water-claimed-to-be-reserved--for--each and-every-purpose,-including-all-present-and-future-uses;~~

~~(d)--the-date-of-priority;~~

~~(e)--the--legal-description-of-the-existing-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 period of the year when water is necessary for such purposes;~~
~~(g) the annual volume of consumptive use;~~
~~(h) a legal description of the reservation;~~
~~(i) such other matters as the court may require to define the right in accordance with federal law.~~

(4) 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. 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. If a party successfully rebuts the director's recommendation, any other party to the proceeding may submit evidence in opposition to the objector's position and in support of the director's report. The ultimate burden of proof shall be on the claimant if the prima facie validity of the director's recommendation is rebutted. All such proceedings shall be governed by the Idaho rules of civil procedure and Idaho rules of evidence.

(5) The director shall file an original of the director's report with the district court. The director shall also distribute for display and review ~~by parties,~~ at least one (1) copy of ~~parts I and II of~~ the director's report to the office of the clerk of the district court for each county ~~wherein a portion~~ in which any part of the water system is located. The director shall also serve on each claimant or the claimant's attorney ~~at the last known post office address~~ 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 ~~to be adjudicated within the water system~~ acquired under state law has been filed with the district court, naming the district court(s) to ~~with~~ 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 ~~parts I and II 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 ~~stream~~ 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 ~~party~~ 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 ~~or negotiated~~ 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-the-director-shall-file-responses-to-objections-to-the-first-part-of-the-report;--that--the--director--shall mail--copies--of--the-response-to-the-objector-and-the-claimant-of the-right-objected-to;-that-the-claimant-of-the-right-objected--to may--file-a-response-to-an-objection-and-that-the-claimant-in-such event-shall-mail-a-copy-of-any-response-to-the-objector-and-to-the director;~~

~~(h)~~ a statement that claimants ~~of--claims--or--negotiated--rights listed--in--the--second-part-of-the-report~~ may file responses with the court to objections filed against their claims ~~or--negotiated rights~~, and that a copy of any response must be mailed to the director~~,~~ and to the objector~~;--if--the--objector--is--not--the director~~;

(~~i~~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

(~~j~~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.

(~~5~~6) The director shall file an affidavit with the district court demonstrating compliance with the notice requirements of subsection (~~4~~5) of this section.

SECTION 19. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1411A, Idaho Code, and to read as follows:

42-1411A. SERVICE OF NOTICE OF AND DETERMINATION OF WATER RIGHTS ESTABLISHED UNDER FEDERAL LAW. (1) The district court shall determine the water rights established under federal law in accordance with the following procedures.

(2) Any claimant of a water right established under federal law shall serve all such claims on the other claimants. The following three (3) procedures are all acceptable methods of service:

(a) the claimant shall send by ordinary mail a true and correct copy of each notice of claim to a water right established under

federal law on all other claimants and a notice describing the date for filing objections and responses to objections;

(b) the claimant shall serve a notice of water rights established under federal law on all other claimants. The claimant shall also deposit the following with the clerk of the district court in each county in which any part of the water system, which is the subject of the general adjudication, is located:

(i) a true and correct copy of each notice of claim to a water right established under federal law;

(ii) an index approved by the district court that lists each notice of claim to a water right established under federal law by source, by amount, by purpose of use, and by claimant.

(c) the claimant may contract with the director to perform all or any portion of the service required in this section. The director shall require in any contract that the cost of the services provided by the director are reimbursed by the claimant of a water right established under federal law.

(3) Any claimant of a water right established under federal law shall file a notice with the district court of its election under the procedures provided in this section. This notice shall be filed within the time set by the district court.

(4) The notice of water rights established under federal law shall be in substantially the following form:

NOTICE OF WATER RIGHT CLAIMS ESTABLISHED UNDER FEDERAL LAW IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE ..... WATER SYSTEM

PLEASE TAKE NOTICE THAT the (ADD NAME OF CLAIMANT) has filed a notice of claim or negotiated agreement to a water right established under federal law in the following county(ies):

(ADD LIST OF COUNTIES)

These water rights are claimed for the following purposes:

(ADD LIST OF PURPOSES)

WARNING: THESE WATER RIGHT CLAIMS FOR A WATER RIGHT ESTABLISHED UNDER FEDERAL LAW MAY AFFECT THE USE OF WATER BY OTHER USERS OF WATER IN THE COUNTY(IES) LISTED ABOVE. If you are a claimant or a user of water in those counties, you should review the water right claims or negotiated agreement for a water right established under federal law on file in the above entitled matter. The water right claims based upon federal law are available for review in the following manner:

The District Court has designated the following locations for deposit of the water right claims established under federal law:

(ADD LIST OF LOCATIONS)

WARNING: OBJECTIONS TO WATER RIGHTS ESTABLISHED UNDER FEDERAL LAW MUST BE FILED WITH THE DISTRICT COURT BY (INSERT APPROPRIATE DATE).

(5) The United States, if it filed any notices of claim for a water right established under federal law, and any other claimants of such water rights, shall serve the notice on all claimants of water rights acquired under state law (i) by ordinary mail and (ii) by publication once a week for three (3) consecutive weeks in a newspaper of general circulation published in each county in which any part of the water system, which is the subject of a general adjudication, is located.

(6) The United States, if it filed any notices of claim for a

water right established under federal law, and any other claimants of such water rights, shall file an affidavit demonstrating proof of service in compliance with this section.

(7) The district court shall provide at least sixty (60) days for filing objections to water rights established under federal law where the number of those water rights are five hundred (500) or less, at least one hundred twenty (120) days where the number of these water rights are more than five hundred (500) and not more than five thousand (5,000), and at least one hundred eighty (180) days where the number of these water rights are more than five thousand (5,000).

(8) Any claimant may file a response to an objection.

(9) The notice of claim, objection, and responses to an objection shall identify the issues to be litigated.

(10) The district court shall conduct the trial without a jury on an exception or any group of objections in accordance with the Idaho rules of civil procedure. The burden of proof shall be on the claimant to establish the nature and extent of the water right claimed.

(11) The district court shall enter a decree that contains or incorporates a statement of each element of a water right as stated in subsection (2) of section 42-1409, Idaho Code, as applicable, and that contains such general provisions, 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.

(12) If no objections are filed to a notice of claim for a water right established under federal law, the claimant shall appear at a hearing scheduled by the district court and shall demonstrate a prima facie case of the existence of the water right established under federal law prior to entry of a decree for such claimed water right established under federal law. If the claimant fails to present a prima facie case of the existence of the water right established under federal law, then the district court shall enter an order determining that the claimed water right does not exist.

(13) Any party may appeal in accordance with the Idaho rules of civil procedure.

(14) The attorney general shall represent the state of Idaho in all matters regarding claims to water rights established under federal law, including, but not limited to, filing objections to water right claims established under federal law.

SECTION 20. 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 ~~party~~ claimant who desires to object to ~~parts I or II of~~ a water right, or to a general provision in the director's report, or to a claim established under federal law shall file ~~the party's~~ an objections with the district court within the time specified in the notice of filing of the director's report or in the notice of water right claim established under federal law. The ~~party~~ claimant shall also send a copy of the objection to the claimant whose water right claim ~~or negotiated right~~ is the subject of the objection and to the director.

(2) The director ~~shall~~ may file with the district court a

~~response~~ supplemental report to any objection to ~~part--I-of~~ the director's report within the time specified in the notice of filing of the report. The director shall ~~attach-to-each-response~~ file with the district court the original of the notice of claim. The director shall mail a copy of the ~~response~~ 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. ~~The-claimant-shall-mail-a-copy of-any-response-to-the-objector-and-to-the-director~~ 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) Any claimant of a water right ~~reserved~~ established under federal law may file with the district court a response to any objection filed with respect to the claimant's water right ~~described-in-part-II of-the-report~~ within the time specified in the notice of filing ~~of-the report~~ or in the notice of water right claim established under federal law. The claimant shall mail a copy of any response to the objector and to the director.

(4) The ~~report--of-the-director~~ notice of claim, objections, and responses to objections, ~~notices-of-claims-and-any--negotiated--agreement--between--the-state-of-Idaho-and-any-federal-reserved-water-right claimant-shall-constitute-the-pleadings.-The-district-court-may--allow such--further--or--amended--pleadings--as-may-be-necessary-for-a-final determination-of-the-proceedings~~ shall identify the issues to be heard for water rights acquired under state law.

(5) The notices of claim for water rights established under federal law, objections, and responses to objections shall identify the issues to be heard for water rights established under federal law.

(6) Following expiration of the period for filing objections and responses thereto, the district court ~~may-convene-pretrial-conferences on--an--objection--or--any-group-of-objections.-Following-consultation with-the-parties,-the-district-court-may-enter-a-pretrial--order.--The pretrial-order-may-establish-the-following:~~

~~(a)--the-date-when-all-pretrial-motions-shall-be-filed;~~

~~(b)--the-date-when-all-discovery-shall-be-completed;-and~~

~~(c)--the-date-for-the-trial-on-the-objection(s).~~

~~(6)--The-district-court-shall-provide-the-director,-each-party-who objected,--and--each-claimant-whose-claimed-or-negotiated-right-is-the subject-of-the-objection,-written-notice-of-the-pretrial-conference-at least-thirty-(30)-days-prior-to-the-date-set-for-the-pretrial--conference~~ 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 remand any water right acquired under state law that is the subject of an objection to the director for further investigation. 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.

(7) 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.

(8) 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, except that a decree for any adjudication commenced prior to July 1, 1986, need not contain a determination of the annual volume of consumptive use for any water right. The decree shall also ~~determine--all-other-matters~~ 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~~,-except-that-the-director-may-prepare-and-provide--to--the--clerk sufficient-copies-for-service-of-a-notice-of-entry-of-the-decree~~.

(9) 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 ~~parts-I-and II-of~~ the director's report for which no objection was filed. ~~The-portions-of-the-director's-report-for-which-no-objection-was-filed--shall be-admitted-as-true-facts.~~ Following hearing, the district court shall enter a partial decree as to those portions of ~~parts-I-and-II-of~~ the director's report~~,-including-all-matters-necessary-for--the--efficient administration--of--the--water-rights,~~ 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 ~~each~~ those elements of a water right ~~as-stated-in-subsections-(2) and-(3)-of-section-42-1411,-Idaho-Code,-as-applicable~~ contained in the director's report for water rights acquired under state law, except that a decree for any adjudication commenced prior to July 1, 1986, need not contain a determination of the annual volume of consumptive use. 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~~,-except-that-the-director-may--prepare--and--provide--to--the--clerk,-sufficient-copies-for-service-of-a notice-of-entry-of-the-decree~~.

(10) Upon resolution of all objections and entry of partial decree(s) pursuant to subsection (8) of this section, and after entry of a partial decree for unobjected ~~claims~~ portions of the director's report pursuant to subsection (9) of this section, the ~~director~~ district court shall combine all partial decrees and the general provisions into a final decree ~~and-submit-the-final-decree-to-the-district court-for-approval~~.

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

SECTION 21. That Section 42-1413, Idaho Code, be, and the same is hereby amended to read as follows:

42-1413. FILING OF FINAL DECREE. (1) When a decree has become final in an adjudication in which the director filed a report, the director shall file a certified copy of the decree or a transcript thereof in the office of the county recorder of each county in which the place of use or point of diversion of the water rights contained in the decree is located.

(2) Upon entry of a final decree, the director shall administer the water rights by distributing water in accordance with the final decree and with title 42, Idaho Code.

(3) When a decree has become final in an adjudication in which the director has not filed a report, the clerk of the district court in which the decree is entered shall file a certified copy of the decree or a transcript thereof in the office of the county recorder for each county in which the place of use or point of diversion of the water rights decreed is located, and shall send a certified copy of the decree to the director as required in section 42-1403, Idaho Code.

(~~3~~4) The transcript of decree shall contain the following:

(a) title of the district court;

(b) name of the case;

(c) the case number;

(d) names of each party;

(e) date of entry;

(f) the description of the boundaries of the water system, which is the subject of the general adjudication;

(g) a statement that the decree is entered in the records of the clerk of the district court;

(h) a statement that information as to the rights decreed is available at the offices of the department; and

(i) such other information as may be necessary to assist any person searching the title of a parcel to find the decree.

(~~4~~5) A decree or transcript recorded pursuant to this section from the time it is filed with the recorder for record, is constructive notice of the contents of the decree within the county in which the decree or transcript is recorded to subsequent purchasers and mortgagees.

SECTION 22. That Section 42-1414, Idaho Code, be, and the same is hereby amended to read as follows:

42-1414. FEES FOR FILING NOTICE OF CLAIMS UNDER STATE LAW WITH THE DIRECTOR. (1) In order to provide an adequate and equitable cost-sharing formula for financing the costs of adjudicating water rights the department of water resources shall accept no notice of claim required under the provisions of section 42-1409, Idaho Code, unless such notice of claim is submitted with a filing fee based upon the fee schedule set forth below. Failure to pay the variable water use fee in

accordance with the timetable provided shall be cause for the department to reject and return the notice of claim to the claimant. The fee schedule set forth below applies to adjudication proceedings commenced or enlarged on or after January 1, 1985~~, and to adjudication proceedings for which a proposed finding of water rights has not been filed with the appropriate district court by the department of water resources prior to January 1, 1985~~.

(~~1~~a) Flat fee per claim filed:

(~~a~~i) Claims for domestic and/or stockwatering rights $25.00

(~~b~~ii) Claims for all other rights $50.00

(~~2~~b) Additional variable water use fee for claims filed based upon acreage, power generating capacity, c.f.s., or equivalent volume of water:

(~~a~~i) Irrigation use (one fee irrespective of number of claims): ..... $ 1.00 per acre

(~~b~~ii) Power: ..... $ 3.50 per kilowatt of capacity (manufacturer's nameplate rating)

(~~c~~iii) Aquaculture: ..... $ 10.00 per c.f.s.

(~~d~~iv) Municipal, industrial, commercial, mining, heating, cooling: ..... $100.00 per c.f.s.

(~~e~~v) Public instream flow, public lake level maintenance, wildlife: ..... $100.00 per c.f.s.

(~~3~~c) Payment of a variable water use fee of more than one thousand dollars ($1,000) may be spread out over as many as five (5) annual equal payments with ten percent (10%) interest accruing on the unpaid balance. All fees collected by the department pursuant to this section shall be placed in the water resources adjudication account established in section 42-1777, Idaho Code.

(2) If a claimant increases in an amended notice of claim the amount of water claimed, the amount of land irrigated, or the kilowatt capacity of the generating facility, the claimant shall pay upon filing the amended notice of claim an additional variable fee in accordance with the rates set forth in subsection (1) of this section. Claimants shall be entitled to a return of filing fees or late fees only where the fee was miscalculated at the time the original or amended notice of claim was filed.

(3) If a claimant files a notice of claim after the date set by the director in the notice mailed or served in accordance with subsections (2), (3), or (4) of section 42-1408, Idaho Code, or with subsection (9) of section 42-1409, Idaho Code; the claimant shall pay the fee set forth in subsection (1) of this section, and in addition, the amount of fifty dollars ($50.00) or fifteen percent (15%) of the original filing fee, whichever is greater. The director may waive the late processing fee or a portion thereof for good cause.

SECTION 23. That Section 42-1415, Idaho Code, be, and the same is hereby amended to read as follows:

42-1415. ENFORCEMENT OF ~~EXTENDED VARIABLE FEE~~ FILING FEES. After filing of the director's report in a general adjudication, the director may prohibit in accordance with chapter 3, title 42, Idaho Code, the diversion and use of water in satisfaction of a right claimed or

decreed in the adjudication upon the failure of the claimant to comply with the schedule for payment of variable fees as set forth in subsection (~~3~~1) of section 42-1414, Idaho Code.

SECTION 24. That Sections 42-1416 and 42-1416A, Idaho Code, be, and the same are hereby repealed.

SECTION 25. That Section 42-1417, Idaho Code, be, and the same is hereby amended to read as follows:

42-1417. GENERAL ADJUDICATION -- INTERIM ADMINISTRATION OF WATER RIGHTS. (1) ~~At any time after filing of the director's report, t~~The district court may~~, by order,~~ permit the ~~formation of water districts and the delivery of water in all or part of the water system~~ distribution of water pursuant to chapter 6, title 42, Idaho Code~~. The district court may permit the delivery of water in a water district:~~

(a) in accordance with ~~part I of~~ the director's report or as modified by the court's order;

(b) in accordance with ~~the notices of claims abstracted in part II of the director's report upon a preliminary determination that the claimants of the rights to be administered are reasonably likely to prevail on the merits of their claims, or if not, then as modified by the court's order; or~~ applicable partial decree(s) for water rights acquired under state law;

(c) ~~in accordance with negotiated agreements abstracted in part II of the director's report or as modified by the court's order; and~~

~~(d)~~ in accordance with applicable partial decree(s) for water rights established under federal law.

(2) The district court may enter the order only:

(a) upon a motion ~~by the director or~~ by a ~~claimant of water from the water system~~ party;

(b) after notice by the moving party by mail to the director and each claimant of water from the water system or portion thereof that could reasonably be determined to be adversely affected by entry of the order; and

(c) upon a determination by the court, after hearing, that the interim administration of water rights in accordance with the report, or as the report is modified by the court's order, and in accordance with any partial decree(s), is reasonably necessary to protect senior water rights.

(3) Immediately upon entry of the court's order of interim administration of water rights, the clerk of the district court shall mail a certified copy of the order to the director, and the director shall immediately give notice of the order to the watermaster of the water districts affected by the order.

(4) ~~The provisions of this section shall not apply to the delivery of federal reserved water rights within a federally recognized Indian reservation~~ After entry of the district court's order for interim administration, the director may form a water district pursuant to chapter 6, title 42, Idaho Code.

SECTION 26. That Section 42-1420, Idaho Code, be, and the same is

hereby amended to read as follows:

42-1420. BINDING EFFECT OF DECREE -- EXCEPTIONS. (1) The decree entered in a general adjudication ~~commenced under the provisions of sections 42-1406 or 42-1406A, Idaho Code,~~ shall be ~~binding on all persons and~~ conclusive as to the nature and extent of ~~the~~ all water rights ~~of -- all persons, including all unknown parties,~~ in the adjudicated water system except that the following described water rights shall not be lost by failure to file a notice of claim ~~or negotiated agreement~~:

(a) a water right for domestic use or stock watering use, specifically excluded from the general adjudication by court order;

(b) a water right application for permit filed under chapters 2 or 15, title 42, Idaho Code;

(c) a water right permit issued under chapters 2 or 15, title 42, Idaho Code, unless the director required the permit holder to file a notice of claim in accordance with subsection (9) of section 42-1409, Idaho Code; ~~and~~

(d) a water right license issued under chapter 2 or 15, title 42, Idaho Code, if proof of beneficial use had not been filed on the date of commencement of the general adjudication, unless the director required the license holder to file a notice of claim in accordance with subsection (7) of section 42-1409, Idaho Code; and

(e) a claim to a water right established under federal law, if the priority of the right claimed is later than and junior to the date of entry of the order commencing the general adjudication.

(2) The exceptions from the conclusive effect of a decree in a general adjudication stated in subsection (1) above shall not apply to any water right for which a notice of claim or negotiated agreement is filed.

SECTION 27. That Section 42-1421, Idaho Code, be, and the same is hereby amended to read as follows:

42-1421. PROCEDURES FOR ADJUDICATION OF UNPERFECTED WATER RIGHTS INITIATED UNDER STATE LAW -- DIRECTOR'S JURISDICTION. (1) All persons claiming a water right based on an application or permit on the date of entry of the order commencing a general adjudication are not required to file a notice of claim unless required in accordance with subsection (9) of section 42-1409, Idaho Code. If the director approves the application in whole or in part during the pendency of a general adjudication and prior to filing the director's report, the director shall notify the permit holder of the pendency of the general adjudication. A permit holder who is not required by the director to file a notice of claim in accordance with subsection (9) of section 42-1409, Idaho Code, may file a notice of claim at any time prior to filing the director's report.

(2) All persons claiming a water right based on a water right license existing on the date of entry of the order commencing a general adjudication shall file a notice of claim.

(3) The district court shall decree any claimed water right for which proof of beneficial use has not been filed, but shall state that the right is conditioned upon completion of the appropriation in

accordance with the laws of the state governing the appropriation of water and that the decreed right shall be subject to the terms of the license to appropriate water that is ultimately issued.

(4) The director retains jurisdiction of all applications, permits and licenses under chapters 2, 3, 6 or 15, title 42, Idaho Code, to take action authorized by the conditions contained in any permit or license or by applicable law and action on any application for transfer under section 42-222, Idaho Code.

(5) The director retains jurisdiction of all decreed water rights under chapters 2, 3 and 6, title 42, Idaho Code, to take action authorized by the conditions of any decree or by applicable law, including action on any application for transfer under section 42-222, Idaho Code.

(6) The director retains jurisdiction of all beneficial use water rights under chapters 2, 3 and 6, title 42, Idaho Code, to take action authorized by applicable law.

SECTION 28. That Section 42-1422, Idaho Code, be, and the same is hereby amended to read as follows:

42-1422. SPECIAL MASTER -- APPOINTMENT -- POWERS AND DUTIES -- COMPENSATION -- DISQUALIFICATION -- REVIEW OF SPECIAL MASTER'S REPORT. (1) The district court may appoint one (1) or more special masters in any general adjudication~~, in accordance with the following procedures:~~

~~(a) upon the district court's own motion;~~

~~(b) upon agreement of the parties; or~~

~~(c) upon motion of any party.~~

~~(2) A special master(s) shall be appointed to determine the water right claims asserted in the general adjudication authorized in section 42-1406A, Idaho Code, upon request of a party.~~

(3~~2~~) The district court shall specify the powers and duties of a special master in the order of reference. The compensation and disqualification of a special master shall be governed by order or rule of the supreme court.

(4~~3~~) Objections to and hearing on the special master's report shall be governed by rule 53(e) of the Idaho rules of civil procedure.

SECTION 29. That Section 42-1423, Idaho Code, be, and the same is hereby amended to read as follows:

42-1423~~8~~. 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 remaining portions of this act.

SECTION 30. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1423, Idaho Code, and to read as follows:

42-1423. ATTORNEYS FEES AND COSTS AGAINST THE STATE OF IDAHO, ANY STATE AGENCY OR ANY OFFICER OR EMPLOYEE. No judgment for costs or

award of attorneys fees against the state of Idaho, any state agency, or any officer or employee of the state of Idaho shall be allowed in any water rights adjudication proceeding pursuant to this chapter. The state of Idaho expressly refuses to waive its sovereign immunity to the imposition of any judgment for costs or award of attorney fees. The state of Idaho, state administrative agency, or any officer or employee shall not be required to pay any fees other than those provided in section 42-1414, Idaho Code, for appearing in a proceeding brought under this chapter or any appeal of a matter arising from such proceeding.

SECTION 31. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1425, Idaho Code, and to read as follows:

42-1425. ACCOMPLISHED TRANSFERS. (1) Legislative findings regarding accomplished transfers and the public interest.

(a) The legislature finds and declares that prior to the commencement of the Snake River basin adjudication, many persons entitled to the use of water or owning land to which water has been made appurtenant either by decree of the court or under provisions of the constitution and statutes of this state changed the place of use, purpose of use, point of diversion, nature of use, or period of use of their water rights without compliance with the transfer provisions of sections 42-108 and 42-222, Idaho Code.

(b) The legislature finds that many of these changes occurred with the knowledge of other water users and that the water has been distributed to the right as changed. The legislature further finds and declares that the continuation of the historic water use patterns resulting from these changes is in the local public interest provided no other existing water right was injured at the time of the change. Denial of a claim based solely upon a failure to comply with sections 42-108 and 42-222, Idaho Code, where no injury or enlargement exists, would cause significant undue financial impact to a claimant and the local economy. Approval of the accomplished transfer through the procedure set forth in this section avoids the harsh economic impacts that would result from a denial of the claim.

(c) The legislature further finds and declares that examination of these changes by the director through the procedures of section 42-222, Idaho Code, would be impractical and unduly burdensome. The more limited examination of these changes provided for in this section, constitutes a reasonable procedure for an expeditious review by the director while ensuring that the changes do not injure other existing water rights or constitute an enlargement of use of the original right.

(2) Any change of place of use, purpose of use, point of diversion, nature of use or period of use of a water right by any person entitled to use of water or owning any land to which water has been made appurtenant either by decree of the court or under the provisions of the constitution and statutes of this state, prior to November 19, 1987, the date of commencement of the Snake River basin adjudication,

may be claimed in a general adjudication even though the person has not complied with sections 42-108 and 42-222, Idaho Code, provided no other water rights existing on the date of the change were injured and the change did not result in an enlargement of the original right. Except for the consent requirements of section 42-108, Idaho Code, all requirements of sections 42-108 and 42-222, Idaho Code, are hereby waived in accordance with the following procedures:

(a) If an objection is filed to a claim for accomplished change of place of use, purpose of use, point of diversion, nature of use or period of use, the district court shall remand the water right to the director for further hearing to determine whether the change injured a water right existing on the date of the change or constituted an enlargement of the original right. After a hearing, the director shall submit a supplemental report to the district court setting forth his findings and conclusions. If the claimant or any person who filed an objection to the accomplished transfer is aggrieved by the director's determination, they may seek review before the district court. If the change is disallowed, the claimant shall be entitled to resume use of the original water right, provided such resumption of use will not cause injury or can be mitigated to prevent injury to existing water rights. The unapproved change shall not be deemed a forfeiture or abandonment of the original water right.

(b) This section is not applicable to any claim based upon an enlargement of use.

SECTION 32. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1426, Idaho Code, and to read as follows:

42-1426. ENLARGEMENTS — WAIVER OF MANDATORY PERMIT REQUIREMENTS. (1) Legislative findings regarding enlargements:

(a) The legislature finds that prior to the commencement of the Snake River basin adjudication and subsequent to the mandatory permit system provided in sections 42-201 and 42-229, Idaho Code, persons entitled to the use of water or owning any land to which water has been made appurtenant by decree, license or constitutional appropriation have, through water conservation and other means, enlarged the use of said water without increasing the rate of diversion and without complying with the mandatory permit system adopted by the legislature. Enlargements have been done with the knowledge of other water users, and water has been distributed based upon the right as enlarged. Junior water users made appropriations based upon a water system that reflected these enlarged uses. Thus, the legislature further finds and declares that it is in the public interest to waive the mandatory permit requirements for these enlargements in use prior to the commencement of a general adjudication, so long as such enlargements in use did not increase the rate of diversion of the original water right or exceed the rate of diversion for irrigation provided in section 42-202, Idaho Code, after the enlargement of use, and the enlargement of use did not reduce the quantity of water available to

other water rights existing on the date of the enlargement in use.

(b) The legislature further finds that it is in the public interest to waive certain statutory provisions for the appropriation of water that has been diverted and applied to beneficial use to insure the economic and agricultural base in the state of Idaho as it existed on the date of the commencement of the Snake River basin adjudication and to maintain historic water use patterns existing on that date.

(2) The mandatory permit requirements of sections 42-201 and/or 42-229, Idaho Code, are waived, and a new water right may be decreed for the enlarged use of the original water right based upon the diversion and application to beneficial use, with a priority date as of the date of completion of the enlargement of use for any enlargement occurring on or before November 19, 1987; provided however, that the rate of diversion of the original water right and the separate water right for the enlarged use, combined, shall not exceed the rate of diversion authorized for the original water right; and further provided, that the enlargement in use did not injure water rights existing on the date of the enlargement of use. An enlargement may be decreed if conditions directly related to the injury can be imposed on the original water right and the new water right that mitigate any injury to a water right existing on the date of enactment of this act. If injury to a water right later in time cannot be mitigated, then the new right for the enlarged use shall be advanced to a date one (1) day later than the priority date for the junior water right injured by the enlargement. It is further provided that any such enlargement of use allowed in a general adjudication shall not constitute an abandonment or forfeiture of the original water right to the extent of current use.

(3) The director shall publish a notice of enlargement of water right for all water rights recommended under this section. The notice shall contain a summary of the notice of claim and shall be published in the same manner as notices for applications to appropriate water in section 42-203A, Idaho Code. Any person who has filed an application for a water right prior to the enactment of this act or who has been issued a permit for a water right prior to enactment of this act but who has not filed a claim in an adjudication shall have one hundred twenty (120) days from the date of last publication of the notice of enlargement of a water right under this section to file a petition with the department of water resources to assert any claimed injury from the enlargement. No appeal of the determination of the department shall be allowed. If the applicant or permittee is dissatisfied with the determination of the department on any claim of injury, the sole remedy is to intervene in the general adjudication and assert their claim of injury in an objection to the water right.

SECTION 33. That Chapter 14, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1427, Idaho Code, and to read as follows:

42-1427. DESCRIPTIONS OF WATER RIGHTS -- REPORTING AND DECREEING ELEMENTS OF A DECREED OR LICENSED WATER RIGHT. (1) Legislative find-

ings:

(a) The legislature finds that existing water rights are not uniformly described. Many old water rights were simply defined by source, priority date and diversion rate. Over time, the legislature and courts have made this original description of a water right more specific by the addition of other elements. Because of the increasing demand for water, it is important that the elements of a water right be standardized to allow for fair and efficient administration of the limited water supply. One (1) purpose of chapter 14, title 42, Idaho Code, is to establish, through an adjudication a uniform description for surface water rights, ground water rights and water rights which include storage.

(b) Because of the passage of time it is not possible to establish with any degree of certainty the undefined elements of a decreed or licensed water right as they existed on the date the right was established, because water delivery has occurred based upon the historic water use patterns and custom, and because attempts to define elements of a water right based upon unknown conditions in existence on the date of the establishment of the water right could result in significant impacts upon the claimant, the local economy and tax base, the legislature finds that it is in the public interest to provide a mechanism to decree previously undefined elements of existing water rights based upon conditions existing on the date of commencement of the adjudication provided the claimant is not exceeding any previously determined and recorded element of the decreed or licensed water right.

(2) If a licensed or decreed water right does not describe all of the elements of a water right required in section 42-1409, Idaho Code, the director shall determine those elements not defined by the prior license or decree based upon the extent of beneficial use of the water right as of the date of the commencement of an adjudication.

SECTION 34. EFFECT OF AMENDMENTS ON GENERAL ADJUDICATIONS PRESENTLY PENDING. (1) The legislature intends that the amendments made in this act shall apply to case no. 39576 in the district court of the fifth judicial district, in and for the county of Twin Falls, subject to the transition provisions of this section.

(2) The director's reports for the three (3) test basins shall be remanded back to the director to conform those reports to the new information requirements of this act.

(3) The district court shall provide any claimant of a water right acquired under state law or established under federal law with an opportunity to file new notices of claim or to file amendments to notices of claim to conform them with this act, subject to the following procedures:

(a) The provisions of subsection (1) of section 42-1409, Idaho Code, do not require the amendment of any notice of claim for water rights acquired under state law. The director shall investigate the notices of claim sufficiently to determine these matters. If any claimant disagrees with the director's determination of these matters, the claimant may file an objection to the director's report.

(b) A notice of claim that was included in a director's report

for any of the three (3) test basins shall not be subject to further objection, if the description of the notice of claim was not modified following remand to the director.

(4) The director shall cease work on any director's report for water rights established under federal law, subject to the following provisions:

(a) Any director's report, which abstracts the notices of claim for a water right established under federal law, may be deposited in the depository of notices of claims authorized under section 42-1411A(2)(b)(i), Idaho Code, in lieu of a copy of the notices of claim to water rights established under federal law. If a claimant of a water right established under federal law elects to use the director's report which abstracts the notices of claim to water rights established under federal law, the director shall only seek reimbursement under section 42-1411A(2)(c), Idaho Code, from the United States for those services that the department performed after the effective date of this act.

(b) A notice of claim that was included in a director's report, which abstracted a notice of claim to a water right established under federal law, for any of the three (3) test basins shall not be subject to further objection, if the description of the notice of claim was not modified following remand to the director.

(5) The director shall transmit to the district court the originals of the notices of claim to water rights established under federal law within sixty (60) days of the effective date of this act.

SECTION 35. 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 April 12, 1994.

CHAPTER 455
(H.B. No. 990)

AN ACT

RELATING TO THE SNAKE RIVER BASIN ADJUDICATION; AMENDING SECTION 42-1409, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 969, SECOND REGULAR SESSION, FIFTY-SECOND IDAHO LEGISLATURE, TO FURTHER REVISE REQUIREMENTS FOR NOTICE OF CLAIM; AMENDING SECTION 42-1411, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 969, SECOND REGULAR SESSION, FIFTY-SECOND IDAHO LEGISLATURE, TO PROVIDE THE SCOPE, REQUIREMENTS AND EFFECT OF THE DIRECTOR'S REPORT; AMENDING SECTION 42-1411A, IDAHO CODE, AS ADDED BY HOUSE BILL NO. 969, SECOND REGULAR SESSION, FIFTY-SECOND IDAHO LEGISLATURE, TO REVISE REQUIREMENTS FOR SERVICE OF NOTICE OF AND DETERMINATION OF WATER RIGHTS ESTABLISHED UNDER FEDERAL LAW; AMENDING SECTION 42-1412, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 969, SECOND REGULAR SESSION, FIFTY-SECOND IDAHO LEGISLATURE, TO REVISE PROCEDURES CONCERNING OBJECTIONS, RESPONSES TO OBJECTIONS, HEARING BEFORE A DISTRICT JUDGE AND ENTRY OF A FINAL DECREE; AMENDING SECTION 42-1414, IDAHO CODE, AS

AMENDED BY HOUSE BILL NO. 969, SECOND REGULAR SESSION, FIFTY-SECOND IDAHO LEGISLATURE, TO PROVIDE FOR FEES FOR FILING NOTICE OF CLAIMS WITH THE DIRECTOR; AMENDING SECTION 42-1427, IDAHO CODE, AS ADDED BY HOUSE BILL NO. 969, SECOND REGULAR SESSION, FIFTY-SECOND IDAHO LEGISLATURE, TO PROVIDE IF A LICENSED OR DECREED WATER RIGHT DOES NOT DESCRIBE ALL OF THE ELEMENTS OF A WATER RIGHT REQUIRED BY SECTION 42-1409, IDAHO CODE, THE DIRECTOR SHALL INCLUDE IN HIS REPORT RECOMMENDATIONS FOR THOSE ELEMENTS NOT DEFINED BY THE PRIOR LICENSE OR DECREE BASED UPON CERTAIN FACTORS; AMENDING UNCODIFIED SECTION 34 OF HOUSE BILL NO. 969, SECOND REGULAR SESSION, FIFTY-SECOND IDAHO LEGISLATURE, TO PROVIDE THE EFFECT OF AMENDMENTS IN THIS ACT ON GENERAL ADJUDICATIONS STILL PENDING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-1409, Idaho Code, as amended by House Bill No. 969, Second Regular Session, Fifty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

42-1409. NOTICE OF CLAIM. (1) The director shall prepare and furnish on request a standard notice of claim form.

The notice of claim form shall include the following:

(a) the name and address of the claimant;

(b) the source of water;

(c) the quantity of water claimed:

(i) the quantity of water claimed to be used for water rights acquired under state law shall describe the rate of diversion or, for an instream flow claim, a rate of water flow in cubic feet per second or the annual volume of diversion of water for use or storage in acre-feet per year, or both;

(ii) the quantity of water claimed for water rights established under federal law shall describe for each and every purpose the rate of present and future water diversion or, in the case of an instream flow claim the rate of flow in cubic feet per second or annual volume of present and future diversion in acre-feet per year or both;

(d) the date of priority claimed:

(i) the date of priority claimed for water rights acquired under state law shall be from any license, permit, or decree; or if the right is not based upon a license, permit, or decree, then the date when the water was first applied to beneficial use;

(ii) the date of priority claimed for water rights established under federal law shall be ~~from the documents creating the federal reservation~~ determined in accordance with federal law;

(e) the number thereof, if founded upon a right on file with the department; or if the right is founded upon judicial decree not on file with the department, then the title of the court and cause, number of the action and the date of entry;

(f) the legal description of the existing 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;

(g) the purpose(s) of use and the period of use:

(i) the purpose(s) of use for water rights acquired under state law shall describe each purpose of use and the period of the year when water is used for each purpose;

(ii) the purpose(s) of use for a water right established under federal law shall describe the purposes for which the water included in the claim is presently being used, if at all, and the period of the year when water is necessary for the designated purposes;

(h) a legal description of the place of use:

(i) the legal description of the place of use for water rights acquired under state law shall describe the land where the water is beneficially used; 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;

(ii) the legal description of the place of use for a water right established under federal law shall describe the federal reservation and ~~shall also include a map designating for each consumptive use~~ the existing or proposed place of use for each consumptive use;

(i) the dates of any changes or enlargements in use for water rights acquired under state law, including the dimension of the diversion works as originally constructed and as enlarged;

(j) the annual volume of consumptive use;

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

(l) 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.

(2) With respect to any water right for which a change was approved by the director pursuant to sections 42-211 or 42-222, Idaho Code, after filing the notice of claim and prior to filing of the director's report, the claimant shall amend the notice of claim consistent with the determination of the director on the change.

(3) Each claimant shall sign and verify under oath that the statements contained in a notice of claim or amended notice of claim are true and correct.

(4) All claimants of water rights that are included in a general adjudication shall file with the director a notice of claim for all water rights, except for those types of water rights designated in paragraphs (a) through (d) of subsection (1) of section 42-1420, Idaho Code.

(5) Any person who fails to submit a required notice of claim shall be deemed to have been constructively served with notice of a general adjudication by publication and mailing as required by section 42-1408, Idaho Code.

(6) Each purchaser of a water right from the water system shall inquire of the director whether a notice of claim has been filed, and if not, shall file a notice of claim in accordance with this section.

All claimants and purchasers shall provide the director written notice of any change in ownership or of any change in mailing address during the pendency of a general adjudication. All purchasers shall submit some evidence of ownership along with the notice of change of ownership.

(7) At least one hundred twenty (120) days prior to filing of the director's report with the court, the director may notify each holder of a permit or license to appropriate water from the water system, for which proof of beneficial use was filed after entry of the court's order commencing a general adjudication, to file a notice of claim within thirty (30) days of mailing of the notice. The director shall notify the holder of the permit or license by certified mail at the most recent address shown in the records of the department.

(8) The district court or director may extend the time for filing a notice of claim.

SECTION 2. That Section 42-1411, Idaho Code, as amended by House Bill No. 969, Second Regular Session, Fifty-second Idaho Legislature, 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 ~~use~~ 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) the annual volume of consumptive use;

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

(k) such remarks and other matters as are necessary for defini-

tion 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. ~~If a party successfully rebuts the director's recommendation, a~~Any other party to the proceeding may submit evidence in opposition to the objector's position and in support of the director's report. ~~The ultimate burden of proof shall be on the claimant if the prima facie validity of the director's recommendation is rebutted.~~ All such proceedings shall be governed by the Idaho rules of civil procedure and Idaho rules of evidence.

(~~5~~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.

(~~6~~7) The director shall file an affidavit with the district court demonstrating compliance with the notice requirements of subsection (~~5~~6) of this section.

SECTION 3. That Section 42-1411A, Idaho Code, as added by House Bill No. 969, Second Regular Session, Fifty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

42-1411A. SERVICE OF NOTICE OF AND DETERMINATION OF WATER RIGHTS ESTABLISHED UNDER FEDERAL LAW. (1) The district court shall determine the water rights established under federal law in accordance with the ~~following~~ procedures established in this section.

(2) The district court shall determine the following procedures for water rights established under federal law:

(a) The contents of a notice of water right claims established under federal law;

(b) The method of service of the notice of water right claims established under federal law;

(c) The location of any depositories of notices of claim for water rights established under federal law, if the district court determines that claim depositories are necessary to provide other claimants reasonable access to the notices of claims established under federal law.

(3) The district court shall be guided by the following three (3)

principles in establishing the procedures required in this section:

(a) The purpose of this notice is to provide notice to other claimants of the filing of water rights established under federal law comparable to the notice of filing for water rights acquired under state law;

(b) The procedures shall not impose any burden greater than the burden placed upon the director to prepare, file, and serve the notice of filing for a director's report; and

(c) The procedure shall comply with the McCarran amendment, 43 USC 666.

(4) Any claimant of a water right established under federal law shall serve all such notices of claims on the other claimants~~.--The following-three-(3)-procedures-are-all-acceptable-methods-of-service:~~

~~(a)--the-claimant-shall-send-by-ordinary-mail-a-true--and--correct copy--of--each--notice-of-claim-to-a-water-right-established-under federal-law-on-all-other-claimants-and--a--notice--describing--the date-for-filing-objections-and-responses-to-objections;~~

~~(b)--the-claimant-shall-serve-a-notice-of-water-rights-established under--federal-law-on-all-other-claimants.-The-claimant-shall-also deposit-the-following-with-the-clerk-of-the-district-court-in-each county-in-which-any-part-of-the-water-system,-which-is-the-subject of-the-general-adjudication,-is-located:~~

~~(i)---a-true-and-correct-copy-of-each-notice-of--claim--to--a water-right-established-under-federal-law;~~

~~(ii)--an-index-approved-by-the-district-court-that-lists-each notice--of--claim--to-a-water-right-established-under-federal law-by-source,-by-amount,-by-purpose-of-use,-and-by-claimant.~~

~~(c)--the-claimant-may-contract-with-the-director-to-perform-all-or any-portion-of-the-service-required-in-this-section.-The--director shall--require--in-any-contract-that-the-cost-of-the-services-provided-by-the-director-are-reimbursed-by-the-claimant--of--a--water right--established-under-federal-law~~ in accordance with the procedures established by the district court.

(3~~5~~) Any claimant ~~of-a-water-right-established-under-federal--law shall--file-a-notice-with-the-district-court-of-its-election-under-the procedures-provided-in-this-section.-This-notice-shall-be-filed-within the-time-set-by-the-district-court.~~

~~(4)--The-notice-of-water--rights--established--under--federal--law shall-be-in-substantially-the-following-form:~~

~~NOTICE-OF-WATER-RIGHT-CLAIMS-ESTABLISHED-UNDER-FEDERAL-LAW-IN-RE THE-GENERAL-ADJUDICATION-OF-RIGHTS-TO-THE-USE-OF-WATER FROM-THE-.....-WATER-SYSTEM~~

~~PLEASE--TAKE--NOTICE--THAT--the-(ADD-NAME-OF-CLAIMANT)-has-filed-a notice-of-claim-or-negotiated-agreement-to-a-water--right--established under-federal-law-in-the-following-county(ies):~~

~~(ADD-LIST-OF-COUNTIES)~~

~~These-water-rights-are-claimed-for-the-following-purposes:~~

~~(ADD-LIST-OF-PURPOSES)~~

~~WARNING:--THESE--WATER--RIGHT-CLAIMS-FOR-A-WATER-RIGHT-ESTABLISHED UNDER-FEDERAL-LAW-MAY-AFFECT-THE-USE-OF-WATER-BY-OTHER-USERS-OF--WATER IN--THE--COUNTY(IES)--LISTED-ABOVE.-If-you-are-a-claimant-or-a-user-of water-in-those-counties,-you-should-review-the-water-right--claims--or negotiated--agreement--for-a-water-right-established-under-federal-law~~

~~on-file-in-the-above-entitled-matter.-The--water--right--claims--based upon-federal-law-are-available-for-review-in-the-following-manner:~~

~~The--District--Court--has--designated--the-following-locations-for deposit-of-the-water-right-claims-established-under-federal-law:~~

~~(ADD-LIST-OF-LOCATIONS)~~

~~WARNING:-OBJECTIONS-TO-WATER-RIGHTS-ESTABLISHED-UNDER-FEDERAL-LAW MUST-BE-FILED-WITH-THE-DISTRICT-COURT-BY-(INSERT-APPROPRIATE-DATE).~~

~~(5)--The-United-States,-if-it-filed-any-notices--of--claim--for--a water--right-established-under-federal-law,-and-any-other-claimants-of such-water-rights,-shall-serve-the-notice-on-all--claimants--of--water rights--acquired-under-state-law-(i)-by-ordinary-mail-and-(ii)-by-publication-once-a-week-for-three-(3)-consecutive-weeks-in-a-newspaper-of general-circulation-published-in-each-county-in-which-any-part-of--the water--system,--which--is--the--subject--of-a-general-adjudication,-is located~~ may contract with the director to perform all or any portion of the service required in this section. The director shall require in any contract that the cost of the services provided by the director are reimbursed by the claimant of a water right established under federal law.

(6) The United States, if it filed any notices of claim for a water right established under federal law, and any other claimants of such water rights, shall file an affidavit demonstrating proof of service in compliance with this section.

(7) The district court shall provide at least sixty (60) days for filing objections to water rights established under federal law where the number of those water rights are five hundred (500) or less, at least one hundred twenty (120) days where the number of these water rights are more than five hundred (500) and not more than five thousand (5,000), and at least one hundred eighty (180) days where the number of these water rights are more than five thousand (5,000).

(8) Any claimant who desires to object to a claim established under federal law shall file an objection with the district court within the time specified in the notice of water right claims established under federal law. The claimant shall also send a copy of the objection to the claimant whose claim is the subject of the objection and to the director. Any claimant may file a response to an objection.

(9) The notice of claim, objection, and responses to an objection shall identify the issues to be litigated.

(10) If a claimant of a water right established under federal law has filed notices of claim for one (1) water use based upon state and federal law, the district court shall develop procedures, after an opportunity for hearing, for coordination of the determination of such claims based upon state and federal law.

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

(12) Each claimant of a water right established under federal law has t~~The ultimate~~ burden of ~~proof-shall-be-on-the-claimant--to--establish--the--nature-and-extent-of-the-water-right-claimed~~ persuasion for each element of a water right. Since no independent review of the notice of claim has occurred as provided for water rights acquired under state law in a director's report, a claimant of a water right established under federal law has the burden of going forward with the

evidence to establish a prima facie case for the water right established under federal law. All such proceedings shall be governed by the Idaho rules of civil procedure and Idaho rules of evidence.

(1~~1~~3) The district court shall enter a partial decree that contains or incorporates a statement of each element of a water right as stated in subsection (2) of section 42-1409, Idaho Code, as applicable, and that contains such general provisions, 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.

(1~~2~~4) If no objections are filed to a notice of claim for a water right established under federal law, the claimant shall appear at a hearing scheduled by the district court and shall demonstrate a prima facie case of the existence of the water right established under federal law prior to entry of a decree for such claimed water right established under federal law. If the claimant fails to present a prima facie case of the existence of the water right established under federal law, then the district court shall enter an order determining that the claimed water right does not exist.

(1~~3~~5) Any party may appeal in accordance with the Idaho rules of civil procedure.

(1~~4~~6) The attorney general shall represent the state of Idaho in all matters regarding claims to water rights established under federal law, including, but not limited to, filing objections to water right claims established under federal law.

SECTION 4. That Section 42-1412, Idaho Code, as amended by House Bill No. 969, Second Regular Session, Fifty-second Idaho Legislature, 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, ~~or to a claim established under federal law~~ shall file an objection with the district court within the time specified in the notice of filing of the director's report ~~or in the notice of water right claim established under federal law~~. 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) ~~Any--claimant--of-a-water-right-established-under-federal-law 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-or-in-the-notice-of-water-right--claim--established--under--federal--law.--The--claimant--shall--mail-a-copy-of-any response-to-the-objector-and-to-the-director.~~

~~(4)~~ The notice of claim, objections, and responses to objections, shall identify the issues to be heard for water rights acquired under state law.

~~(5)--The--notices-of-claim-for-water-rights-established-under-federal-law,-objections,-and-responses-to-objections-shall--identify--the issues-to-be-heard-for-water-rights-established-under-federal-law.~~

(6~~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 ~~remand~~ 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 ~~to-the director-for-further-investigation~~. 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.

(7~~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.

(8~~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, except that a decree for any adjudication commenced prior to July 1, 1986, need not contain a determination of the annual volume of consumptive use for any water right. 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.

(9~~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, except that a decree for any adjudication commenced prior to July 1, 1986, need not contain a determination of the annual volume of consumptive use. 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.

(~~10~~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) ~~pursuant to subsection (8) of this section, and after entry of a partial decree for unobjected portions of the director's report pursuant to subsection (9) of this section~~, the district court shall combine all partial decrees and the general provisions into a final decree.

(~~11~~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.

SECTION 5. That Section 42-1414, Idaho Code, as amended by House Bill No. 969, Second Regular Session, Fifty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

42-1414. FEES FOR FILING NOTICE OF CLAIMS ~~UNDER STATE LAW~~ WITH THE DIRECTOR. (1) In order to provide an adequate and equitable cost-sharing formula for financing the costs of adjudicating water rights the department of water resources shall accept no notice of claim required under the provisions of section 42-1409, Idaho Code, unless such notice of claim is submitted with a filing fee based upon the fee schedule set forth below. Failure to pay the variable water use fee in accordance with the timetable provided shall be cause for the department to reject and return the notice of claim to the claimant. The fee schedule set forth below applies to adjudication proceedings commenced or enlarged on or after January 1, 1985.

(a) Flat fee per claim filed:

(i) Claims for domestic and/or stockwatering rights $25.00

(ii) Claims for all other rights $50.00

(b) Additional variable water use fee for claims filed based upon acreage, power generating capacity, c.f.s., or equivalent volume of water:

(i) Irrigation use (one fee irrespective of number of claims): ..... $ 1.00 per acre

(ii) Power: ..... $ 3.50 per kilowatt of capacity (manufacturer's nameplate rating)

(iii) Aquaculture: ..... $ 10.00 per c.f.s.

(iv) Municipal, industrial, commercial, mining, heating, cooling: ..... $100.00 per c.f.s.

(v) Public instream flow, public lake level maintenance, wildlife: ..... $100.00 per c.f.s.

(c) Payment of a variable water use fee of more than one thousand dollars ($1,000) may be spread out over as many as five (5) annual equal payments with ten percent (10%) interest accruing on the

unpaid balance. All fees collected by the department pursuant to this section shall be placed in the water resources adjudication account established in section 42-1777, Idaho Code.

(2) If a claimant increases in an amended notice of claim the amount of water claimed, the amount of land irrigated, or the kilowatt capacity of the generating facility, the claimant shall pay upon filing the amended notice of claim an additional variable fee in accordance with the rates set forth in subsection (1) of this section. Claimants shall be entitled to a return of filing fees or late fees only where the fee was miscalculated at the time the original or amended notice of claim was filed.

(3) If a claimant files a notice of claim after the date set by the director in the notice mailed or served in accordance with subsections (2), (3), or (4) of section 42-1408, Idaho Code, or with subsection (9) of section 42-1409, Idaho Code; the claimant shall pay the fee set forth in subsection (1) of this section, and in addition, the amount of fifty dollars ($50.00) or fifteen percent (15%) of the original filing fee, whichever is greater. The director may waive the late processing fee or a portion thereof for good cause.

SECTION 6. That Section 42-1427, Idaho Code, as added by House Bill No. 969, Second Regular Session, Fifty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

42-1427. DESCRIPTIONS OF WATER RIGHTS -- REPORTING AND DECREEING ELEMENTS OF A DECREED OR LICENSED WATER RIGHT. (1) Legislative findings:

(a) The legislature finds that existing water rights are not uniformly described. Many old water rights were simply defined by source, priority date and diversion rate. Over time, the legislature and courts have made this original description of a water right more specific by the addition of other elements. Because of the increasing demand for water, it is important that the elements of a water right be standardized to allow for fair and efficient administration of the limited water supply. One (1) purpose of chapter 14, title 42, Idaho Code, is to establish, through an adjudication a uniform description for surface water rights, ground water rights and water rights which include storage.

(b) Because of the passage of time it is not possible to establish with any degree of certainty the undefined elements of a decreed or licensed water right as they existed on the date the right was established, because water delivery has occurred based upon the historic water use patterns and custom, and because attempts to define elements of a water right based upon unknown conditions in existence on the date of the establishment of the water right could result in significant impacts upon the claimant, the local economy and tax base, the legislature finds that it is in the public interest to provide a mechanism to decree previously undefined elements of existing water rights based upon conditions existing on the date of commencement of the adjudication provided the claimant is not exceeding any previously determined and recorded element of the decreed or licensed water right.

(2) If a licensed or decreed water right does not describe all of

the elements of a water right required in section 42-1409, Idaho Code, the director shall ~~determine~~ include in his report recommendations for those elements not defined by the prior license or decree based upon the extent of beneficial use of the water right as of the date of the commencement of an adjudication.

SECTION 7. That uncodified Section 34, as added by House Bill No. 969, Second Regular Session, Fifty-second Idaho Legislature, be, and the same is hereby amended to read as follows:

SECTION 34. EFFECT OF AMENDMENTS ON GENERAL ADJUDICATIONS PRESENTLY PENDING. (1) The legislature intends that the amendments made in this act shall apply to case no. 39576 in the district court of the fifth judicial district, in and for the county of Twin Falls, subject to the transition provisions of this section.

(2) The director shall file with the district court amendments to the director's reports for the three (3) test basins ~~shall be remanded back to the director~~ to conform those reports to the new information requirements of this act. The director shall provide the district court written notice of the schedule for completion of the amendments.

(3) The district court shall provide any claimant of a water right acquired under state law or established under federal law with an opportunity to file new notices of claim or to file amendments to notices of claim to conform them with this act, subject to the following procedures:

(a) The provisions of subsection (1) of section 42-1409, Idaho Code, do not require the amendment of any notice of claim for water rights acquired under state law. The director shall investigate the notices of claim sufficiently to determine these matters. If any claimant disagrees with the director's determination of these matters, the claimant may file an objection to the director's report.

(b) ~~A notice of claim that was included in a director's report for any of the three (3) test basins shall not be subject to further objection, if the description of the notice of claim was not modified following remand to the director~~ Objections to an amended director's report for any of the three (3) test basins shall be governed by section 42-1412, Idaho Code.

(4) The director shall cease work on any director's report for water rights established under federal law, subject to the following provisions:

(a) The new notice and service requirements of section 42-1411A, Idaho Code, shall not apply to any water rights established under federal law which are included in a~~A~~ny director's report, which abstracts the notices of claim for a water right established under federal law~~, may be deposited in the depository of notices of claims authorized under section 42-1411A(2)(b)(i), Idaho Code, in lieu of a copy of the notices of claim to water rights established under federal law. If a claimant of a water right established under federal law elects to use the director's report which abstracts the notices of claim to water rights established under federal law, the director shall only seek reimbursement under section 42-1411A(2)(c), Idaho Code, from the United States for those

~~services that the department performed after the effective date of this act~~ and which has been filed with the district court prior to the effective date of this act. The other provisions of section 42-1411A, Idaho Code, shall apply to those water rights established under federal law that are included in such director's reports.

(b) ~~A notice of claim that was included in a director's report, which abstracted a notice of claim to a water right established under federal law, for any of the three (3) test basins shall not be subject to further objection, if the description of the notice of claim was not modified following remand to the director~~ Objections to an amended director's report for any of the three (3) test basins shall be governed by section 42-1411A, Idaho Code.

(5) The director shall transmit to the district court the originals of the notices of claim to water rights established under federal law within sixty (60) days of the effective date of this act.

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

Approved April 12, 1994.

CHAPTER 456
(S.B. No. 1617)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1995; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FROM STATE SOURCES; APPROPRIATING GENERAL FUND MONEYS FOR DEPOSIT IN THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING A TOTAL AMOUNT FROM THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS FOR THE UNEMPLOYMENT INSURANCE PROGRAM; EXPRESSING LEGISLATIVE INTENT THAT CERTAIN MONEYS ARE FOR ONE-TIME EXPENDITURES; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE EXPENDITURE OF $3,400,000 OF ONGOING FUNDS FOR THE PUBLIC SCHOOL TECHNOLOGY PROGRAM; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO $70,000 FOR EXPENSES OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

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

SECTION 1. It is legislative intent that the following amount shall be expended from state sources for public schools for the period July 1, 1994, through June 30, 1995:

FROM:		
General Fund		$620,510,000
Dedicated Funds:		
Endowment Fund Income	$23,100,000	
Department of Lands	4,621,500	
Liquor Fund	1,200,000	
Miscellaneous Receipts	3,878,500	
Total Dedicated Funds		32,800,000
TOTAL		$653,310,000

SECTION 2. There is hereby appropriated from the General Fund for public schools, the following amount to be deposited in the Public School Income Fund for the period July 1, 1994, through June 30, 1995:
FROM:
General Fund $620,510,000

SECTION 3. There is hereby appropriated from the Public School Income Fund to be expended for the Educational Support Program pursuant to law and the provisions of this act, not to exceed $653,310,000 of the moneys which may accrue to such fund for the period July 1, 1994, through June 30, 1995.

SECTION 4. There is hereby appropriated from the Public School Income Fund the amount necessary for the Unemployment Insurance Program to be expended according to Section 72-1349C, Idaho Code, for the period July 1, 1994, through June 30, 1995.

SECTION 5. It is legislative intent that the moneys referenced in this Section shall be for one-time expenditures as follows:

(1) $300 per support unit to be distributed according to Section 33-1002 2.i., Idaho Code, for programs to provide basic curriculum necessary to enable students to enter academic or vocational postsecondary education programs.

(2) $200 per support unit to be distributed according to Section 33-1002 2.j., Idaho Code, for provision of teacher supplies to facilitate classroom instruction.

(3) $7,000,000 to be expended by the Superintendent of Public Instruction for the Public School Technology Grants, upon recommendation of the State Council for Technology in Learning, according to Section 33-1002 2.k. and Section 33-4806, Idaho Code.

(4) $2,000,000 to be expended by the Superintendent of Public Instruction, for additional School Innovation Pilot Project Grants upon recommendations of the Idaho School Reform Committee.

SECTION 6. It is legislative intent that $3,400,000 of the moneys appropriated in this act shall be expended by the Superintendent of Public Instruction for ongoing expenditures for the Public School Technology Program upon recommendation of the State Council for Technology in Learning, according to Section 33-1002 2.k., Idaho Code.

SECTION 7. It is legislative intent that $70,000 of the moneys appropriated in Section 3 of this act be expended by the Superintendent of Public Instruction for additional costs during the first year of implementation of Senate Bill No. 1560, Second Regular Session, Fifty-second Idaho Legislature.

Approved April 14, 1994.

SENATE JOINT RESOLUTIONS

(S.J.R. No. 109)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 23 OF ARTICLE III, TO SECTION 1 OF ARTICLE IV, TO SECTION 3 OF ARTICLE IV, TO SECTION 6 OF ARTICLE IV, TO SECTION 19 OF ARTICLE IV, TO SECTION 20 OF ARTICLE IV, TO SECTION 27 OF ARTICLE V, AND TO SECTION 7 OF ARTICLE IX, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE STATE AUDITOR, TO CHANGE THE TITLE OF THE STATE AUDITOR TO THAT OF THE STATE CONTROLLER AND TO PROHIBIT THE STATE CONTROLLER FROM PERFORMING ANY POST-AUDIT FUNCTIONS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 23, Article III, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 23. COMPENSATION OF MEMBERS. The legislature shall have no authority to establish the rate of its compensation and expense by law. There is hereby authorized the creation of the citizens committee on legislative compensation, which shall consist of six ~~(6)~~ members, three ~~(3)~~ to be appointed by the governor and three ~~(3)~~ to be appointed by the supreme court, whose terms of office and qualifications shall be as provided by law. Members of the committee shall be citizens of the state of Idaho other than public officials holding an office to which compensation is attached. The committee shall, on or before the last day of November of each even-numbered year, establish the rate of compensation and expenses for services to be rendered by members of the legislature during the two-year period commencing on the first day of December of such year. The compensation and expenses so established shall, on or before such date, be filed with the secretary of state and the state ~~auditor~~ <u>controller.</u> The rates thus established shall be the rates applicable for the two-year period specified unless prior to the twenty-fifth legislative day of the next regular session, by concurrent resolution, the senate and house of representatives shall reject or reduce such rates of compensation and expenses. In the event of rejection, the rates prevailing at the time of the previous session, shall remain in effect.

The officers of the legislature, including committee chairmen, may, by virtue of the office, receive additional compensation as may be provided by the committee. No change in the rate of compensation shall be made which applies to the legislature then in office except as provided herein.

When convened in extra session by the governor, no such session shall continue for a period longer than twenty ~~(20)~~ days.

SECTION 2. That Section 1, Article IV, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 1. EXECUTIVE OFFICERS LISTED -- TERM OF OFFICE -- PLACE OF RESIDENCE -- DUTIES. The executive department shall consist of a governor, lieutenant governor, secretary of state, state ~~auditor~~ controller, state treasurer, attorney general and superintendent of public instruction, each of whom shall hold his office for four years beginning on the first Monday in January next after his election, commencing with those elected in the year 1946, except as otherwise provided in this Constitution. The officers of the executive department, excepting the lieutenant governor, shall, during their terms of office, reside within the county where the seat of government is located, there they shall keep the public records, books and papers. They shall perform such duties as are prescribed by this Constitution and as may be prescribed by law, provided that the state controller shall not perform any post-audit functions.

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

SECTION 3. QUALIFICATIONS OF OFFICERS. No person shall be eligible to the office of governor or lieutenant governor unless he shall have attained the age of thirty ~~(30)~~ years at the time of his election; nor to the office of secretary of state, state ~~auditor~~ controller, or state treasurer, unless he shall have attained the age of twenty-five ~~(25)~~ years; nor to the office of attorney general unless he shall have attained the age of thirty ~~(30)~~ years, and have been admitted to practice in the Supreme Court of the state or territory of Idaho, and be in good standing at the time of his election. In addition to the qualifications above described each of the officers named shall be a citizen of the United States and shall have resided within the state or territory two ~~(2)~~ years next preceding his election.

SECTION 4. That Section 6, Article IV, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 6. GOVERNOR TO APPOINT OFFICERS. The governor shall nominate and, by and with the consent of the senate, appoint all officers whose offices are established by this

constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If during the recess of the senate, a vacancy occurs in any state or district office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of a justice of the supreme or district court, secretary of state, state ~~auditor~~ controller, state treasurer, attorney general, or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, as provided by law, and the appointee shall hold his office until his successor shall be selected and qualified in such manner as may be provided by law.

SECTION 5. That Section 19, Article IV, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 19. SALARIES AND FEES OF OFFICERS. The governor, secretary of state, state ~~auditor~~ controller, state treasurer, attorney general, and superintendent of public instruction shall, monthly as due, during their continuance in office, receive for their services compensation, which, for the term next ensuing after the adoption of this constitution, is fixed as follows: Governor, three thousand dollars ~~($3,000)~~ per annum; secretary of state, one thousand eight hundred dollars ~~($1,800)~~ per annum; state ~~auditor~~ controller, one thousand eight hundred dollars ~~($1,800)~~ per annum; state treasurer, one thousand dollars ~~($1,000)~~ per annum; attorney general, two thousand dollars ~~($2,000)~~ per annum; and superintendent of public instruction, one thousand five hundred dollars ~~($1,500)~~ per annum. The lieutenant governor shall receive the same per diem as may be provided by law for the speaker of the house of representatives, to be allowed only during the sessions of the legislature. The compensations enumerated shall be in full for all services by said officers respectively, rendered in any official capacity or employment whatever during their respective terms of office.

No officer named in this section shall receive, for the performance of any official duty, any fee for his own use; but all fees fixed by law for the performance by either of them, of any official duty, shall be collected in advance and deposited with the state treasurer quarterly to the credit of the state. The legislature may, by law, diminish or increase the compensation of any or all of the officers named in this section, but no such diminution or increase shall affect the salaries of the officers then in office during their term; provided, however, the legislature may provide for the payment of actual and necessary expenses to ~~the governor, lieutenant governor, secretary of state, attorney general, and superintendent of public instruction,~~ these officers while traveling ~~within the state~~ in the performance of official duty.

SECTION 6. That Section 20, Article IV, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 20. DEPARTMENTS LIMITED. All executive and administrative officers, agencies, and instrumentalities of the executive department of the state and their respective functions, powers, and duties, except for the office of governor, lieutenant governor, secretary of state, state ~~auditor~~ controller, state treasurer, attorney general and superintendent of public instruction, shall be allocated by law among and within not more than twenty ~~(20)~~ departments by no later than January 1, 1975. Subsequently, all new powers or functions shall be assigned to departments, divisions, sections or units in such a manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary agencies may be established by law and need not be allocated within a department; however, such temporary agencies may not exist for longer than two ~~(2)~~ years.

SECTION 7. That Section 27, Article V, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 27. CHANGE IN COMPENSATION OF OFFICERS. The legislature may by law diminish or increase the compensation of any or all of the following officers, to wit: governor, lieutenant governor, secretary of state, state ~~auditor~~ controller, state treasurer, attorney general, superintendent of public instruction, commissioner of immigration and labor, justices of the Supreme Court, and judges of the district courts and district attorney; but no diminution or increase shall affect the compensation of the officer then in office during his term, provided, however, that the legislature may provide for the payment of actual and necessary expenses of ~~the governor, secretary of state, attorney general, and superintendent of public instruction~~ these officers incurred while in performance of official duty.

SECTION 8. That Section 7, Article IX, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 7. STATE BOARD OF LAND COMMISSIONERS. The governor, superintendent of public instruction, secretary of state, attorney general and state ~~auditor~~ controller shall constitute the state board of land commissioners, who shall have the direction, control and disposition of the public lands of the state, under such regulations as may be prescribed by law.

SECTION 9. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 23 of Article III, Section 1 of Article IV, Section 3 of Article IV, Section 6 of Article IV, Section 19 of Article IV,

Section 20 of Article IV, Section 27 of Article V, and Section 7 of Article IX, of the Constitution of the State of Idaho be amended to change the title of the State Auditor to State Controller, and to prohibit the State Controller from performing any post-audit functions?".

SECTION 10. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 11. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the Senate February 22, 1994
Adopted by the House March 21, 1994

HOUSE JOINT RESOLUTIONS

(H.J.R. No. 16)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE I, OF THE CONSTITUTION OF THE STATE OF IDAHO BY THE ADDITION OF A NEW SECTION 22, ARTICLE I, TO PROVIDE FOR RIGHTS OF CRIME VICTIMS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Article I, of the Constitution of the State of Idaho be amended by the addition of a NEW SECTION, to be known and designated as Section 22, Article I, of the Constitution of the State of Idaho, and to read as follows:

SECTION 22. RIGHTS OF CRIME VICTIMS. A crime victim, as defined by statute, has the following rights:

(1) To be treated with fairness, respect, dignity and privacy throughout the criminal justice process.

(2) To timely disposition of the case.

(3) To prior notification of trial court, appellate and parole proceedings and, upon request, to information about the sentence, incarceration and release of the defendant.

(4) To be present at all criminal justice proceedings.

(5) To communicate with the prosecution.

(6) To be heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest injustice would result.

(7) To restitution, as provided by law, from the person committing the offense that caused the victim's loss.

(8) To refuse an interview, ex parte contact, or other request by the defendant, or any other person acting on behalf of the defendant, unless such request is authorized by law.

(9) To read presentence reports relating to the crime.

(10) To the same rights in juvenile proceedings, where the offense is a felony if committed by an adult, as guaranteed in this section, provided that access to the social history report shall be determined by statute.

Nothing in this section shall be construed to authorize

a court to dismiss a case, to set aside or void a finding of guilt or an acceptance of a plea of guilty, or to obtain appellate, habeas corpus, or other relief from any criminal judgment, for a violation of the provisions of this section; nor be construed as creating a cause of action for money damages, costs or attorney fees against the state, a county, a municipality, any agency, instrumentality or person; nor be construed as limiting any rights for victims previously conferred by statute. This section shall be self-enacting. The legislature shall have the power to enact laws to define, implement, preserve, and expand the rights guaranteed to victims in the provisions of this section.

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

"Shall Article I, of the Constitution of the State of Idaho be amended by the addition of a new Section 22, Article I, of the Constitution of the State of Idaho to provide for rights of crime victims?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House February 21, 1994
Adopted by the Senate March 9, 1994

(H.J.R. No. 17, As Amended in the Senate)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE XVIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 12, ARTICLE XVIII, TO PROVIDE FOR OPTIONAL FORMS OF COUNTY GOVERNMENT AND FOR THE ADOPTION OF AN OPTIONAL FORM UPON APPROVAL OF THE ELECTORS OF THE AFFECTED COUNTY, TO PROVIDE THAT THE ELECTORS SHALL BE ALLOWED TO VOTE ON WHETHER THEY SHALL RETAIN THEIR PRESENT FORM OF COUNTY GOVERNMENT AND TO PROVIDE THAT WHEN AN OPTIONAL FORM HAS BEEN ADOPTED SECTION 12, ARTICLE XVIII, SHALL SUPERSEDE SECTIONS 5, 6 AND 10 OF ARTICLE XVIII AND SECTIONS 16 AND 18 OF ARTICLE V; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Article XVIII, of the Constitution of the State of Idaho be amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 12, Article XVIII of the Constitution of the State of Idaho and to read as follows:

SECTION 12. OPTIONAL FORMS OF COUNTY GOVERNMENT. The legislature by general law may provide for optional forms of county government for counties, which shall be the exclusive optional forms of county government. No optional form of county government shall be operative in any county until it has been submitted to and approved by a majority of the electors voting thereon in the county affected at a general or special election as provided by law. The electorate at said election shall be allowed to vote on whether they shall retain their present form of county government or adopt any of the optional forms of county government. In the event an optional form shall be adopted, the question whether to return to the original form or any other optional form, may be placed at subsequent elections, but not more frequently than each four years. When an optional form of county government has been adopted, the provisions of this section supersede sections 5, 6 and 10 of this article and sections 16 and 18 of article V.

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

"Shall Article XVIII, of the Constitution of the State of Idaho be amended by the addition of a New Section 12, Article XVIII, to allow the Legislature to provide for optional forms of county government, and to allow the electors of any county to retain their present form of county government or select an optional form of county government by majority vote of that county's electors voting thereon?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House March 31, 1994
Adopted by the Senate March 25, 1994

(H.J.R. No. 24)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE IV, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO EXECUTIVE OFFICERS OF STATE GOVERNMENT; TO DELETE THE REQUIREMENT THAT THE GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL AND SUPERINTENDENT OF PUBLIC INSTRUCTION MUST RESIDE IN ADA COUNTY DURING THEIR TERM OF OFFICE BUT TO PROVIDE THAT THEIR OFFICIAL OFFICES MUST BE IN ADA COUNTY; STATING THE QUESTION TO BE SUBMIT-

TED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

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

SECTION 1. EXECUTIVE OFFICERS LISTED -- TERM OF OFFICE -- PLACE OF RESIDENCE -- DUTIES. The executive department shall consist of a governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general and superintendent of public instruction, each of whom shall hold his office for four years beginning on the first Monday in January next after his election, commencing with those elected in the year 1946, except as otherwise provided in this Constitution. The officers of the executive department~~, excepting--the lieutenant-governor,~~ shall, during their terms of office, reside within the state. Their official office shall be located in the county where the seat of government is located, there they shall keep the public records, books and papers. They shall perform such duties as are prescribed by this Constitution and as may be prescribed by law.

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

"Shall Section 1, Article IV, of the Constitution of the State of Idaho be amended to delete the requirement that the governor, secretary of state, state auditor, state treasurer, attorney general and superintendent of public instruction must reside in Ada County during their term of office but to provide that all state executive officer's official offices must be located in Ada County?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House March 15, 1994
Adopted by the Senate March 30, 1994

SENATE JOINT MEMORIALS

(S.J.M. No. 108)

A JOINT MEMORIAL
TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States Congress has been in need of reform for many years; and

WHEREAS, Congressman Mike Crapo ran on a platform to reform Congress and make it more efficient and more accountable to the people; and

WHEREAS, when Congressman Crapo was President Pro Tempore of the Idaho Senate, it ran very efficiently and smoothly and was responsive to the electorate; and

WHEREAS, Congressman Crapo has introduced reform measures in the United States Congress to improve its workings and make it more accountable to the electorate.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we would like to commend Congressman Mike Crapo for his efforts at attempting to reform the United States Congress for the better and would request that Congress seriously consider passage of his reform measures.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 3, 1994
Adopted by the House March 1, 1994

(S.J.M. No. 109)

A JOINT MEMORIAL
TO THE PRESIDENT OF THE UNITED STATES, BILL CLINTON, TO THE SECRETARY OF HEALTH AND HUMAN SERVICES, DONNA SHALALA, TO THE SENATE AND

HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the goal of all public assistance programs ideally is to move individuals toward self-sufficiency; and

WHEREAS, individuals struggling to stay out of the system and off public assistance are already exercising self-sufficiency; and

WHEREAS, Aid to Families with Dependent Children was established to provide a minimal, basic level of support for our nation's children, not to punish individuals who choose not to accept public assistance; and

WHEREAS, a case such as that of June Reid of Post Falls, Idaho, a woman who chose not to accept AFDC and therefore was pursued for child support payments, highlights a narrow, inappropriate interpretation of the true purpose of AFDC and a bureaucratic fascination with rules for the sake of rules; and

WHEREAS, the hands of the states are bound by federal regulations so that we lose vital funding if we act humanely and appropriately in a case like June Reid's; and

WHEREAS, the full effects of the current public assistance system must be comprehended and injustices redressed in any federal proposal for welfare reform.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we petition Congress, the President, the Secretary of Health and Human Services, Donna Shalala, to amend 42 U.S.C. Section 654 to allow states the latitude to determine that child support need not be collected from a parent eligible to receive AFDC who has chosen not to accept public assistance where such support collection efforts would not be in the best interests of the children for whom support is owed.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, Bill Clinton, the Secretary of Health and Human Services, Donna Shalala, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 9, 1994
Adopted by the House February 22, 1994

(S.J.M. No. 110)

A JOINT MEMORIAL
TO THE HONORABLE PRESIDENT OF THE UNITED STATES, BILL CLINTON, THE

HONORABLE SECRETARY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE, MIKE ESPY, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the grain producers in the state of Idaho are suffering from a deluge of Canadian barley and wheat into our traditional markets; and

WHEREAS, Canadian barley imports are projected to reach a record 35 million bushels and Canadian wheat imports are projected to reach a record 90 million bushels in marketing year 1993/94; and

WHEREAS, these Canadian imports are having a negative effect on Idaho grain producers' income and the rural economy, as well as interfering with U.S. farm policy and making farm programs more costly to the American taxpayer; and

WHEREAS, Idaho grain producers face unfair Canadian trading practices, such as monopolistic grain board and transportation subsidies.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we do hereby urge the administration to exercise the Section 22 emergency action clause, which would impose immediate tariffs on Canadian barley and wheat shipments into the United States.

BE IT FURTHER RESOLVED that we do hereby encourage the administration to maintain these Section 22 emergency tariffs on barley and wheat until the unfair trading practices of our Canadian trading partners are corrected.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of the U.S. Department of Agriculture, President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 15, 1994
Adopted by the House March 1, 1994

(S.J.M. No. 112)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, AND TO THE LEGISLATURES OF THE SEVERAL STATES OF THESE UNITED STATES; STATING FINDINGS OF THE LEGISLATURE AND PETITIONING THE CONGRESS

OF THE UNITED STATES TO AMEND THE FEDERAL SAFE DRINKING WATER ACT.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, safe drinking water is of paramount importance to the health and well-being of the people of the United States; and

WHEREAS, increasingly limited federal, state and local resources require that moneys be expended in the most cost-effective and efficient manner possible; and

WHEREAS, the federal Safe Drinking Water Act, as currently configured, requires drinking water monitoring, testing and capital expenditure beyond what is necessary to adequately protect the public health and welfare; and

WHEREAS, the excessive expenditure of such moneys reduces the ability of federal, state and local governments to most effectively and efficiently protect citizens from harmful water-borne chemicals and pathogens; and

WHEREAS, affecting the necessary changes to the federal Safe Drinking Water Act is a responsibility of the Congress of the United States; and

WHEREAS, there is currently, before the Congress of the United States, legislation, specifically House of Representatives Bill No. 3392, which would help ameliorate many of the difficulties and inefficiencies caused by the federal Safe Drinking Water Act; and

WHEREAS, it is fitting for the states to offer guidance to the Congress of the United States and voice a call for remediation of conditions imposed by federal law which, in the opinion and judgment of the states, are found to be unnecessarily burdensome.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we support House of Representatives Bill No. 3392, the Slatterly/Bliley Safe Drinking Water Act Amendments.

BE IT FURTHER RESOLVED that the Fifty-second Idaho Legislature respectfully urges and requests the Idaho delegation to the Congress of the United States to support and work for passage of House of Representatives Bill No. 3392 in the Congress of the United States.

BE IT FURTHER RESOLVED that the Fifty-second Idaho Legislature respectfully calls on and requests the legislatures of the several states to likewise express to the Congress their concerns and recommendations for correcting inefficiencies and unnecessary burdens imposed by the Safe Drinking Water Act.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States and to the legislatures of the several states of the United States.

Adopted by the Senate February 14, 1994
Adopted by the House February 25, 1994

(S.J.M. No. 114)

A JOINT MEMORIAL

TO THE HONORABLE PRESIDENT OF THE UNITED STATES, BILL CLINTON, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Tenth Amendment to the Constitution of the United States reserves to the states or to the people powers not delegated to the United States by the Constitution nor prohibited by it to the states; and

WHEREAS, the Constitution of the United States does not reserve to the federal government any exclusive or limited powers relating to the control of education, nor does it prohibit states from exercising such powers; and

WHEREAS, the State of Idaho enjoys a strong educational system; and

WHEREAS, the strength of our educational system is derived in great part from the flexibility and versatility of our state policy which allows for the delivery of education in a variety of environments to meet a broad range of needs; and

WHEREAS, the private schools and home schools of our state are an integral part of that educational delivery system; and

WHEREAS, the State of Idaho recognizes the value of our nontraditional, nonpublic schools and can verify their contributions; and

WHEREAS, private schools and home schools educate and graduate students at a level of academic achievement comparable to and often exceeding state and national averages of academic achievement; and

WHEREAS, local control of education is vital to the maintenance of our republican form of government; and

WHEREAS, any forced imposition of federal standards jeopardizes the foundation on which our form of government is based; and

WHEREAS, it is the position of the State of Idaho that the role of the state in educating her people, including the preparation and monitoring of those personnel who are responsible for providing that education, is reserved to the state, the local school districts and to the parents.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we emphatically urge resistance to and total rejection of any attempt by the federal government to interject itself into the educational affairs of the nontraditional, nonpublic schools of this state.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Honorable Bill

Clinton, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 22, 1994
Adopted by the House February 22, 1994

(S.J.M. No. 115)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 mandated in Title 23 United States Code Section 153 that all states shall have enacted a universal motorcycle helmet law by October 1, 1993, or face fund transfers from certain federal-aid highway programs to the highway safety program found in Title 23 United States Code Section 402; and

WHEREAS, United States Secretary of Transportation Federico Pena notified Idaho Governor Cecil D. Andrus on September 30, 1993, that Idaho was not in compliance with Title 23 United States Code Section 153, because the state does not have in effect a motorcycle helmet law for all riders; and

WHEREAS, Governor Cecil D. Andrus responded to Secretary Pena on November 30, 1993, advising that Idaho takes issue with the federal mandate, and that the mandate puts the federal government in the position of deciding on Idaho's behalf that a motorcycle helmet law is more important than congestion mitigation, air quality and highway construction projects; and

WHEREAS, Section 153 provides that a state which fails to put into effect motorcycle helmet and safety belt use laws by October 1, 1993, is subject to a transfer in fiscal year 1995 of 1.5% of funds apportioned under certain federal-aid highway programs to its apportionment for the highway safety program authorized by Title 23 United States Code Section 402; and

WHEREAS, on October 1, 1993, no law was in place in Idaho that mandates motorcycle helmet usage by all riders regardless of age; and

WHEREAS, based on Idaho's fiscal year 1993 apportionments, 1.5%, estimated at 1.1 million dollars, will be transferred to highway safety programs on October 1, 1994, unless the requirements are repealed or delayed by Congress; and

WHEREAS, for noncompliance in fiscal year 1995 and beyond, the transfer will increase to 3%, estimated at 2.2 million dollars, occurring for fiscal year 1996 and thereafter; and

WHEREAS, the members of the Second Regular Session of the Fif-

ty-second Idaho Legislature are considering a driver's license endorsement and motorcycle rider education proposal which is supported by the motorcycle riding community throughout Idaho; and

WHEREAS, the members of the Second Regular Session of the Fifty-second Idaho Legislature will not enact a mandatory motorcycle helmet law for all ages of riders based on public opposition regarding said legislation.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request that the Congress repeal the noncompliance sanctions of Title 23 United States Code Section 153.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 2, 1994
Adopted by the House March 18, 1994

(S.J.M. No. 116)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, BILL CLINTON, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE SECRETARY OF THE INTERIOR BRUCE BABBITT AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Legislature finds that all waters of the state are declared to be the property of the state of Idaho, Section 42-101, Idaho Code; and

WHEREAS, the United States Congress also intends to follow the well-established precedent in national legislation of recognizing local and state water laws relative to the appropriation and distribution of water; and

WHEREAS, in the western states, the Supreme Court of the United States has recognized that "...the water above and beneath the surface of the ground belongs to the public, and the right to the use thereof is to be acquired from the State in which it is found, which State is vested with the primary control thereof." (California v. United States, 438 U.S. 645, 679 (1978)); and

WHEREAS, "...it is clear that the States have the control of water within their boundaries, it is essential that each and every owner along a given water course, including the United States, must be amenable to the law of the State, if there is to be a proper administration of the water law as it has developed over the years." (California

v. United States, 438 U.S. 645, 679-680 (1978)).

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the State of Idaho intends to exercise its right to control its water policy and requests that the United States government and Secretary of the Interior Bruce Babbitt recognize the beneficial nature of artificial recharge of Idaho aquifers and to reflect such benefits of state programs and policies in the reorganization and management policies of federal agencies, especially the U.S. Bureau of Reclamation.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, Bill Clinton, the President of the Senate and the Speaker of the House of Representatives of Congress, the Secretary of the Interior Bruce Babbitt and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 9, 1994
Adopted by the House March 28, 1994

HOUSE JOINT MEMORIALS

(H.J.M. No. 9)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE ADMINISTRATOR OF THE NATIONAL MARINE FISHERIES SERVICE, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on December 28, 1993, the National Marine Fisheries Service (NMFS) in 50 CFR 226 adopted a final rule which designated critical habitat for the Snake River Sockeye Salmon, Snake River Spring/Summer Chinook Salmon and Snake River Fall Chinook Salmon pursuant to the Endangered Species Act; and

WHEREAS, this designation impacts the entire Salmon and Clearwater River drainages and the Snake River upstream to Hells Canyon Dam or roughly one-third of the land mass of Idaho; and

WHEREAS, the following counties contain or border rivers, streams and hydrologic units designated as critical habitat under the NMFS designation: Adams, Benewah, Blaine, Clearwater, Custer, Idaho, Latah, Lemhi, Lewis, Nez Perce, Shoshone and Valley; and

WHEREAS, in its designation, the NMFS states: "...Because adverse modification of riparian zones may impede the recovery of threatened and endangered salmon, the adjacent riparian zone is included in the critical habitat for listed Snake River Salmon..." and defines "adjacent riparian zones" as those areas within a horizontal distance of three hundred feet from the normal high water of a stream channel or from the shoreline of a standing body of water; and

WHEREAS, this designation will probably have deleterious impacts on livestock grazing, agricultural activities, timber harvest, mining and related activities currently conducted in the designated areas; and

WHEREAS, in the NMFS designation there is little reference to a restriction on hydroelectric dams on the Snake and Columbia River systems that is causing difficulties with both upstream and downstream passage of anadromous fish, a major reason why salmon have been decreasing in numbers, and the NMFS designation is also largely silent insofar as harvest regulation and control of salmon predators, these being additional major reasons for the decline in salmon numbers; and

WHEREAS, under Section 4(b)(2) of the Endangered Species Act,

critical habitat is required to be designated on the basis of the best scientific data available and after taking into account the economic impact and other relevant impacts of specifying any particular area as critical habitat and an area may be excluded from a critical habitat designation if the overall benefits of exclusion outweigh the benefits of designation and the exclusion will not result in the extinction of the species; and

WHEREAS, the University of Idaho has currently prepared such a study for two of the twelve Idaho counties designated under the NMFS order; and

WHEREAS, the NMFS designation has great potential to do severe economic harm to the other Idaho counties, to many Idaho citizens and industries with ramifications to the economic health of the whole State of Idaho, while at the same time being questionably effective toward its main goal and objective: recovery of more salmon; and

WHEREAS, the "incremental" approach used by NMFS in analyzing the socio-economic impacts of designating critical habitat, which resulted in a judging of "no significant impact," appear to circumvent the intent of Congress regarding Section 4(b)(2) of the Endangered Species Act.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request the President of the United States and the Administrator of the National Marine Fisheries Service to declare a moratorium in enforcing the critical habitat designation contained in 50 CFR Part 226 as it pertains to the twelve Idaho counties so that the State of Idaho and the affected counties can prepare reliable socio-economic impact analyses to determine if justification exists for an exemption pursuant to section 4(b)(2) of the Endangered Species Act.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Administrator of the National Marine Fisheries Service, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 14, 1994
Adopted by the Senate February 23, 1994

(H.J.M. No. 10)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the railroad industry is acknowledged as the originator of private company pensions in the United States; and

WHEREAS, in the 1930's the United States Congress assumed the responsibility for developing a federally administered retirement program to place the various railroad pension plans on a solid financial basis; and

WHEREAS, the railroad retirement system today covers over one million individuals who have contributed over the years in good faith and who have legitimate expectations of receiving their benefits; and

WHEREAS, the National Performance Review in its report "From Red Tape to Results: Creating a Government That Works Better and Costs Less" proposes to transfer the functions of the Railroad Retirement Board to the Social Security Administration, to other federal agencies, and to "private section service providers"; and

WHEREAS, this proposal would privatize and terminate a program that has worked well and provided retirement security to millions of people for nearly 60 years; and

WHEREAS, it now costs less money per benefit dollar to administer Railroad Retirement than it costs to administer Social Security and consequently, the proposal is likely to increase costs to the taxpayer; and

WHEREAS, the transfer would violate the Federal government's stated commitment to "serving the customer" as current and future Railroad Retirement beneficiaries vehemently oppose the transfer; and

WHEREAS, this action threatens to disrupt earned and needed benefits for 1.3 million active, retired, and disabled rail workers and their families; and

WHEREAS, this proposal would adversely affect all active and retired railroad employees and their families in the great state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that a continued Federal Commitment to the railroad retirement system is essential to assure the integrity of the railroad retirees' benefits and the preservation of the present structure of the railroad retirement system, including the administrative framework of the Railroad Retirement Board, is necessary to fulfill the time-honored responsibility of the Federal Government.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 18, 1994
Adopted by the Senate March 17, 1994

(H.J.M. No. 11)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, President Clinton announced that he is lifting the trade embargo on Vietnam and is establishing a trade liaison office in Hanoi; and

WHEREAS, last summer, President Clinton outlined four criteria for judging the seriousness of Vietnam's commitment in accounting for missing Americans: these included repatriation of remains; provisions of archival materials related to missing Americans; resolution of last-known-alive discrepancy cases; and cooperation on resolving Laotian POW/MIA cases; and

WHEREAS, Clinton Administration officials gave the Vietnamese Government a list of eighty-four cases that they expected help on before they could recommend lifting the embargo and in each, U.S. officials believe that persuasive evidence exists that the Vietnam Government knows what happened to the men; and

WHEREAS, accounting for these Americans would provide a concrete demonstration of Vietnam's willingness to address some of the President's stated concerns and it would serve as a gesture of good faith by the Vietnamese to proceed with the hundreds of cases beyond the eighty-four that they could easily resolve; and

WHEREAS, despite Clinton Administration assertions that Vietnam has made measurable progress in each of the specific areas, the Vietnam Government's record of stonewalling and cynical manipulation for more than twenty years cannot be ignored; and

WHEREAS, during the Vietnam War, the Vietnamese went to great lengths to keep track of enemy personnel who came under their control, alive or dead, as all units had been instructed on procedures to follow in the event they killed or captured an American, including immediate notification to higher headquarters; and

WHEREAS, dead Americans were carefully photographed and catalogued and remains were often buried immediately at aircraft crash sites and locations of the graves recorded and a year or more later, teams recovered the remains, preserved them as they did for their own and reburied or stored them above ground in designated locations; and

WHEREAS, throughout this process, detailed records were kept and over the years the Vietnam Government has returned some of these remains and U.S. intelligence estimates that the Vietnamese could readily provide hundreds more; and

WHEREAS, today, Vietnamese officials continue to hold back key documents they know are crucial to the accounting process of POWs and MIAs while proving a large volume of inconsequential materials to cre-

ate the impression of cooperation and progress; and

WHEREAS, the same officials of the Vietnam Government, using words strikingly similar to those they have used for two decades, are again claiming they hold no more American remains despite the fact that Vietnamese records and photographs provided since 1992 back up previous intelligence and diplomatic admissions that they continue to hold hundreds of remains or can provide persuasive explanations why some remains may not be available; and

WHEREAS, the Government of Vietnam has not provided a single set of remains from the list of eighty-four MIAs given to them months ago and until they do, it is not credible to assert that the President's criteria on the repatriation of remains has been met; and

WHEREAS, lifting the trade embargo now without achieving real results is a tragic mistake as it will dash the hopes of the families who have been waiting so long for answers, place the Clinton Administration in the position of relying solely on the Vietnam Government's "goodwill" and risk eroding further the American people's trust in government.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the current administration not take further steps to restore economic or diplomatic relations with the Government of Vietnam until it can be certified that the Vietnam Government is being fully forthcoming in telling us what they know about Prisoners of War and Americans Missing in Action during the War in Vietnam and that it rescind any action lifting the trade embargo on Vietnam and establishing a political liaison office in Hanoi until such facts can be certified.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President Bill Clinton, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 3, 1994
Adopted by the Senate March 11, 1994

(H.J.M. No. 13)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the 1967 United States Supreme Court decision in the case of "National Bellas Hess, Inc. v. Dept. of Revenue," (386 U.S. 753 (1967)) denies states the authority to require the collection of sales and use taxes by out-of-state mail order firms that have no physical presence in the taxing state, even though they solicit and obtain significant sales there through the mail and common carriers; and

WHEREAS, in its 1992 decision in "Quill Corp. v. North Dakota," (U.S.S.C. Doc. No. 91-194), the United States Supreme Court clearly indicated that the Congress of the United States can, consistent with the U. S. Constitution, enact legislation authorizing direct marketers to collect state and local use taxes; and

WHEREAS, the inability of states like Idaho to require certain direct marketers and other businesses not physically present, but selling to their residents, to collect sales and use tax places many community businesses that support state and local governments at a substantial competitive disadvantage; and

WHEREAS, restrictions on collecting such taxes result in a loss of billions of dollars nationally and millions of dollars in Idaho of legally due sales and use tax revenue; and

WHEREAS, according to a recent report released by the Advisory Commission on Intergovernmental Relations, the revenue potential to all states from untaxed interstate mail order sales is projected to be $3.27 billion in 1992 and that the loss of tax revenue to the State of Idaho in the same report is estimated to be 12.7 million dollars; and

WHEREAS, organizations representing local retailers, state and local officials and public service recipient groups are working to achieve enactment of federal legislation that would authorize states to require direct marketers to collect state sales and use taxes; and

WHEREAS, in the two decades since the "National Bellas Hess" decision, improvements in communications technology and transportation distribution systems have changed the nature and extent of interstate sales and the recent and projected rapid growth in interstate sales, through television, mail order, "800" telephone numbers and by other means of electronic communications indicates that, without corrective legislation, collection of sales and use taxes will become increasingly inequitable and unenforceable; and

WHEREAS, there has been introduced into the Senate of the United States a bill, S. 1825, "The Fairness for Main Street Business Act of 1994," that would allow state and local jurisdictions to require out-of-state companies to collect sales or use taxes on tangible personal property sold to residents of the state or local jurisdictions if the company's national sales are not less than $3 million and sales into the state are not less than $100,000 and which includes other fair and reasonable safeguards for out-of-state companies.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request Congress to enact S. 1825, "The Fairness for Main Street Business Act of 1994," or substantially similar legislation that would prevent this state's revenue loss and remove the competitive advantage now enjoyed by some out-of-state businesses.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a

copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 2, 1994
Adopted by the Senate March 11, 1994

(H.J.M. No. 14)

A JOINT MEMORIAL
TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-second Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Congress of the United States has passed laws to implement programs to control production of surplus crops and to retire lands marginally suited for production of these crops; and

WHEREAS, some of the lands involved in the federal programs setting aside cropland have been irrigated and have an appurtenant ground water right obtained under state law; and

WHEREAS, Idaho law and some other state laws protect these rights from forfeiture while the land is contracted in the federal cropland set-aside program; and

WHEREAS, Idaho law and other state laws allow the holder of ground water rights to seek the transfer of the ground water rights if the requirements of state laws are met, and some of those holders of the water right have changed the place of use of the water right to other agricultural land thereby circumventing the intent and purpose of the federal law as additional crops are being grown on land that is not in the federal set-aside program; and

WHEREAS, transfer of ground water rights from lands contracted in a federal cropland set-aside program to irrigate other lands capable of producing surplus crops can have a deleterious effect to the aquifer, to surrounding wells and to entire communities.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that when Congress reauthorizes the federal cropland set-aside program that it include a provision prohibiting participants in the program from transferring water rights to irrigate other lands capable of producing surplus crops.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a

copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 24, 1994
Adopted by the Senate March 31, 1994

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 121)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND ESTABLISHING A PRIMARY HEALTH CARE ACCESS POLICY FOR THE STATE OF IDAHO.

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

WHEREAS, a significant and increasing number of Idahoans have inadequate access to primary health care; and

WHEREAS, it is difficult for primary health care providers to establish and maintain a practice in rural and other medically underserved areas of Idaho; and

WHEREAS, Idaho's rural and medically underserved communities are experiencing many difficulties in attracting and retaining primary care providers, which severely limits the health care system's ability to meet the health care needs of local residents; and

WHEREAS, the shortage of primary care providers threatens the economic development of Idaho's small and rural communities; and

WHEREAS, statewide resource agencies and decision-makers have been unable to comprehensively address access barriers to primary health care for Idaho's rural and medically underserved populations.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that access to primary health care is a major concern of the state of Idaho.

BE IT FURTHER RESOLVED that the following goals for primary health care access policy be adopted for the state of Idaho:

1. To establish a system that ensures geographic and economic access to primary health care services through partnerships of consumers, providers, communities and state resource agencies, and that embodies a comprehensive health care plan to improve individual and community health.
2. To establish a system that assists in educating individuals on preventive and curative health care and self-care, and encourages individuals to take responsibility for their own health.
3. To recognize that local access to primary health care is vital to the economic viability of Idaho communities.
4. To establish a statewide network of resource agencies for gathering and disseminating health care information, coordinating

activities, and formulating policy, education and technical assistance strategies to improve the supply and distribution of primary care providers and access to primary health care in Idaho.

Adopted by the Senate February 14, 1994
Adopted by the House March 11, 1994

(S.C.R. No. 126)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO PUBLIC HEALTH DISTRICTS REGARDING ASSESSMENT OF FEES OR CHARGES FOR SERVICES RENDERED.

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

WHEREAS, the Legislature is vested with authority to reject, amend or modify executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is legislative finding that certain rules of the Idaho Department of Health and Welfare are not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the following rules of the Idaho Public Health Districts IDAPA Title 41.02.01.010, relating to assessment of fees or charges for services rendered be, and the same are hereby amended to read as follows:

010. ASSESSMENT OF FEES OR CHARGES FOR SERVICES RENDERED (Rule 10). Under the authority of Section 39-416(11), Idaho Code, the public health districts are empowered to establish reasonable charges or fees for services rendered to the members of the public in an amount calculated to cover the costs of rendering such services. <u>The authority to assess and collect charges and fees, relating to the food inspection or food related education programs, under rules 10, 11, 12 and 13 shall be strictly limited to the assessment and collection of charges and fees for services voluntarily rendered and voluntarily received and shall not apply to services required by state statute or rule. In no case shall such charges or fees, relating to the food inspection or food related education programs, be assessed or collected for inspections, permits or evaluation programs which are required of or by the health districts.</u>

Adopted by the Senate February 17, 1994
Adopted by the House March 11, 1994

(S.C.R. No. 127)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of a stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the Legislature, except that if the Legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 96-08717 on December 20, 1993, by adopting a Recommended Order authorizing the appropriation of a minimum streamflow in the Pack River of 129.0 cfs from November 1 through July 31 and 54.0 cfs from August 1 through October 31. The minimum streamflow begins at the confluence with Zuni Creek, located in the SE1/4NE1/4, Section 30, T61N, R02W, B.M. Boundary County, and extends downstream to the confluence of Pack River with Grouse Creek, located in the SE1/4SW1/4, Section 4, T58N, R01W, B.M., Bonner County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Recommended Order, dated November 23, 1993, and adopted by the Director of the Department of Water Resources on December 20, 1993.

Adopted by the Senate February 17, 1994
Adopted by the House March 2, 1994

(S.C.R. No. 129)

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM LAKE LEVEL.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of a stream to establish a minimum lake level; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the Legislature, except that if the Legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources

approved Application for Permit No. 11-07406 on November 10, 1993, by issuing a Final Memorandum Decision and Order authorizing the appropriation of a minimum lake level in Bear Lake, elevation of 5902 feet above mean sea level, based on Utah Power and Light Company's datum from January 1 through December 31. Bear Lake is located in T15S, R43E; T15S, R44E; T16S, R43E; T16S, R44E; B.M., Bear Lake County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Final Memorandum Decision and Order, dated November 10, 1993.

Adopted by the Senate February 23, 1994
Adopted by the House March 2, 1994

(S.C.R. No. 135)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND STATING THAT THE REPUBLIC OF CHINA ON TAIWAN DESERVES FULL PARTICIPATION, INCLUDING A SEAT IN THE UNITED NATIONS.

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

WHEREAS, China has been a divided nation since 1949, and the Government of the Republic of China on Taiwan (ROC) and the People's Republic of China on the Chinese mainland have since exercised exclusive jurisdiction over separate parts of China; and

WHEREAS, United Nations General Assembly Resolution 2758 (1971) does not constitute a complete solution to the issue of China's seat in the United Nations which resulted from the division of China; and

WHEREAS, the Government of the Republic of China on Taiwan acknowledges that two equal and distinct political entities exist within the divided China; and

WHEREAS, the Republic of China on Taiwan is currently the fourteenth largest trading nation in the world, its gross national product is the world's twentieth largest, its annual per capita income exceeds ten thousand dollars, its foreign exchange reserves exceed eighty billion dollars, and it has become the world's seventh largest outbound investor; and

WHEREAS, the twenty-one million people on Taiwan enjoy a democratic form of government, and the Republic of China on Taiwan Government's policies conform to those of other democratic nations; and

WHEREAS, the Republic of China on Taiwan has joined other nations in responding to international disasters and crises, has undertaken programs of assistance for less developed nations, and has in other ways accepted regional and global responsibilities; and

WHEREAS, the Republic of China on Taiwan has joined several important multilateral organizations in recent years, including the Asia/Pacific Economic Cooperation (APEC) and the Asian Development

Bank, and its admission into these organizations has been supported by the United States; and

WHEREAS, a consensus has emerged in the Republic of China on Taiwan to participate in the United Nations, and the Government of the Republic of China on Taiwan has launched a campaign to pursue a seat in the United Nations without prejudice to the current position of the People's Republic of China in the United Nations; and

WHEREAS, membership in the United Nations of the Republic of China on Taiwan is in conformity with the United Nations principle of universality and will contribute to the peace and stability of the Pacific region, and therefore to the interests of the United States.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Republic of China on Taiwan deserves full participation, including a seat, in the United Nations.

Adopted by the Senate February 17, 1994
Adopted by the House March 4, 1994

(S.C.R. No. 138)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND ENCOURAGING COMMUNITIES TO ESTABLISH A SAFE HOUSE PROGRAM FOR PROTECTION OF OUR CHILDREN.

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

WHEREAS, crimes perpetrated against children, including molestation, abduction, attempted abduction, sexual abuse, and murder are increasing; and

WHEREAS, there is increasing public concern over the number of missing and kidnapped children reported each year; and

WHEREAS, the mobility of modern day society allows missing or kidnapped children to be transported long distances in a short period of time; and

WHEREAS, besides victimized children, there are an increasing number of children that are in latchkey or self-care situations who may from time to time need adult help urgently; and

WHEREAS, as a result, children, wherever they may be, need access to a block home, which is a place of safety and refuge with an easily identifiable block home symbol; and

WHEREAS, there are currently several different block home symbols being used to alert distressed children and adults about places of refuge where help will be provided; and

WHEREAS, having several different symbols in use causes confusion because it is difficult to teach children to understand and differentiate between all the different community and neighborhood safety symbols being used in the state; and

WHEREAS, there is a need for a universal block home program and symbol to clearly identify homes in communities that serve as places

of refuge for children or adults who are frightened, injured, lost, in danger, crime victims, or in any emergency situation; and

WHEREAS, McGruff House is a well-developed nationwide program that ensures safety for children by requiring criminal history checks on all McGruff House participants; and

WHEREAS, the McGruff House program is easy to implement and furnishes detailed information and guidelines; and

WHEREAS, McGruff, the crime fighting dog, has been adopted and promoted by the National Crime Prevention Council and Coalition as its official symbol for safety; and

WHEREAS, a nationwide survey of children ages five to twelve shows a ninety-nine percent recognition rate for McGruff, with ninety-seven percent of children trusting his message; and

WHEREAS, the McGruff House program is being used in forty-seven states across the country; and

WHEREAS, numerous local, state and national organizations, including the National Crime Prevention Council and Coalition and the International Association of Chiefs of Police, have endorsed the McGruff House block program.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that:

1. The Legislature encourages, supports and recommends that local communities establish a Safe House program for the protection of our children.

2. The McGruff House symbol and program be exclusively recommended for use in Idaho homes to allow children and adults to readily recognize the symbol in any part of a state or country they are in.

3. Copies of this Resolution be sent to the director of the National Crime Prevention Council and Coalition, the president of the International Society of Crime Prevention Practitioners, and the International Association of Chiefs of Police, as well as Association of Idaho Cities, Idaho Association of Counties, Idaho School Boards Association and Idaho Association of School Administrators.

Adopted by the Senate February 28, 1994
Adopted by the House February 28, 1994

(S.C.R. No. 139)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING OUR COMMITMENT TO THE CHILDREN AND OUR OBLIGATION TO BRING THE WARMTH OF OUR CONCERN INTO THEIR SCHOOL COMMUNITY.

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

WHEREAS, the fastest growing tax cost is the prison system, including additional police and courts, which total a greater expenditure than higher education; and

WHEREAS, over the ten year decade of the 80's, crime rose eight

percent but incarceration of prisoners rose one hundred thirty-four percent; and

WHEREAS, there are many small group demonstrations and applications of preventive programs to redirect children during their school years, which have been identified as workable alternatives to waiting to address the failure; and

WHEREAS, one promising program is to keep schools open twelve hours a day to provide a warm, low pressure, learning and play opportunity for children; and

WHEREAS, we can bring citizens into the school environment, and successful examples include community patrols of volunteers to reduce crime and organizing fathers' security clubs for recess to reduce truancy and dropouts; and

WHEREAS, volunteers can teach youths to rebuild buildings, pour concrete, plant trees, clear streams, and, while making a positive contribution to the society, learn skills and experience success.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize the problems facing the American family as the challenge of our century. We must address this disintegration of the family with human resources because spending more money has not proven effective. We must find a way to bring successful adults into the school and into the lives of children. Nothing less than a full commitment of our resources will assure our future as a strong and great nation.

Adopted by the Senate March 3, 1994
Adopted by the House March 24, 1994

(S.C.R. No. 140)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND PROVIDING A GROUND WATER RECHARGE POLICY.

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

WHEREAS, it shall be the policy of the Legislature of the State of Idaho that recharge of Idaho's ground water aquifers shall be in the public interest. Idaho's aquifers and the recharge received by the aquifers provide abundant supplies of water for irrigation, municipalities, industry, domestic and other users of the water resource as well as sustenance for fish and wildlife, wetlands and maintenance of streamflows; and

WHEREAS, artificial recharge of Idaho's ground water aquifers has been and continues to be a useful and productive utilization of Idaho's water and shall be encouraged wherever possible; and

WHEREAS, irrigation water applied in excess of the irrigation requirement which percolates into ground water aquifers shall be considered as incidental recharge and shall be encouraged where such recharge will supplement Idaho's ground water aquifers and protect

existing water rights; and

WHEREAS, the use of existing water development facilities shall be encouraged as well as the construction of structural facilities for the diversion of unappropriated water into areas found to be appropriate for recharge of Idaho's aquifers.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature adopts the following principles and recommends these policies to the Idaho Water Resource Board:

1. Incidental recharge is part of the water diverted and applied for irrigation and other beneficial uses and percolates to ground water aquifers and provides incidental recharge benefits. In particular, Idaho's extensive irrigation development using water from streams and rivers through canals and ditches for surface application has increased the amount of water in storage in the aquifers, raised ground water levels and increased the flow of springs from the aquifers. Because the benefits of incidental recharge accrue to all of Idaho's citizens, Idaho's water management policies must recognize and protect this source of recharge in accordance with the public interest.

2. Artificial recharge is recognized as a significant means of conservation of Idaho's water resources. However, force or mandated policies that require reductions of surface water diversions should be discouraged where such policies will deplete or reduce recharge to Idaho's aquifers.

3. The State of Idaho should encourage artificial recharge by providing mechanisms such as financial incentives, development of artificial recharge credits, protection of existing water rights, recharge banking and others that promote artificial recharge. The authorities of the Idaho Water Resource Board Revolving Development Fund should be modified where necessary to provide financial incentives for artificial recharge projects.

4. The Conjunctive Management Rules presently being developed by the Idaho Department of Water Resources shall recognize artificial recharge as in the public interest and provide for the appropriate incentives and rules so as to encourage recharge in areas benefitting Idaho's aquifers.

5. The State of Idaho shall encourage development of memoranda of understanding or agreement with the appropriate federal land management agencies for use of federal lands in recharge projects. Such agreements should take into account the benefits to the State of Idaho and the federal land management agencies as well as protecting the state from requirements that force maintenance of wetlands, water bodies or other artificially created features relating to artificial recharge projects. Such memoranda should also encourage the appropriate land trades with the State of Idaho to effect artificial recharge projects.

6. The Idaho Water Resource Board should develop state water policies promoting and supporting artificial recharge as a means of supplementing Idaho's ground water aquifers for beneficial use in Idaho. Such policies should recognize the value to Idaho's agricultural, municipal, domestic, industrial and recreational community of mainte-

nance and recovery of Idaho's aquifers as well as the environmental benefit of artificial recharge.

7. It is recognized that a continuing need exists for adequate funding of hydrologic studies to determine the characteristics of Idaho's aquifers and the relationship between ground and surface water resources for the purposes of artificial recharge and conjunctive management.

8. The Idaho Department of Water Resources should implement and the Legislature should fund an education and information program to acquaint Idaho's citizens with the value of artificial recharge and the relationship between surface water conservation and recharge impacts.

9. The Legislature of the State of Idaho should adopt a Joint Memorial to the Secretary of the Interior Bruce Babbitt, urging recognition of the beneficial nature of artificial recharge of Idaho aquifers and to reflect such benefits of state programs and policies in the reorganization and management policies of federal agencies, especially the U.S. Bureau of Reclamation.

Adopted by the Senate March 16, 1994
Adopted by the House March 23, 1994

(S.C.R. No. 141)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING A RULE OF THE DEPARTMENT OF LAW ENFORCEMENT DEFINING RESTAURANT.

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

WHEREAS, the Legislature is vested with authority to reject, amend or modify executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is legislative finding that two rules of the Idaho Department of Law Enforcement defining a restaurant are not consistent with legislative intent and should be amended.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 11.05.01.004 and IDAPA 11.05.01.022 be, and the same are hereby amended to read as follows:

IDAPA 11.05.01.004
004. DEFINITIONS (1-1-94)

~~01. Food.--All--edible--products,--excluding--non-liquor-ingredients,-that-are-sold-and-accounted-for-as-a separate--item.--Food--does--not--include--items-such-as popcorn,-peanuts-or-other-items--distributed--freely--to patrons. (1-1-94)~~

~~02.~~ Licensee. Any person who has received a

license from the Director under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. (1-1-94)

03~~1~~2. Licensed premises. Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license shall constitute the licensed premises. (1-1-94)

04~~2~~3. New Licenses. For purposes of section 23-908(4), Idaho Code, a "new license" is one that has become available as an additional license within a city's limits under the quota system after July 1, 1980. The requirement of section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months shall be satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week. (1-1-94)

~~03. Non-liquor ingredients. Those items served in, or mixed with, an alcoholic beverage, such as soda pop, bottled water, fruit juice, limes or olives. (1-1-94)~~

06~~4~~. Resident. For purposes of sections 23-910, 23-1005, 23-1010 and 23-1307, Idaho Code, the term "resident" means any person domiciled within the State of Idaho with a bona fide intent to make this his/her permanent place of abode and who when temporarily absent from the state, continues residency with the intent to return. (1-1-94)

~~07. Restaurant. The term restaurant, as defined by section 23-942(c), Idaho Code, is further defined as an eating establishment having indoor dining facilities, and kitchen and cooking facilities for the preparation of food where hot meals are regularly served to the public, and where daily average food sales constitute at least thirty five per cent (35%) of the gross sales of food and alcoholic beverages. Licensees assessing patrons mandatory entry fees or cover charges upon entry of the premises shall apply such charges to the total gross sales of the establishment in determining the minimum food sales requirements. (1-1-94)~~

08~~5~~. Transfer. For the purposes of section 23-908(4), Idaho Code, the sale or exchange of stock in a corporation holding a license shall be deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, shall not be deemed a transfer. (1-1-94)

~~022. RESTAURANT ENDORSEMENT QUALIFICATIONS AND PROCEDURE. (1-1-94)~~

~~01. General requirements. All applicants making application pursuant to section 23-946(a), Idaho Code, for a restaurant endorsement upon a state license for~~

~~the--sale-of-liquor-by-the-drink-or-for-the-sale-of-beer for-consumption-on-the-premises,-claiming-that-the-premises-for-which-such-license-is-sought-constitute-and-are operated-as-a-restaurant-as-defined-in-section-004.07-of this-rule,-shall-on-each-application-for--state--license and-on-each-application-for-renewal-of-license,-by-marking--the--restaurant--blank-and-signing-the-application, state-that-such-premises-constitute--and--operate--as--a restaurant. (1-1-94)~~

~~02.--Proof--of--qualification.---In-addition-to-the requirements-of-subsection-01.-of-this-rule,-the--Director--of--the-Department-of-Law-Enforcement-may-require-a licensee-possessing-a-restaurant-endorsement-to-submit-a report-showing-its-gross-food--and--alcohol--sales,--the average--daily--food-sales-and-the-percentage-of-average daily-sales-of-food-compared-to-the-average-daily--sales of-food-and-alcoholic-beverages.~~

~~03.-Modification-of-endorsement.-Procedures-for-the modification--of--a--restaurant--endorsement-shall-be-in accordance-with-the-provisions-of-Chapter-52,-Title--67, Idaho-Code. (1-1-94)~~

Adopted by the Senate March 14, 1994
Adopted by the House March 29, 1994

(S.C.R. No. 146)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REQUESTING COMPACT NEGOTIATIONS BETWEEN IDAHO INDIAN TRIBES AND THE STATE OF IDAHO.

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

WHEREAS, the Legislature intends to provide an economic development opportunity to the Idaho Indian tribes, employment opportunities for tribal members and funds for enhancing the health, education and welfare of tribal members and to enhance the general well-being of the tribe and tribal members; and

WHEREAS, the U.S. District Judge Harold Ryan has recently ruled that the State may not conduct its lottery on Indian reservations unless the respective Indian tribe allows such activity under the terms of a compact negotiated by the Indian tribe and authorized by tribal ordinances; and

WHEREAS, the Nez Perce Reservation and the Coeur d'Alene Reservation are currently the major areas among Idaho Indian Country which sell State lottery tickets; and

WHEREAS, with U.S. District Court Judge Harold Ryan's ruling, some Idaho Indian tribes have asked for a negotiated portion of the money that the State gets from on-reservation sales to be returned back to the respective Idaho Indian tribes; and

WHEREAS, the Legislature finds that if some reasonable revenue

sharing bill is created, litigation will probably be avoided and the lottery would be able to continue operating on the reservation, but if no action is taken, most likely Indian tribes will sue for past revenues and the lottery will almost certainly be eliminated on reservations; and

WHEREAS, the Legislature finds that legislation could provide a better solution than a court solution; and

WHEREAS, the Legislature has an opportunity to help both the State and the Tribes avoid conflict regarding the State lottery on Idaho Indian lands; and

WHEREAS, the Legislature wants to encourage government-to-government negotiations concerning the State lottery on Indian lands and to ameliorate the present uncertainty.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature requests and authorizes that the State of Idaho proceed in good faith compact negotiations with the Tribes regarding administering the State lottery on Idaho Indian lands.

BE IT FURTHER RESOLVED that interim compacts may be entered into by the Governor and the tribes, provided such compacts shall not become permanent unless ratified by Concurrent Resolution by the First Regular Session of the Fifty-third Idaho Legislature and provided that no moneys or payments are authorized to be paid by the State of Idaho to the Tribes until such time as authorized by the Idaho Code, and as approved by the governing body of the Idaho Tribe and by a Concurrent Resolution adopted by both houses of the Legislature.

BE IT FURTHER RESOLVED, that any negotiation so approved may include reasonable provisions addressing retroactivity with respect to sales occurring on or after July 1, 1993, and annual provisions which provide for each distinct Idaho Indian tribe's economic development and sovereignty.

BE IT FURTHER RESOLVED, that any negotiation so approved shall include reasonable provisions which provide the State lottery's advertising costs, lottery retailer's commissions, administrative costs, lottery prizes, and a sharing of lottery dividends derived from the sales of lottery tickets on Indian reservations.

Adopted by the Senate April 1, 1994
Adopted by the House April 1, 1994

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 41)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE FIFTY-SECOND IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the Second Regular Session of the Fifty-second Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 10, 1994.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Monday, January 10, 1994, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 10, 1994
Adopted by the Senate January 10, 1994

(H.C.R. No. 42)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE FIFTY-SECOND IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the Second Regular Session of the Fifty-second Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 12,

1994.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Wednesday, January 12, 1994, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 12, 1994
Adopted by the Senate January 12, 1994

(H.C.R. No. 45)

A CONCURRENT RESOLUTION
RECOGNIZING THE ROLE OF FAMILIES IN IDAHO AND DESIGNATING 1994 AS THE IDAHO STATE YEAR OF THE FAMILY.

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

WHEREAS, the family is the traditional basic unit of organization in our society and has been a particularly important and stabilizing influence in Idaho; and

WHEREAS, by providing the first learning environment of the individual, the family can serve to teach principles of individual rights, tolerance, acceptance and personal responsibility; and

WHEREAS, the Idaho Home Economics Association has identified as basic rights for family members, to be experienced within each family, the right to be loved, be trusted, be involved in making decisions, be respected, have privacy, be given responsibility and be given moral teaching; and

WHEREAS, the rights of Idaho family members have been set out by the Legislature in the Idaho Code and by the people in the Constitution of the State of Idaho; and

WHEREAS, families face increasing stress and challenge from conditions and circumstances beyond their control; and

WHEREAS, it is in the interest of society, and of each individual, to emphasize the strengths and enhance the opportunities within the family and to encourage programs which will recognize and promote families; and

WHEREAS, we have a unique opportunity to join together in a year designed to educate citizens about family relationships and to further understanding of the potential role of families in addressing complex societal issues faced today; and

WHEREAS, the Idaho Home Economics Association, in conjunction with the United Nations, has recognized the United Nations International Year of the Family, and it is appropriate for the Legislature of the State of Idaho to recognize the Idaho State Year of the Family.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we designate 1994 as the Idaho State Year of the Family, and within the context of this

year of recognition, encourage citizens of Idaho to participate through organizations and as individuals in activities which serve to strengthen the family unit and to recognize the accomplishments of families.

Adopted by the House January 20, 1994
Adopted by the Senate January 24, 1994

(H.C.R. No. 46)

A CONCURRENT RESOLUTION

DECLARING 1994 TO BE THE IDAHO YEAR OF WORKPLACE PRODUCTIVITY THROUGH LITERACY AND THE WEEK OF SEPTEMBER 4 THROUGH SEPTEMBER 10 TO BE IDAHO LITERACY WEEK.

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

WHEREAS, emphasis must be focused upon continued expansion of adult basic education capacity in Idaho in order to ensure that every adult is literate and possesses the skills necessary for success in society and employment in today's increasingly sophisticated workplace; and

WHEREAS, intergenerational literacy is particularly critical as efforts to raise the literacy level of Idaho parents will enhance children's literacy levels, bringing success in school and breaking the intergenerational cycle of illiteracy; and

WHEREAS, recognizing the need for life long learning skills means that adults will continue to require training and retraining to maintain competitive skills and employment in today's increasingly sophisticated workplace; and

WHEREAS, adult literacy programs for non-English speaking adults are essential to ensure not only that the adult is successful in society and the workplace, but that the language development at home also contributes to the success of children in their experiences in education and society; and

WHEREAS, community education and awareness is critical in order to inform key decision-makers and community leaders about the broad cross section of individuals in Idaho who need and can benefit from literacy services and the cost-effectiveness of investing in services that help adults and their children be successful; and

WHEREAS, training and resource support is critical in order to provide high quality training, information, resource materials and technology to staff and volunteers in Idaho's literacy program; and

WHEREAS, on behalf of the people of Idaho, the Legislature has in the past recognized Idaho Literacy Week, and continues to believe that emphasis upon adult literacy programs is in the interest of our citizens and our state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the year 1994 be declared "The Year of Workplace Productivity Through literacy" and the

week of September 4 through September 10, 1994, be declared "Idaho Literacy Week."

Adopted by the House February 2, 1994
Adopted by the Senate February 8, 1994

(H.C.R. No. 49)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE CONCERNING THE CONTRIBUTIONS OF FEDERAL LANDS TO THE PEOPLE OF THE STATE OF IDAHO AND DESIGNATING PUBLIC LANDS WEEK.

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

WHEREAS, Idaho recognizes the many contributions federal public lands, whose magnificence and vastness comprise two-thirds of our state, have made to the heritage and well-being of all Idaho's citizens; and

WHEREAS, these public lands, which are open to all of the nation's citizens, are an immensely valuable asset to not only the nation but to Idaho as well and contribute a vast spectrum of wealth to our society to the benefit of all Idaho citizens; and

WHEREAS, Idaho recognizes the abundance of economic, recreational and social advantages that its citizens enjoy because of the very presence of these public lands, and Idaho recognizes the many contributions the use of public lands have made not only to the state's rural communities whose livelihoods often depend upon the public use, but to each individual Idaho citizen as well; and

WHEREAS, Idaho recognizes particularly the contribution public lands have made to our state's livestock, mining, timber and recreation industries, contributing substantially to the state's economy by creating innumerable jobs for its working people; and

WHEREAS, Idaho acknowledges the nation's need to sustain the many uses of federally owned public lands while requiring a balance between those activities and the conservation of this invaluable natural resource.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commemorate the many benefits to the citizens of Idaho derived from the use and enjoyment of the federally owned public lands in our state, and hereby declare the week of May 9, 1994, as Public Lands Week in Idaho.

Adopted by the House February 25, 1994
Adopted by the Senate March 9, 1994

(H.C.R. No. 50)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE REGARDING WATER QUALITY STANDARDS.

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

WHEREAS, the Legislature is vested with authority to reject, amend or modify executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is legislative finding that certain rules of the Idaho Department of Health and Welfare are not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the following rules of the Idaho Department of Health and Welfare IDAPA Title 16.01.02.852 06, relating to water quality standards and wastewater treatment requirements be, and the same are hereby amended to read as follows:

06. Corrective Action Plan. At any point after reviewing the information submitted in compliance with Subsections 852.01. through 852.05., the Department may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils, surface water and ground water. If a plan is required, owners and operators shall submit the plan according to a schedule and criteria established by the Department in a consent order as provided in Subsection 852.07. Alternatively, owners and operators may, after fulfilling the requirements of Subsections 852.01. through 852.05., choose to submit a corrective action plan for responding to contaminated soil, surface water and ground water. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and shall modify their plan as necessary to meet the Department's standards. (7-1-93)

a. The Department will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health and the environment. In making this determination, the Department should consider the following factors as appropriate: (7-1-93)

i. The maximum contaminant levels for drinking water or other health-based levels for water and soil which consider the potential exposure pathway of the petroleum product; ~~(7-1-93)~~ ( )

ii. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; (7-1-93)

iii. The hydrogeologic characteristics of the release site and the surrounding area; (7-1-93)

iv. The proximity, quality, and current and future uses of nearby surface water and ground water; (7-1-93)

v. The potential effects of residual contamination on nearby surface water and ground water; (7-1-93)

vi. Other information assembled in compliance with Section 851. (7-1-93)

b. Upon approval of the corrective action plan or as directed by the Department, owners and operators shall implement the plan including modification to the plan made by the Department. Owners and operators shall monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and criteria established by the Department as provided in Subsection 852.07. (7-1-93)

c. Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil, surface water, and ground water before the corrective action plan is approved provided that they: (7-1-93)

i. Notify the Department of their intention to begin cleanup; (7-1-93)

ii. Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and (7-1-93)

iii. Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Department for approval. (7-1-93)

Adopted by the House February 22, 1994
Adopted by the Senate March 18, 1994

(H.C.R. No. 52)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND RECOGNIZING THE LEGISLATIVE CHARTER OF THE HENRYS FORK WATERSHED COUNCIL.

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

WHEREAS, the Legislature finds that as interests in the Henrys

Fork Basin have diversified, the Henrys Fork and its tributaries have sustained increasing pressure to satisfy demands for irrigation, hydroelectricity and instream flow needs for fisheries and recreation; and

WHEREAS, since passage of the "Comprehensive State Water Plan: Henrys Fork Basin" in 1993, new developments such as dams, diversions and hydroprojects have been restricted on one hundred ninety-five miles of the Henrys Fork and tributary streams; and that additional recommendations in the Plan have not yet been fully addressed by the twenty-three federal, state and local agencies with management or regulatory jurisdiction in the Basin; and

WHEREAS, the Legislature also finds that in view of the high resource values at stake in the Henrys Fork Basin, an innovative, consensus-building process is needed to provide for sound watershed management.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature authorizes state agencies to participate in the Henrys Fork Watershed Council which is a forum to identify watershed issues and to facilitate long-term solutions.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Legislature recognizes and commends the Henrys Fork mission statement, definitions, duties, facilitation role, and its policy on finances as follows:

(1) MISSION STATEMENT. The Henrys Fork Watershed Council is a grassroots, community forum which uses a nonadversarial, consensus-based approach to problem solving and conflict resolution among citizens, scientists and agencies with varied perspectives. The Council is taking the initiative to better appreciate the complex watershed relationships in the Henrys Fork Basin to restore and enhance watershed resources where needed, and to maintain a sustainable watershed resource base for future generations. In addressing social, economic and environmental concerns in the Basin, Council members will respectfully cooperate and coordinate with one another and abide by federal, state and local laws and regulations.

(2) DEFINITIONS:

(a) "Basin" means the Idaho portions of the Henrys Fork watershed as defined in the "Comprehensive State Water Plan: Henrys Fork Basin," including over three thousand miles of rivers and streams, two million acres of public and private lands and underlying ground water resources.

(b) "Council" means the Henrys Fork Watershed Council.

(3) MEMBERSHIP. The Council shall be comprised of citizens, scientists and agency representatives who reside, recreate, make a living and/or have legal responsibilities in the Basin, thus ensuring a more collaborative approach to resource decision-making. The Council shall not be limited in the number of participants, with members organized into the following three component groups:

(a) Citizens Advisory Group - Members of the public with commodity, conservation and/or community development interests will have an integral role in Council affairs through the Citizens Advisory Group. The Group shall review agency proposals and plans for their relevance to local needs and whether all interests are

treated equitably.

(b) Technical Team - The Team shall be composed of scientists and technicians from government, academia and the private sector. They will coordinate and monitor research projects, serving as catalysts for launching needed studies and as peer reviewers for ongoing work in the Basin. Duplication of research will be minimized through Technical Team guidance, and results of research shall be integrated into Council discussions.

(c) Agency Roundtable - The Roundtable shall have representatives of all local, state and federal entities with rights or responsibilities in the Basin, including the Shoshone-Bannock Tribes. The agencies will work to align their policies and management to watershed resource concerns and needs. Discussions shall seek to ensure close coordination and problem solving among agencies.

(4) DUTIES OF COUNCIL. Citizens, scientists and agencies on the Council shall dedicate themselves to:

(a) Cooperate in resource studies and planning that transcend jurisdictional boundaries, still respecting the mission, roles, water and other rights of each entity.

(b) Review and critique proposed watershed projects and Basin Plan recommendations, suggesting priorities for their implementation by appropriate agencies.

(c) Identify and coordinate funding sources for research, planning, implementation and long-term monitoring programs, with financing derived from both public and private sectors.

(d) Serve as an educational resource to the Legislature and the general public, communicating the Council's progress through regular reports, media forums and other presentations.

(5) FACILITATION. The Council shall operate on a consensus basis and select two representative citizen organizations in the Basin to cofacilitate its meetings. (The Fremont-Madison Irrigation District and the Henrys Fork Foundation, Inc. currently are serving in this capacity at the request of the Council.) The cofacilitators shall attend to administrative and logistical needs of the Council, coordinate its public information activities, and submit an annual report of its progress to the Legislature.

(6) FINANCES. The Council shall appoint a Finance Committee with equal representation from the three component groups and the cofacilitating organizations to identify potential sources of funds and to coordinate the funding of priority projects and administrative needs. The following state fund shall be among the private and public sources available to implement the Council's recommendations:

Henrys Fork Watershed Fund. This Division of Environmental Quality fund already exists and may receive dedicated moneys from private and public sources to fund projects in the Henrys Fork Basin and to defray Council administrative expenses.

Adopted by the House March 2, 1994
Adopted by the Senate March 23, 1994

(H.C.R. No. 56)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF THE JUVENILE JUSTICE SYSTEM IN IDAHO.

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

WHEREAS, during the current and recent past sessions, the Legislature has addressed a diverse array of issues related to the administration of juvenile justice; and

WHEREAS, there is widespread concern that as statutory and program changes have been made in recent years, there has been inadequate attention given to the balance between treatment for the juvenile offender and safety for the public; and

WHEREAS, citizens of Idaho deserve to feel secure in their homes and confident that the laws of society will not be violated without redress; and

WHEREAS, the piecemeal approach to developing a comprehensive program has resulted in jurisdictional issues which now appear to many observers to compromise an effective program; and

WHEREAS, acting on behalf of the citizens of Idaho, it is important that the Legislature assess the juvenile justice system to assure its comprehensive nature, its effective organizational structure, and its potential to protect societal interests.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint a committee to undertake and complete a study of the juvenile justice system in Idaho. The committee should consider issues related to prevention, protection, rehabilitation, treatment, punishment, and victim's compensation, and the way in which the schools, law enforcement agencies, health and welfare facilities and agencies, the court system and other public agencies and institutions are involved in a comprehensive and coordinated juvenile justice system.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and legislation, if any, to the First Regular Session of the Fifty-third Idaho Legislature.

Adopted by the House March 4, 1994
Adopted by the Senate March 30, 1994

(H.C.R. No. 57)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE DEPARTMENT OF INSURANCE AND TO PROVIDE RECOM-

MENDATIONS ON THE ORGANIZATION AND FUNDING OF THE DEPARTMENT.

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

WHEREAS, the statutory duties of the Department of Insurance have been expanded by legislation relating to health care reform and health insurance reform; and

WHEREAS, the process of obtaining and maintaining accreditation by the National Association of Insurance Commissioners will require a high degree of regulatory expertise by the Department of Insurance; and

WHEREAS, it is in the best interests of the people of this state to have an adequately funded and staffed Department of Insurance to meet its statutory responsibilities.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint a Committee to undertake and complete a study of the Department of Insurance and make recommendations with emphasis on the assessment of the Department's capacity to perform its existing and reasonably foreseeable duties in relation to health insurance, accreditation requirements of the National Association of Insurance Commissioners, the licensing and discipline of insurance agents and brokers, and the regulation of insurance companies. In conducting the study, the Committee shall consult with representatives of the Department of Insurance, representatives of insurance companies, representatives of insurance agents and brokers, representatives of the National Association of Insurance Commissioners, representatives of health care providers and other interested parties.

BE IT FURTHER RESOLVED that the Committee shall report its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-third Idaho Legislature.

Adopted by the House March 14, 1994
Adopted by the Senate March 30, 1994

(H.C.R. No. 58)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ADOPTING CERTAIN RECOMMENDATIONS, MODIFYING CERTAIN RECOMMENDATIONS, STATING LEGISLATIVE PHILOSOPHY ON SALARY ADMINISTRATION FOR STATE EMPLOYEES AND STATING POLICY TOWARD FUNDING RECOMMENDATIONS TO IMPLEMENT THESE DESIRED PAY POLICIES.

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

WHEREAS, the Legislature appropriated moneys and directed that a comprehensive audit of current compensation practices be conducted; and

WHEREAS, the audit has been completed by the Hay Group and a final

report submitted; and

WHEREAS, the Legislature has by law provided that the Governor and Idaho Personnel Commission report to the Legislature their recommendations for proposed pay policies together with estimated costs thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 12, 1994, the report of the Idaho Personnel Commission dated October 29, 1993, and the audit report of the Hay Group dated October, 1993; and

WHEREAS, the Legislature endorses a Compensation Policy that includes the following:

1. It is the mission of the Idaho State Government to provide a high level of responsive service in meeting the needs of its citizens. To accomplish this mission, it is the policy of the State of Idaho to provide a total compensation system that attracts, retains and recognizes employees. The foundation of this system is to reward employees for performance in the achievement of service delivery goals and objectives.

2. It is intended that the State of Idaho pay competitive job market average salaries. Employees should expect to reach the market rate within their assigned pay grade based upon acceptable performance.

3. It is the policy of the Legislature that employees be rewarded and advanced in their assigned pay grade based on their performance in the achievement of organizational mission, goals and objectives.

4. It is intended that compensation practices be consistent throughout state government, yet flexible to adapt to specific needs. To this end it is intended that employees be compensated from a salary schedule that provides pay grades with open ranges. Each pay range will have a minimum rate that is 85% of policy and a maximum at 125% of policy. It is further intended that market-average budgeting be a Legislative goal to insure consistent treatment of employees throughout the various agencies of state government.

5. The Executive and Legislative branches will jointly oversee the continuity of the compensation program and will insure it is administered within the framework of this Policy.

WHEREAS, to the extent the above Policy is inconsistent with sections 67-5309B and 67-5309C, Idaho Code, the Personnel Commission is directed to present any necessary legislation to the Human Resources Committees in the House and Senate to implement the intent of this Policy; and

WHEREAS, the Legislature recognizes the need to maintain spending patterns within established guidelines; and

WHEREAS, the Legislature intends that state employee total compensation shall be based on competitive job market average salaries.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that:

1. Recommendation No. 1 of the Idaho Personnel Commission and concurred in by the Chief Executive is hereby adopted.

2. Recommendation No. 2 of the Idaho Personnel Commission and

concurred in by the Chief Executive is hereby adopted. The mathematical expressions of this recommendation are as follows:

0 - 270 points	$.043135P + $1.9317
271 - 550 points	$.026563P + $6.4058
551 - 1050 points	$.018077P + $10.6481
1051 and above	$.012385P + $16.6240

3. Cost projections to implement Recommendations No. 1 and No. 2 of the Idaho Personnel Commission and modified by the Chief Executive are hereby modified to provide 5.38% funding for FY95.

4. No employee may receive more than a 10% increase in pay unless a greater increase is required to place the employee's position in the correct pay grade as a result of this resolution.

5. Salary increases beyond implementation increases are to be based upon employee performance.

6. Recommendation to include funding for annualization of employers' share of phase II of the retirement enhancements is hereby adopted.

7. The Joint Finance-Appropriations Committee is directed to appropriate an amount not to exceed $21,400,000 from the General Account to fund those recommendations for state agencies, colleges and universities.

8. For those agencies funded in total or in part from non-General Account money, the Joint-Finance Appropriations Committee is directed to appropriate in as nearly as possible the same manner as for General Account funded agencies.

9. The effective date of implementation of these salary adjustments shall be June 5, 1994.

BE IT FURTHER RESOLVED that appropriation measures to fund nonclassified employees be prepared in as nearly as possible the same manner as for classified employees.

Adopted by the House March 4, 1994
Adopted by the Senate March 21, 1994

(H.C.R. No. 59)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO COMPLETE THE WORK NECESSARY TO REACH CONCLUSIONS REGARDING THE INCLUSION OF AGRICULTURAL WORKERS WITHIN THE WORKER'S COMPENSATION SYSTEM.

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

WHEREAS, the worker's compensation system is a comprehensive program with application to many citizens of Idaho and must be a well-coordinated and cohesive system to meet the needs of a diverse population; and

WHEREAS, recent sessions of the Idaho Legislature have considered several pieces of legislation which made changes or adjustments to the worker's compensation statutes; and

WHEREAS, any change which is made in the worker's compensation system has significance throughout the system and must be carefully and thoughtfully considered to assure that the impacts upon individuals and businesses are the effects intended; and

WHEREAS, when adopted, the worker's compensation system excluded agricultural workers, but in recent years several proposals have been made to include agricultural workers, and these proposals require the necessary, thorough consideration which will bring the controversy to a conclusion.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint a Committee to undertake, thoroughly investigate and recommend a workable solution which would include agricultural workers in the coverage of worker's compensation. This work should provide the opportunity to evaluate and respond to the economic impacts upon business and the benefits to workers in the findings of the Committee.

BE IT FURTHER RESOLVED that the Committee shall report its findings and conclusions, and recommended legislation, if any, to the First Regular Session of the Fifty-third Idaho Legislature.

Adopted by the House March 10, 1994
Adopted by the Senate March 30, 1994

(H.C.R. No. 60)

A CONCURRENT RESOLUTION

AMENDING A RULE OF THE PUBLIC UTILITIES COMMISSION RELATING TO INSURANCE REQUIREMENTS FOR MOTOR CARRIERS.

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

WHEREAS, the Legislature is vested with authority to reject, amend or modify executive agency rules under the provisions of Section 67-5291, Idaho Code, and those provisions require that the Legislature make a finding that executive agency rules are not consistent with legislative intent; and

WHEREAS, it is legislative intent that certain rules of the Public Utilities Commission relating to insurance requirements for motor carriers are violative of legislative intent and are not consistent with statutory authority granted to the commission.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the rules of the Public Utilities Commission contained in IDAPA 31.61.01.021.02, be, and the same are hereby amended to read as follows:

02. Passenger Carriers. The minimum levels of insurance or surety

bond coverage (for injury, death, or property damage in any one (1) accident) for common and contract passenger carriers are: ~~(7-1-93)~~ ( )

a. For any vehicle with a seating capacity of ~~sixteen~~ twenty-five (~~16~~25) passengers or more $5,000,000; ~~(7-1-93)~~ ( )

b. For any vehicle with a seating capacity of ~~fifteen~~ twenty-four (~~15~~24) passengers or less $1,500,000. ~~(7-1-93)~~ ( )

Adopted by the House March 15, 1994
Adopted by the Senate March 28, 1994

(H.C.R. No. 61)

A CONCURRENT RESOLUTION
REQUESTING THE ATTORNEY GENERAL TO PETITION THE IDAHO SUPREME COURT FOR REHEARING IN THE CASE OF MUSSER V. HIGGINSON.

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

WHEREAS, on February 28, 1994, the Idaho Supreme Court issued its decision in "Musser v. Higginson," Supreme Court No. 20807, affirming the issuance of a Writ of Mandate by the district court against the Director of the Department of Water Resources ordering the Director to perform his statutory duty of distributing water in accordance with the doctrine of prior appropriation; and

WHEREAS, the Court held that in Section 42-226, Idaho Code, "does not affect rights to the use of ground water acquired before" 1951; and

WHEREAS, the application of Section 42-226, Idaho Code, to pre-1951 water rights was not addressed in the briefing of the parties; and

WHEREAS, the common law doctrine of prior appropriation, as developed in Idaho and other western states, has long embodied the mandate that rights to water be administered and recognized consistent with the principle of maximum utilization of our water resources; and

WHEREAS, the common law doctrine of prior appropriation, as developed in Idaho and other western states, has long embodied the mandate that rights to water are subject to the limitations of reasonable use and reasonable means of diversion; and

WHEREAS, Section 42-226, Idaho Code, is a statutory codification of these principles within the prior appropriation doctrine; and

WHEREAS, the Court's decision raises significant questions regarding whether pre-1951 water rights are now subject to the traditional requirements of the prior appropriation doctrine; and

WHEREAS, the Court's decision regarding pre-1951 water rights will severely restrict all ground water use in Idaho that has occurred since 1951 if not changed; and

WHEREAS, the common law doctrine of prior appropriation, as developed in Idaho and other western states, provides that no water right will be shut off to supply a senior water right unless doing so actually will deliver water to the senior water right; and

WHEREAS, the Court's decision did not address the physical and hydrological issues regarding the distribution of water; and

WHEREAS, water development in the Snake River Basin has dramatically changed the outflow of water from the Snake Plain Aquifer, which has created significant questions regarding the legal entitlements of water users to the modified flows; and

WHEREAS, the Court's decision did not consider the problem created by an attempt to deliver water between users where the junior water users have not yet been adjudicated or included in a water district nor the legal relationship between senior and junior water right holders determined; and

WHEREAS, the Snake River Basin Adjudication was commenced, in part, to address the relationship of ground water and surface water rights; and

WHEREAS, the Court's decision dramatically limits the ability of claimants to participate in the resolution of the issue of the relationship between surface and ground water rights; and

WHEREAS, the Court's decision which directly impacts the availability of water for many commercial and municipal users and for the irrigation of more than 1.2 million acres of land is causing grave concern in Idaho's financial community.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Attorney General be requested to petition the Supreme Court for rehearing of its "Musser v. Higginson" decision.

Adopted by the House March 14, 1994
Adopted by the Senate March 14, 1994

(H.C.R. No. 66)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND RECOGNIZING THE CONTRIBUTIONS OF JERRY L. EVANS TO THE FUTURE OF IDAHO THROUGH HIS COMMITMENT TO THE EDUCATION OF ITS CHILDREN.

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

WHEREAS, Jerry L. Evans has devoted four decades to the education of Idaho's youth as a teacher, principal, school district superintendent, and for sixteen years, Idaho's Superintendent of Public Instruction; and

WHEREAS, Superintendent Evans has also served as a member of the State Board of Education and Board of Regents of the University of Idaho, the Idaho Endowment Fund Investment Board, and the Idaho State Land Board; and

WHEREAS, Superintendent Evans represented Idaho at the regional, national and international levels as vice president and director of the Council of Chief State School Officers; director of the Northwest Regional Educational Laboratory and an Idaho representative to the

Education Commission of the States; member of the National Advisory Committee on Accreditation and Institutional Eligibility; director of the International Agency for Instructional Technology; executive committee member of the National Council for Accreditation of Teacher Education; and a national advisory committee member for the Public Broadcasting Service's Elementary and Secondary Service; and

WHEREAS, Superintendent Evans has been an outspoken advocate for Idaho's children, committed to the principle the writers of Idaho's Constitution established when they provided for a system of public, free common schools to make educational opportunity available to every child regardless of family status or wealth; and

WHEREAS, Superintendent Evans's devotion to his profession and to the students of Idaho has been recognized by the Idaho School Superintendents Association, which awarded him its "Educational Leadership Award," and by Phi Delta Kappa, which recognized him as a "Friend of Education."

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize with sincere gratitude and admiration the contributions to Idaho's future, through the education of its children, made by Jerry L. Evans throughout his long career as a teacher, administrator and educational leader.

Adopted by the House March 24, 1994
Adopted by the Senate March 30, 1994

(H.C.R. No. 67)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND STATING THAT TRANSFER OF IRRIGATION WATER RIGHTS FROM LANDS ENROLLED IN THE FEDERAL CROPLAND SET-ASIDE PROGRAM FOR USE ON LANDS THAT HISTORICALLY HAVE NEVER BEEN USED FOR IRRIGATED AGRICULTURE ARE NOT IN THE LOCAL PUBLIC INTEREST.

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

WHEREAS, the federal cropland set-aside program is established to insure that farmers receive a fair and stable price for their crops; and

WHEREAS, croplands enrolled in the set-aside program are to be managed for conservation uses; and

WHEREAS, conservation uses often do not require the use of the water rights appurtenant to the enrolled lands; and

WHEREAS, some landowners involved in the cropland set-aside program are temporarily transferring their irrigation water rights under the provisions of Section 42-222, Idaho Code, from lands devoted to conservation uses to lands that have never historically been used for irrigated agriculture; and

WHEREAS, such water transfers are defeating the purpose of this program which greatly benefits Idaho's farmers and its economy by

insuring fair and stable prices for crops as well as by encouraging conservation objectives on Idaho's lands; and

WHEREAS, because of six years of drought, because of declines in the amount of surface water diverted onto the Snake River Plain, because of recent calls made by Hagerman area water rights owners upon the Snake River Plain Aquifer, and because of the Idaho Supreme Court's decision in "Musser v. Higginson," there are serious questions regarding the amount of water available from the Snake River Plain Aquifer for irrigation; and

WHEREAS, the provisions of Section 42-222, Idaho Code, require that before the Director of the Idaho Department of Water Resources approves a transfer of a water right he must make a finding that such transfer is in the local public interest; and

WHEREAS, some landowners have enrolled in the cropland set-aside program relying upon the income they receive from transferring their water rights and, as a result, any limitation on the transfer of water rights from lands managed for conservation uses should only apply to lands enrolled in this program after the date of this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that transfers of irrigation water rights from lands enrolled in the federal cropland set-aside program for use on lands that historically have never been used for irrigated agriculture are not in the local public interest.

Adopted by the House March 28, 1994
Adopted by the Senate March 31, 1994

(H.C.R. No. 70)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY THE SNAKE RIVER BASIN ADJUDICATION.

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

WHEREAS, the Snake River Basin Adjudication was commenced on November 19, 1987; and

WHEREAS, the United States Supreme Court has held that the United States is not required to pay the filing fees required of all other claimants; and

WHEREAS, the Idaho Department of Water Resources projects that there will be a $32 million shortfall in funding for the Snake River Basin Adjudication over the next ten years; and

WHEREAS, there are insufficient funds remaining in the adjudication filing fees account to fund the adjudication during fiscal year 96; and

WHEREAS, a funding source must be identified for the Snake River Basin Adjudication; and

WHEREAS, concerns have been expressed by small claimants about the

burden of participating in the Snake River Basin Adjudication; and

WHEREAS, there is a need to consider ways of streamlining the Snake River Basin Adjudication process to facilitate participation of small claimants in the proceeding; and

WHEREAS, there is a need to consider ways of facilitating the resolution of issues of basin-wide importance; and

WHEREAS, there is a need to consider ways of spreading the burden among all claimants of the costs of resolving basin-wide issues; and

WHEREAS, significant concerns have been raised about how to conjunctively manage the surface and ground water of the upper Snake River Basin; and

WHEREAS, the uncertainty regarding how the surface and ground water rights will be conjunctively administered is affecting financing for businesses dependent upon a stable water supply; and

WHEREAS, there is currently insufficient information to determine how to conjunctively manage surface and ground water supplies of the upper Snake River Basin; and

WHEREAS, the Legislature is currently funding a study to gather additional information to facilitate the conjunctive management of the surface and ground water supplies of the upper Snake River Basin; and

WHEREAS, a plan for the conjunctive management of the surface and ground water supplies of the upper Snake River Basin cannot be fully developed until the legal relationship of all water rights in the upper Snake River Basin are determined in the Snake River Basin Adjudication; and

WHEREAS, the Legislature has adopted interim measures to address the conjunctive management of the surface and ground water supplies of the upper Snake River Basin; and

WHEREAS, there is a need to develop a long-term plan for conjunctively managing surface and ground water supplies of the State.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study for the following purposes: (1) To develop recommendations for future funding of the Snake River Basin Adjudication; (2) To investigate ways the Legislature may facilitate the participation of small claimants in the adjudication; (3) To investigate ways of spreading the cost of resolution of basin-wide issues among all claimants; and (4) To investigate ways the Legislature may facilitate the development of a long-term conjunctive management plan for the administration of surface and ground water supplies in Idaho.

BE IF FURTHER RESOLVED that the Committee shall submit its findings, recommendations and proposed legislation, if any, to the First Regular Session of the Fifty-third Idaho Legislature.

Adopted by the House March 31, 1994
Adopted by the Senate April 1, 1994

(H.C.R. No. 71)

A CONCURRENT RESOLUTION

RECOGNIZING AND COMMENDING THE CONTRIBUTIONS OF GOVERNOR CECIL D. ANDRUS TO THE STATE OF IDAHO AND THE UNITED STATES OF AMERICA.

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

WHEREAS, Cecil D. Andrus has served the people of Idaho and the United States of America with dedication and distinction in positions of public service for more than 30 years; and

WHEREAS, Governor Andrus is the only individual in Idaho history to be elected four times as the state's chief executive; and

WHEREAS, Governor Andrus is the only Idahoan to have the distinction of serving in the President's cabinet where he served as Secretary of the Interior from 1977 to 1981; and

WHEREAS, Governor Andrus has represented Idaho as chairman of both the National and Western Governors Associations; and

WHEREAS, Cecil D. Andrus has earned a national reputation for his leadership on a wide variety of conservation issues including preservation of Hells Canyon, the Idaho Sawtooths, the Snake River Birds of Prey Area and America's environmental crown jewel -- Alaska; and

WHEREAS, as governor he has presided over two of the most robust periods of economic expansion in Idaho history, always keeping in mind his motto "First, you must make a living, but then you must have a living that is worthwhile"; and

WHEREAS, Cecil D. Andrus has had a lifelong commitment to the well-being of Idaho's children, having championed the establishment of kindergartens, child development centers, better child abuse prevention efforts and a strong, properly funded educational system; and

WHEREAS, Cecil D. Andrus' devotion to Idaho has been insured by his years of service to the task of constantly improving the quality of life of the people of our State.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize with genuine gratitude and thanks the many contributions to Idaho's growth and to the bright future of our State, made by Cecil D. Andrus throughout his long career as a state legislator, Secretary of the Interior and Governor of the State of Idaho.

Adopted by the House April 1, 1994
Adopted by the Senate April 1, 1994

CERTIFICATE OF SECRETARY OF STATE

UNITED STATES OF AMERICA)
) ss.
STATE OF IDAHO)

I, PETE T. CENARRUSA, Secretary of the State of Idaho, do hereby certify that the foregoing printed pages contain true, full, and correct and literal copies of all the general laws and resolutions passed by the Fifty-second Legislature of the State of Idaho, Second Regular Session thereof, which convened January 10, 1994, and which adjourned April 1, 1994, as they appear in the enrolled acts and resolutions on file in this office, all of which are published by authority of the Laws of the State of Idaho.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho. Done at Boise City, the Capital of Idaho, this 3rd day of May, 1994.

Pete T. Cenarrusa
Secretary of State

When errors appear in the enrolled bills received from the Legislature at the office of the Secretary of State, this office has no authority to correct them.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 93-01

ESTABLISHMENT OF THE STATEWIDE INDEPENDENT LIVING COUNCIL

WHEREAS, the 1992 Amendments to the Rehabilitation Act of 1973 mandate the creation of a statewide Independent Living Council; and

WHEREAS, it is in the best interest of the citizens of the state of Idaho to engage in activities that will enhance the opportunities of people with disabilities to become independent, participating; and supporting members of society; and

WHEREAS, in order to assist citizens with disabilities to have a greater voice in obtaining services that are cost-effective, consumer-responsive, and community-based;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby establish the Statewide Independent Living Council for the State of Idaho.

I. The Council shall:

1. develop and submit, in conjunction with the State Board of Education's Division of Vocational Rehabilitation, the statewide independent living plan mandated by section 704 of the 1992 Amendments to the Rehabilitation Act of 1973;
2. monitor, review, and evaluate the implementation of the State plan;
3. coordinate its activities with the State Rehabilitation Advisory Council and other councils that address the needs of specific disability populations and issues addressed pursuant to other Federal laws;
4. ensure that all regularly scheduled meetings of the Council are open to the public and that sufficient advance notice of said meetings is provided;
5. submit periodic reports as required by law, keep such records, and afford access to such records as may be necessary to verify such reports; and
6. shall follow the guidelines contained in the 1992 Amendments to the Rehabilitation Act of 1973, Section 705.

II. The council shall be composed of members who provide statewide representation; who represent a broad range of individuals with disabilities; who are knowledgeable about centers for independent living and independent living services; and a majority of whom are individuals with disabilities and not employed by any state agency or center for independent living. Each member of the Council shall serve for a term of 3 years, except that (i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and, (ii) the terms of service of the members initially appointed shall be one third for one year terms, one third for two year terms, and one third for three year terms, to provide for the expiration of terms on a staggered basis. Members of the council shall select a chair from among their number.

III. Membership of the Council shall include:

1. At least one director of a center for independent living chosen by the directors of centers for independent living within the state; and
2. As ex-officio, nonvoting members: a representative from the Idaho Board of Education's Vocational Rehabilitation office and representatives from other state agencies (such as the Industrial Commission, the Commission for the Blind, etc.) that provide services for individuals with disabilities.
3. Additional members: the council may also include other representatives from centers for independent living; parents and guardians of individuals with disabilities; advocates of and for individuals with disabilities; representatives from private businesses; representatives from organizations that provide services for individuals with disabilities; and other appropriate persons.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-eighth day of May, in the year of our Lord nineteen hundred ninety-three, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 93-02

ESTABLISHMENT OF THE STATEWIDE REHABILITATION ADVISORY COUNCIL

WHEREAS, management of vocational rehabilitation services by Idaho State agencies could benefit from review by and the advice of a council of citizens with personal knowledge of the needs of persons with disabilities and interest in the manner in which those needs are addressed; and

WHEREAS, the 1992 amendments to the Rehabilitation Act of 1973 (Title I, Section 105, of PL 102-569) mandate review of the "state plan" and "strategic plan" drafted by the designated state unit (the Division of Vocational Rehabilitation) by a Statewide Rehabilitation Advisory Council; and

WHEREAS, it is in the best interest of the State of Idaho to establish the Rehabilitation Advisory Council to advise the Division

of Vocational Rehabilitation on the state plan, the strategic plan, and other Division activities undertaken to benefit the citizens of Idaho;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order the establishment of the State Rehabilitation Advisory Council.

The Council shall review the activities of the Division of Vocational Rehabilitation and advise on the preparation of applications, the state plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by Title I of the 1992 amendments of The Rehabilitation Act of 1973.

Members of the Council shall be appointed by the Governor and shall be selected after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. The members shall include:

1. at least one representative of the Statewide Independent Living Council;
2. at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Act (20 U.S.C. 1431(c)(9));
3. at least one representative of the client assistance program established under section 112 of the 1992 Amendments to the Rehabilitation Act of 1973;
4. at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs (who, if an employee of the Division of Vocational Rehabilitation, shall serve as a non-voting member of the Council);
5. at least one representative of community rehabilitation program service providers;
6. four representatives of business, industry, and labor;
7. representatives of disability advocacy groups representing a cross section of:
   (a) individuals with physical, cognitive, sensory, and mental disabilities; and
   (b) parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable, due to their disabilities, to represent themselves; and
8. current or former applicants for, or recipients of, vocational rehabilitation services; and
9. the Director of the Division of Vocational Rehabilitation, who shall serve as an ex-officio member of the Council.

A majority of the Council shall be comprised of persons who are individuals with disabilities and not employed by the Division of Vocational Rehabilitation. Members of the Council shall select a chair from among their number.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the tenth day of June, in the year of our Lord nineteen hundred ninety-three, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 93-03

LABOR MARKET INFORMATION PROGRAMS, DEPARTMENT OF EMPLOYMENT REPEALING AND REPLACING EXECUTIVE ORDER 90-10

WHEREAS, the "Job Training Partnership Act" as amended by the "Job Training Reform Amendments Act of 1992" mandates designation of a state organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system as a condition for receipt of federal funds for this sort of activity; and

WHEREAS, participating states are to design comprehensive cost-efficient labor market and occupational supply and demand information systems that:

1. are responsive to the economic demand and education and training supply support needs of the state and areas within the state; and
2. meet the federal standards under Chapter 35 of Title 44, United States Code and other appropriate federal standards established by the Bureau of Labor Statistics; and

WHEREAS, the state's system must standardize available federal and state multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with the published set of projections for the state and designated areas within the state, which shall be used to contribute in carrying out the provisions of the "Job Training Partnership Act as Amended," the "Carl D. Perkins Vocational and Applied Technology Education Act of 1990," and the "Act of June 6, 1993," known as the "Wagner-Peyser Act"; and

WHEREAS, the Governor must assure to the extent feasible that:

1. automated technology will be used by the state,
2. administrative records have been designed to reduce paperwork, and
3. multiple survey burdens on the employers of the state have been reduced; and

WHEREAS, the Idaho Department of Employment operates a highly automated labor market information system supported by seven area

labor market analysts located in each of the largest cities in Idaho; and

WHEREAS, the Idaho State Occupational Information Coordinating Committee operates a statewide computerized information system, which provides career information to state agencies, area public agencies, libraries, private not-for-profit users, and individuals who are in the process of making career decision choices;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by the constitution and laws of the State of Idaho, do hereby continue the designation of the Idaho Department of Employment as the organizational unit responsible for oversight and management of Idaho's statewide comprehensive labor market and occupational supply and demand information system; and

I FURTHER DIRECT that the Idaho Department of Employment continue to rely upon the Idaho State Occupational Information Coordinating Committee for coordinating and disseminating occupational supply and demand information, state and local career information, and training and technical assistance to support comprehensive career guidance programs.

This Executive Order repeals and replaces Executive Order No. 90-10. This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fourteenth day of June, in the year of our Lord nineteen hundred ninety-three, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 93-04

ESTABLISHMENT OF THE CRIMINAL JUSTICE RECORDS IMPROVEMENT ADVISORY COUNCIL

WHEREAS, automated criminal histories are relied upon at virtually every stage of the criminal justice system and play a vital role in almost every decision in the process; and

WHEREAS, under legislative directive, criminal histories increasingly are being made available for noncriminal justice purposes, such as background screening for public and private employment and occupational licensing; and

WHEREAS, national studies have found that the accuracy and com-

pleteness of criminal justice records are seriously deficient, thereby compromising the usefulness of these important records; and

WHEREAS, concern about the quality of criminal justice records has led the U.S. Congress and state governments to initiate programs to improve data quality; and

WHEREAS, the Federal Crime Control Act of 1990 requires states to allocate five percent of their total law enforcement assistance formula grant award for the improvement of criminal justice records, and federal guidelines for use of the set-aside grant funds have set forth a four step process for states to follow in developing a plan to meet certain data quality goals; and

WHEREAS, one step in that process is the establishment of a Criminal Justice Records Improvement Advisory Council with membership including officials representing all stages of the criminal justice process; and

WHEREAS, advice from a council representing the broad spectrum of the criminal justice community is crucial to the success of the state's records improvement project;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law, do hereby establish the Criminal Justice Records Improvement Advisory Council and charge it with the responsibility of promoting interagency and intergovernmental cooperation involving efforts to improve the quality of Idaho's criminal justice records.

The Advisory Council shall have the following duties:

1. reviewing findings and recommendations of a baseline audit of the state's criminal justice records system;
2. assisting the effort to ascertain the reasons for incomplete and inaccurate records;
3. recommending remedial actions for correcting deficiencies in the accuracy, completeness, and timeliness of criminal justice records;
4. evaluating the criminal justice records improvement plan prepared for submission to the U.S. Department of Justice;
5. reviewing the implementation of the criminal justice records improvement plan;
6. reviewing a needs assessment of the criminal justice community regarding automated criminal histories;
7. recommending initiatives for achieving the goals of an approved records improvement plan and for meeting the varied needs of the criminal justice community regarding automated criminal histories;
8. evaluating the adequacy of state laws and other reporting requirements relating to criminal justice records and assisting in the formulation of needed statutory revision.

The Advisory Council shall consist of the following seven (7) members, who shall be appointed by and serve at the pleasure of the Governor:

Attorney General of Idaho or Designee
Director, Idaho Department of Correction or Designee
Director, Idaho Department of Law Enforcement or Designee
A Municipal Chief of Police
A County Sheriff

A Prosecuting Attorney
One Noncriminal Justice User

The Governor shall designate a chairman from among the membership. The Advisory Council may select one of its members to serve as vice-chairman. At its discretion, the Advisory Council may appoint advisory committees to assist in developing solutions to problems adversely affecting the quality of criminal justice records. A Council member may designate a proxy to represent the member at council meetings.

The Department of Law Enforcement shall have the responsibility of ensuring that the criminal justice records improvement project satisfies federal requirements and achieves the goals of the state's records improvement plan. To accomplish this responsibility, the Department of Law Enforcement shall undertake the following duties:

1. preparing a criminal justice records improvement plan for submission to the U.S. Department of Justice;
2. administering a criminal justice records improvement project that is based on a federally-approved records improvement plan and funded by five percent of the state's law enforcement assistance formula grant award;
3. providing administrative support to the Criminal Justice Records Improvement Advisory Council;
4. preparing an annual report on the activities and progress of the criminal justice records improvement project.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-third day of June, in the year of our Lord nineteen hundred ninety-three, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 93-05

CONTINUING THE GOVERNOR'S ADVISORY COUNCIL ON CHAPTER 2 PROGRAMS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 89-01

WHEREAS, Chapter 2 of Title I of the Elementary and Secondary Education Act of 1965, as amended, requires that an advisory council be established by the Governor to advise the Idaho Department of Education; and

WHEREAS, the apportionment of reduced federal funding is particularly crucial to Idaho's school districts; and

WHEREAS, the choices among program opportunities for retained state level funds are many--within the context of federal funding reductions; and

WHEREAS, excellence in our public school system can be enhanced by the fair allocation of funds and program selection targeted to the most critical need of our students; and

WHEREAS, it is in the best interest of all Idaho residents that this council be broadly representative of concerned educators and citizens statewide;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law, do hereby rename and revise the Governor's Education Consolidation and Improvement Act Advisory Council to be the Governor's Advisory Council on Chapter 2 Programs.

The duties of the Council shall include:

1. active and continuing consulting with the Superintendent of Public Instruction and the Department of Education regarding the planning, development, support, implementation, and evaluation of state programs assisted under Chapter 2 of Title I of the Elementary and Secondary Education Act of 1965, as amended;
2. advising the Superintendent of Public Instruction on the allocation of funds reserved for state use from Idaho's Chapter 2 allotment (not to exceed 20 percent of the state allotment);
3. advising the Superintendent of Public Instruction on the formula for allocation to local education agencies of Idaho's Chapter 2 allotment;
4. ensuring that there is timely public availability of the Council's comments on allocation proposals before the state application and subsequent annual amendments are submitted to the Secretary of Education;
5. providing comments to be included in the evaluation of the effectiveness of programs assisted by these funds in federal fiscal year 1993; and
6. reporting to the Governor on the implementation of this program.

The Council shall be limited to no more than 20 members, appointed by the Governor. The members will serve three-year terms. A chairman shall be appointed annually by the Governor.

The Council members will include persons representative of:

1. public and private elementary and secondary school children,
2. classroom teachers,
3. parents of elementary and secondary school children,
4. local boards of education,
5. local school administrators,
6. institutions of higher education,
7. elementary and secondary school librarians,
8. school counselors and other pupil services personnel, and
9. the Idaho Legislature.

Council members will be compensated for travel and expenses. The

Council will hold meetings as needed to accomplish its duties.

This Executive Order shall cease to be effective four years after its entry into force. This Executive Order repeals and replaces Executive Order No. 89-01.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the thirtieth day of June, in the year of our Lord nineteen hundred ninety-three, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 93-06

SUSPENDING, DUE TO LACK OF U.S. CENSUS DATA, THE 1992 AFFIRMATIVE ACTION PLANS REQUIRED BY THE IDAHO CODE OF FAIR EMPLOYMENT PRACTICES, AFFECTING EXECUTIVE ORDER NO. 92-22

WHEREAS, it is the policy of the State of Idaho to promote fair employment practices in accordance with the principles of fair treatment and non-discrimination on the basis of race, color, sex, religion, national origin, age, or handicap, while giving appropriate consideration to veterans; and

WHEREAS, all agencies of the Executive Department of the State of Idaho have been required to submit to the Governor each September 1 an affirmative action plan, setting forth their efforts to attain the goals of the Idaho Code of Fair Employment Practices, set forth in Executive Order 91-7; and

WHEREAS, this obligation to update existing plans was temporarily suspended in 1992 through Executive Order 92-22 because agencies did not have access to key information from the 1990 census; and

WHEREAS, the 1990 census data is now available from the U.S. Bureau of the Census and state agencies have full access to information needed to make meaningful updates to their existing plans;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, pursuant to the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order that all obligations imposed in Executive Order 91-7 be in full force and effect, and that revised affirmative action plans based upon 1990 census data be submitted to the Office of the Governor no later than November 1, 1993.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the second day of August, in the year of our Lord nineteen hundred ninety-three, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 93-07

DESIGNATION OF THE FARMWORKER RESOURCE COMMITTEE AS AN ADVISORY COMMITTEE TO THE GOVERNOR

WHEREAS, agriculture plays a key role in Idaho's economic well-being, and the contribution of seasonal farmworkers, both local and migrant, is critical to agricultural production in Idaho; and

WHEREAS, farmworkers are entitled to equal protection of the law and equal opportunity in society, yet often times their interests are not well represented in Idaho's political system, since many farmworkers do not reside permanently in the places where they work, have limited formal education, and cannot communicate well in English; and

WHEREAS, the failure of the state to require coverage for farmworkers under workers' compensation laws often results in financial hardship to injured farmworkers, litigation expenses, and severe financial burdens to counties that assume indigent medical bills that the workers' compensation would have paid if farmworkers were covered; and

WHEREAS, many farmworkers are children who often work long hours in the agricultural community; and

WHEREAS, many farmworkers and their families rely on Spanish as their primary language and have difficulty taking advantage of available programs due to limited English language skills, and some of their children do not do well in school due to lack of classes in English as a Second Language (ESL), or the absence of Spanish-speaking instructors, and the result is often low educational accomplishment, limited access to jobs and job advancement; and

WHEREAS, many Idaho residents speak Spanish, according to the 1990 census, suggesting that Spanish-language literate persons are available to staff state agency positions responsible for carrying out programs that provide services to Spanish-speaking persons; and

WHEREAS, a number of local, state, and federal agencies are required to assist farmworkers in the State of Idaho, and that increased communication and cooperation between these agencies would

enable them to assist farmworkers more effectively; and

WHEREAS, representatives of many such government agencies have come together to form the Farmworker Resource Committee to improve agency communication and cooperation, and already have had measurable success in addressing farmworker concerns; and

WHEREAS, designation of the Farmworker Resource Committee as an advisory committee to the Governor would support its efforts to better serve farmworkers and their families in Idaho;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by the constitution and laws of the State of Idaho, do hereby order:

1. The designation of the Farmworker Resource Committee as an advisory committee to the Governor.
2. That state agencies and commissions that provide services or protection to seasonal farmworkers and their families shall designate representatives to the Committee. Those agencies include, but need not be limited to, the Department of Agriculture, the Department of Employment, the Department of Health and Welfare, the Human Rights Commission, the Idaho Commission on Hispanic Affairs, the Idaho Personnel Commission, and the Industrial Commission. Other agencies that may, from time to time, have interests in farmworker issues should send representatives as appropriate. The Attorney General's Office, the Department of Education, and the State Board of Education are invited to name representatives to the Committee. These representatives of state government shall work together to help the Committee accomplish its goals of improving the lot of farmworkers in Idaho. State members of the Committee shall encourage representatives of local government entities such as county commissions, hospital districts, and other entities with an interest in farmworker issues to participate in the Committee. They shall similarly encourage participation by non-governmental organizations with interest in farmworker issues, such as Idaho Legal Aid, the Idaho Migrant Council, health care providers such as Terry Reilly Health Services, and groups representing farmers and ranchers, such as the Farm Bureau.
3. The responsibilities of the Farmworker Resource Committee, in its capacity as an advisory committee to the Governor, shall be to:
   (a) Improve agency coordination and collaboration to ensure that farmworkers and their families have equal access to the health care, educational, and public services and opportunities available to other members of society.
   (b) Collect information on farmworker issues and provide both information and analysis to the Governor, as well as other branches of state government and other levels of government, interested groups, and the public. In so doing, the Committee shall pay particular attention to the agricultural pursuits exemption of Idaho's workers compensation law. The Committee should determine amounts paid to cover medical and other costs that otherwise would have been covered by workers' compensation if

farmworkers were not exempted. The Committee should estimate how many cases would have been handled administratively under workers' compensation law if farmworkers were not exempted, and estimate the number of cases that resulted in litigation. The Committee shall collect information on the educational needs of the children of seasonal farmworkers, the number of such children enrolled in various school districts, the number of teachers who speak Spanish, the offering of courses in English as a Second Language (ESL), instruction in Spanish, and other information useful to educational policy makers striving to improve education for the children of migrant or seasonal farmworkers in Idaho. The Committee shall study the issue of child labor in agricultural pursuits.

(c) Engage in educational and outreach activities to:

(i) Inform farmworkers and service providers of opportunities and responsibilities of farmworkers, including the services and protection to which they are entitled.

(ii) Inform all citizens of Idaho of the important role farmworkers have played and continue to play in the state's economy, culture, history, and diversity. The goal of such efforts would be the elimination of bias, bigotry, and racism as excuses for denying equal treatment to farmworkers and their families.

(d) Work with local, state, and federal agencies to promote use, in positions with frequent contact with farmworkers and their families, of personnel fluent in both Spanish and English. The Committee shall work with the Idaho Personnel Commission to ensure that language ability is included as an element in the job description of positions that have significant contact with Spanish-speaking persons, and that persons hired to staff such positions are able to communicate in Spanish. All state agencies shall similarly emphasize language ability in recruitment, hiring, and training for such positions.

(e) Deliver a written report to the Governor by July 31, 1994, detailing what the Committee has learned about farmworker issues in Idaho and steps it recommends be taken by state government to correct or ameliorate problems. The report shall include Committee findings on, and recommendations for, better handling of the workers' compensation issue. The report shall review issues of education of children of seasonal workers in Idaho and child farm labor and give recommendations for improvements. The report shall also describe what steps have been taken by state agencies to include language skills as an element of job descriptions for appropriate classified positions.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the sixteenth day of September, in the year of our Lord nineteen hundred ninety-three, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 93-08

ESTABLISHMENT OF THE IDAHO ALCOHOL AND DRUG-FREE WORKPLACE POLICY

WHEREAS, the State of Idaho has a vital interest in maintaining a safe, healthy, and efficient working environment for its employees, clients and the public; and

WHEREAS, employees impaired by alcohol or other drugs during work hours pose safety and health risks not only to themselves but to others; and

WHEREAS, employees who use illegal drugs, whether on or off duty, are generally less productive, less reliable and prone to greater absenteeism than employees who do not use drugs; and

WHEREAS, the use of illegal drugs by state employees is inconsistent with the law-abiding behavior expected of all citizens, and with the special trust placed in such employees as servants of the public; and

WHEREAS, the use of alcohol or drugs by state employees in certain positions of sensitivity poses a special risk to public safety and the effective enforcement of the law; and

WHEREAS, the use of alcohol or drugs becomes a matter of concern to the State of Idaho when it interferes with job performance, conduct, attendance, or safety of state employees; and

WHEREAS, the State of Idaho, as an employer, has a responsibility to taxpayers to ensure that state functions are performed efficiently and without undue risk to the people of the state; and

WHEREAS, the State of Idaho, as an employer, is also concerned with the well-being of its employees and should encourage the identification and rehabilitation of employees with alcohol or drug problems;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Idaho, do hereby order the following Idaho Alcohol and Drug-Free Workplace Policy to become effective immediately for all employees of the State of Idaho:

1. the consumption of alcohol on the job is prohibited. Employees may not work if their performance is impaired by the use of alcohol;
2. the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited, and if occurring on state property or during an employee's hours of work, demands immediate corrective action;
3. each state agency shall provide employees with information on Idaho's Alcohol and Drug-Free Workplace Policy, as well as information on the state's Employee Assistance Plan;
4. violations of the Idaho Alcohol and Drug-Free Workplace Policy will be cause for management/supervisor intervention and may result in referral to treatment, including participation in the Employee Assistance Program. It shall be the policy of the State of Idaho to direct its efforts toward rehabilitation whenever reasonable;
5. any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Policy must be consistent with all due process requirements and other constitutional rights of state employees;
6. the privacy rights of employees are important. Any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Workplace Policy, including a referral for treatment, counseling or rehabilitation programs, shall include procedures to protect the confidentiality of treatment records as well as the employee's identity;
7. the director of each agency shall report quarterly, the first of January, March, July, and October, to the Personnel Commission any violations of the Idaho Alcohol and Drug-Free Workplace Policy and the corrective actions taken. "Quarterly" means the report shall be filed the first day of January, March, July, and October. The report shall, to the extent practicable, protect the confidentiality of the employee involved, but shall describe the nature of the employee's position;
8. the Personnel Commission shall annually compile information regarding violations of this policy and the corrective actions taken and report this information by June 30 to the Governor. Any information so reported shall be reported in a manner to avoid revealing the identity of the employees involved. The Personnel Commission, when it compiles this data, shall do so by type of position so as to determine whether there is an alcohol or drug problem in any "safety-sensitive" positions;
9. whenever there is an alcohol or drug problem in a "safety-sensitive" position, it is critical that the problem be addressed aggressively. For the purpose of this policy, a "safety-sensitive" position is one in which:
   a. the duties involve a greater-than-normal level of trust for, responsibility for, or impact on the health and safety of the employee or others; and
   b. errors in judgment, inattentiveness or diminished coordination, dexterity, or composure while performing the

duties could clearly result in mistakes that would endanger the health and safety of the employee or others; and

c. employees in these positions work with such independence that it cannot be safely assumed that mistakes such as those described in subsection (b) could be prevented by a supervisor or another employee;

10. in the event the Personnel Commission finds an alcohol or drug problem in any agency or classification, it shall report that to the Governor, and the agency, working in conjunction with the Personnel Commission and the Governor, shall develop a program to respond to the problem. This program may include alcohol or drug testing for employees in safety-sensitive classifications where such a problem has been documented;
11. all state agencies responsible to the Governor are directed, and all other public entities are requested, to assist the Personnel Commission in discharging its responsibilities under this order;
12. nothing in this order shall be deemed to abrogate any existing policy or directive relating to alcohol or drug use by state employees or to affect any existing or future state employee disciplinary proceeding; and
13. where federal laws or regulations require the state to implement more stringent regulations than those contained in this policy, those federal regulations and procedures supersede and/or augment this policy.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-ninth day of September, in the year of our Lord nineteen hundred ninety-three, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 93-09

CONTINUING STATE OF IDAHO COMPREHENSIVE SAFETY AND LOSS CONTROL POLICY REPEALING AND REPLACING EXECUTIVE ORDER NO. 89-4

WHEREAS, it is in the best interest of state employees, the general public and efficient operation of state government to have a commitment to safety and loss control; and

WHEREAS, the State of Idaho endeavors to provide a safe and healthy working environment for state employees and to protect the public and public property from injury or damage; and

WHEREAS, an effective Safety and Loss Control Policy provides additional benefits of improved productivity, employee confidence, lower insurance costs and improved worker morale; and

WHEREAS, an effective Safety and Loss Control Policy requires full management commitment, cooperation and leadership at all levels of state government;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me under the Constitution and Laws of this state, do hereby order as follows:

1. Each Department Director or other appointing authority will continue to develop, maintain, and monitor a systematic program of safety and loss control for each agency that will minimize the risk of injury or damage to: (a) the public employee, (b) the general public, (c) state property, (d) the ability of the agency to fulfill its mission and (e) the environment.
2. Each Department Director or other appointing authority will continue to ensure that, where applicable, potential new state employees are appropriately screened, that new employees are systematically and fully trained for all equipment that they are expected to operate, that safe work practices are followed by all employees on the job, that all equipment used is properly maintained and used for its intended purpose, that proper personal protective equipment is worn when needed and that safety practices are a criterion in employee and supervisor performance evaluations in those positions where such is applicable.
3. Each Department Director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and implement appropriate corrective or preventive measures. Each Department Director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.
4. All buildings owned or maintained by any state government agency or entity, or which are constructed or renovated specifically for use or occupancy by any such agency or entity shall conform to all existing state codes, including but not restricted to, the Idaho General Safety and Health Standards Code No. 1, the Uniform Building Code, the Uniform Mechanical Code and the Uniform Fire Code. If any conflict arises between applicable codes, the more stringent code shall take precedence. Prior to construction, or remodeling of such

buildings, where appropriate, constructions plans shall be reviewed and approved by the Department of Labor and Industrial Services and the Permanent Building Fund Advisory Council.

5. The following agencies shall continue to assist state agencies by offering the following services:
   a. Department of Labor and Industrial Services shall inspect public buildings and places of employment, and enforce safety and sanitary conditions and practices.
   b. The Office of the State Fire Marshal shall, through the local fire authorities, inspect public buildings and enforce fire and life safety provisions as contained within the Uniform Fire Code.
   c. The State Insurance Fund shall assist in developing employee safety programs, through consultation with staff agency personnel, and provide detailed reports to agencies on their losses insured through the State Insurance Fund.
   d. The Department of Administration, Bureau of Risk Management, shall assist agencies in obtaining other requested services in safety and/or loss control not mentioned above, including general property and casualty loss control, and provide detailed reports to agencies on their losses insured through the Bureau of Risk Management.
6. A Statewide Safety Committee shall continue comprised of the Director of the Department of Labor and Industrial Services, the Manager of the State Insurance Fund, the State Fire Marshal, the Director of the Department of Administration (who shall serve as Chairman of the Committee), or their designees, and other state agencies as deemed necessary. The purpose of the Committee shall be to:
   a. Develop strategies and standards to assist agencies with their safety programs;
   b. Review statewide trends in losses and exposures and make cost-effective recommendations;
   c. Coordinate the services available to maximize efficiency and reduce unnecessary duplication of inspections;
   d. On behalf of the Governor, review the safety and loss control programs of selected agencies and recommend changes to improve the effectiveness of the programs;
   e. Make recommendations to the Governor and Legislature on improving safety and loss control for state government; and
   f. Perform other related duties as may be requested by the Governor.

This Order repeals and replaces Executive Order No. 89-4.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-eighth day of October, in the year of our Lord nineteen hundred ninety-three, and of the

Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-01

DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE STATE AGENCY (CLEARINGHOUSE) TO RECEIVE NOTICES OF ENVIRONMENTAL AND ENERGY MATTERS UNDER THE INTERSTATE COMMERCE COMMISSION'S IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969; AND DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE AGENCY TO REPRESENT THE STATE O MATTERS PERTAINING TO RAILROADS BEFORE THE INTERSTATE COMMERCE COMMISSIO

REPEALING AND REPLACING EXECUTIVE ORDER NO. 90-01

WHEREAS, the subjects of railroad abandonments, acquisitions, consolidations, and sales are significant to the state of Idaho and particularly its more sparsely populated rural areas; and

WHEREAS, it is the policy of the state of Idaho to promote the development and viability of railroad transportation within the state; and

WHEREAS, the state of Idaho has a significant interest in maintaining and promoting rail access of Idaho communities to vital goods, services, and markets; and

WHEREAS, the Interstate Commerce Commission (ICC), under: (1) the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. section 4332; (2) 49 U.S.C. section 10505; (3) 49 U.S.C. sections 10903-06; and (4) 49 C.F.R. Parts 1105, 1121, 1150, 1152 and 1180, requires railroads operating within the state of Idaho to serve notice of certain required actions upon a designated state agency; and

WHEREAS, Idaho Code section 62-424 vests the Idaho Public Utilities Commission with the authority to make findings and represent the state of Idaho before the ICC;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me in Section 5, Article 4, of the Idaho Constitution and Idaho Code section 62-424, do hereby designate the Idaho Public Utilities Commission to represent the state on matters pertaining to railroads before the Interstate Commerce Commission and to receive notices of environmental and energy matters from railroads operating within the state of Idaho, as provided under the applicable federal statutes and regulations. I further direct all state agencies to notify the Public Utilities Commission of information received by them of potential railroad abandonments and to cooperate with the Public Utilities Commission on all matters pertaining

to railroads. The Public Utilities Commission is designated as the lead agency for railroad matters and shall approve all state agency submissions to the ICC prior to transmittal.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of January, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-02

IDAHO COMMISSION FOR NATIONAL AND COMMUNITY SERVICE

WHEREAS, there is a compelling need for more civic participation to solve community and state problems, and to address many unmet social, environmental, educational, and public safety needs; and

WHEREAS, promoting the capability of Idaho's people, communities, and enterprises to work together is vital to the long-term prosperity of this state; and

WHEREAS, building and encouraging community service is an integral part of the state's future well-being, and requires cooperative efforts by the public and private sectors; and

WHEREAS, the development of a National Service Program in Idaho requires an administrative vehicle conforming with federal guidelines as set forth in the recently enacted National and Community Service Trust Act of 1993;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law, do hereby create the Idaho Commission for National and Community Service.

1. The Idaho Commission for National and Community Service ("Commission") is hereby established to advise and assist in the development and implementation of a comprehensive, state-wide plan for promoting volunteer involvement and citizen participation in Idaho, as well as to serve as the state's liaison to national, state and community organizations which support the intent of the National and Community Service Trust Act of 1993 ("the Act").
2. The Commission will be composed of no fewer than 15 and no more than 25 voting members to be appointed by the Governor in compliance with federal guidelines as described in the Act

of 1993 and as detailed below:

(a) The Commission's membership will include a representative of a community-based agency or organization in the state; the head of the State education agency or his or her designee; a representative of local government in the State; a representative of local labor organizations in the State; a representative of business; an individual between the ages of sixteen (16) and twenty-five (25), inclusive, who is a participant or supervisor of a service program for school-age youth, or of a campus-based or national service program; a representative of a national service program; an individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth; and an individual with experience in promoting the involvement of older adults (age 55 and older) in service and volunteerism. The Corporation for National and Community Service ("Corporation") will designate one of its employees to serve as an ex officio member on the Commission. Other members may include: educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental, or public safety services; representatives of Indian tribes; out-of-school youth or at-risk youth; and representatives of programs that are administered or receive assistance under the Domestic Volunteer Service Act.

(b) Not more than twenty-five (25) percent of the Commission members may be employees of state government, though the Governor may appoint additional state agency representatives to sit on the Commission as non-voting ex officio members. Members may not vote on issues affecting organizations for which they have served as a staff person or as a volunteer at any time during the preceding twelve (12) months.

(c) Not more than fifty (50) percent of the Commission plus one member may be from the same political party. To the maximum extent practicable, membership of the state Commission shall be diverse with respect to race, ethnicity, age, gender and disability characteristics. Members will serve for a term of three years. One-third of the appointments to the first Commission will serve terms of one year; one-third will serve terms of two years; one-third will serve terms of three years. Vacancies among the members shall be filled by an appointment by the Governor to serve for the remainder of the unexpired term.

(d) The Commission will elect from among its members a chairperson.

(e) The Governor will appoint one individual who is not a member of the Commission to serve at his pleasure as administrator of the Commission.

The Idaho Commission for National and Community Service will

have the following duties and responsibilities:

(a) To develop a three-year comprehensive national and community service plan and establishment of State priorities;

(b) To administer a competitive process to select national service programs to be included in any application to the Corporation for National and Community Service ("Corporation") for funding;

(c) To prepare an application to the Corporation to receive funding and/or educational awards for the programs designated in the Act;

(d) To assist the State education agency in preparing the application for subtitle B school-based service learning programs;

(e) To administer the grants awarded pursuant to the Act and to oversee and monitor the performance and progress of funded programs;

(f) To implement, in conjunction with the Corporation, comprehensive, non-duplicative evaluation and monitoring systems;

(g) To assist in the development of programs pursuant to the Act;

(h) To develop mechanisms for recruitment and placement of people interested in participating in national service programs;

(i) To assist in the provision of health and child care benefits to eligible program participants as specified by regulations pertaining to this Act;

(j) To make recommendations to the Corporation with respect to priorities within the State for programs receiving assistance pursuant to the Act;

(k) To coordinate with other state agencies that administer Federal financial assistance programs under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs;

(l) To coordinate its functions with any division of ACTION, or the Corporation, that carries out volunteer service programs in the State; and

(m) Other activities as necessary to further the development and implementation of programs which enhance national and community service.

The Office of the State Board of Education shall serve as the host agency for administration of the Commission, and, as is deemed appropriate by the Governor, additional support may be requested from the departments of Employment, Education, Commerce and Health and Welfare, and the Division of Vocational Education. The Office of the State Board of Education will assist only by providing necessary administrative and staff support services to the Commission.

The Commission and its activities shall be funded from federal, state and other revenues appropriated to the Idaho Commission on National and Community Service. The Commission is authorized to accept funds and in-kind services from other state and private entities.

The Commission shall meet at least quarterly. Failure to attend at least seventy-five (75) percent of the meetings in any calendar year shall result in removal from the Commission. A quorum shall consist of a simple majority of voting members.

This Executive Order shall cease to be effective four years after its entry into force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-eighth day of February, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-03

ESTABLISHING THE STATE PLANNING COUNCIL ON MENTAL HEALTH

WHEREAS, adults with severe mental illness and children with serious emotional disturbance have unique abilities, motivations, concerns and diverse needs; and

WHEREAS, severe mental illness and serious emotional disturbance interfere with the vital development and maturation of our state's most important resource--its people; and

WHEREAS, severe mental illness and serious emotional disturbance are increasingly treatable disabilities with excellent prospects for remedy and recovery with the appropriate treatment and support; and

WHEREAS, the appropriate treatment of adults with severe mental illness and children and youth with serious emotional disturbance is cost-effective because it restores productivity, reduces utilization of services, and lessens social dependence and family disruption; and

WHEREAS, the State of Idaho must promote a coordinated service delivery approach by establishment of a comprehensive, community-based system of care emphasizing the natural support that families and peers provide; and

WHEREAS, these persons have a right to individualized services which are acceptable and accountable to them and others in the communities where they choose to live; and

WHEREAS, individuals and families are stigmatized by the myths and fears surrounding severe mental illness and serious emotional disturbance; and

WHEREAS, it is the responsibility of all Idahoans to reduce the

stigma and promote the understanding of severe mental illness and serious emotional disturbance; and

WHEREAS, adults with severe mental illness have the right to and responsibility for ongoing participation in determining their destiny at the direct service level and at the policy and planning level; and children and youth with serious emotional disturbance and their families have this same right; and

WHEREAS, the service delivery system exists for only one purpose--to improve the lives of persons suffering from mental illnesses;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law do hereby establish the State Planning Council on Mental Health.

The Planning Council's responsibilities will be:

1. To serve as an advocate for adults with a severe mental illness and for seriously emotionally disturbed children and youth;
2. To advise the State Mental Health Authority on issues of concern, policies and programs and provide guidance to the Authority in the development and implementation of the State Mental Health Systems Plan;
3. To monitor and evaluate the allocation and adequacy of mental health services within the State not less than once a year;
4. To ensure individuals with severe mental illness and serious emotional disturbance access to treatment, prevention, and rehabilitation services including those services that go beyond the traditional mental health system;
5. To serve as a vehicle for intra- and inter-agency policy and program development; and
6. To present to the Governor on June 30 of each year a report on the Council's achievements and impact on the quality of life for mental health services consumers and their families.

The Planning Council membership shall be appointed by the Director of the Department of Health and Welfare and composed of not less than fifty percent (50%) non-state employees or providers of mental health services. Membership shall also reflect to the extent possible collective demographic characteristics of Idaho's citizens.

The Planning Council membership shall include representation from the following:

1. Consumers;
2. Families of adult individuals with severe mental illness;
3. Families of children or youth with serious emotional disturbance;
4. Principal state agencies with respect to mental health, education, vocational rehabilitation, criminal justice, Title XIX of the Social Security Act, and other entitlement programs;
5. Public and private entities concerned with the need, planning, operation, funding, and use of mental health services, and related support services; and
6. The Regional Mental Health Advisory Board in each Department of Health and Welfare region.

Planning Council members will serve a term of two (2) years or at the pleasure of the Director, provided, however, that of the members

first appointed, one-half the appointments shall be for a term of one (1) year and one-half the appointments for two (2) years. The Director will appoint a chairman and vice-chairman whose terms will be one year. The Council may establish an executive committee and subcommittees at its discretion.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifteenth day of March, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred eighteenth, and of the Statehood of Idaho the one hundred fourth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

INDEX

CONTENTS

Alphabetical index of laws according to subject matter 1579

Code Index 1631

Numerical index of laws by bill number 1672

INDEX

SECOND REGULAR SESSION - FIFTY-SECOND LEGISLATURE

SUBJECT INDEX

ABBREVIATIONS USED IN THIS INDEX

Approp = Appropriation
Bd = Board
Com = Commission
Comm = Committee
Dept = Department
Dist = District
H&W = Health and Welfare
F&G = Fish and Game
MV = Motor Vehicle
PUC = Public Utilities Commission
PERS = Public Employees Retirement System
INEL = Idaho National Engineering Laboratory

ACCOUNTANTS Chapter - Page
Accountancy Act, technical changes.....Ch. 49 - 81
Accountancy, Bd, approp.....Ch.156 - 353
ACCOUNTS
Capital Improvement, Ambulance Dists.....Ch. 34 - 51
Commercial Fisheries/Aquaculture, name change.....Ch.363 - 1137
Grape Growers/Wine Producers, wine tax revenues.....Ch.243 - 762
Highway, MV license fees, distribution.....Ch.246 - 766
Highway, recycled materials, use, encouraged.....Ch.409 - 1280
Medical care savings, income tax deduction.....Ch.186 - 606
POST, self-sponsored students, training.....Ch.191 - 620
School Dist Building, lottery moneys, ADA.....Ch.345 - 1088
Tumor Registry, cigarette tax, distribution.....Ch. 45 - 73
ACQUIRED IMMUNODEFICIENCY SYNDROME
HIV tests, person charged/sexual assault, results.....Ch.408 - 1278
ACTS
Abandoned Hardrock Mine Reclamation, enacted.....Ch.220 - 702
Accountancy, technical changes.....Ch. 49 - 81
Health Planning, created.....Ch.283 - 883
Individual Health Insurance Availability, created.....Ch.427 - 1337
Medical Care Savings Acct, created.....Ch.186 - 606
Money Transmitters, created.....Ch.410 - 1282
Professional Employer Recognition, created.....Ch.129 - 287
Property Condition Disclosure, created.....Ch.366 - 1172
Protection of Public Employees, created.....Ch.100 - 226
Regional Public Transportation Authority, created.....Ch.327 - 1052

ACTS (Continued) Chapter - Page
Regulatory Takings, created.....Ch.116 - 265
Uniform Interstate Family Support, child support.....Ch.207 - 639
ADMINISTRATION DEPARTMENT
Administrative Procedure Act, law updated.....Ch.176 - 402
Approp.....Ch.304 - 955
Approp.....Ch.442 - 1414
Approp, Capitol Mall Fiber Optic Network.....Ch.436 - 1400
Approp, Information Technology Program.....Ch.436 - 1400
Approp, Personnel Com.....Ch.256 - 800
Approp, Public Works, additional, FY94.....Ch.302 - 954
Bids, vendors, pre-bid activities, restrictions.....Ch.110 - 243
Parks & Recreation, Dept, office building, refinance...Ch.339 - 1075
Printing, state, oversight removed.....Ch. 1 - 3
ADMINISTRATIVE PROCEDURE ACT
Administration, Dept, law updated.....Ch.176 - 402
Rules, certain, continue July 1, 1995.....Ch.394 - 1249
Rules, Insurance, Dept, compliance.....Ch.310 - 976
Rules, proposed, federal statute, citation.....Ch.271 - 834
Rules, Public Health Dist, fees, food inspection.....SCR126 - 1519
Rules, requirements/costly/certain, revised.....Ch.371 - 1194
ADMINISTRATIVE RULES
See RULES
ADOPTION
Child, by grandparent, special conditions, when.....Ch.426 - 1334
Child, fathers/putative, parental rights, terminate....Ch.393 - 1243
Child, income tax deduction, legal/medical expenses....Ch.354 - 1114
Child, insurance/health, restrictions prohibited.....Ch.365 - 1144
Children, special needs, medical assistance, compact...Ch. 69 - 141
ADULTS
Foster care homes, certification, inspections.....Ch.284 - 887
Vulnerable, abuse, exploitation, neglect, penalty.....Ch.136 - 308
ADVERTISING
Cures, sexual disorders, chapter repealed.....Ch.137 - 310
Funeral establishment, name/nonemployee, use.....Ch. 95 - 218
MV manufacturers, coerce dealers, unlawful, when.....Ch.317 - 1015
AERONAUTICS
Advisory Bd, compensation, increased.....Ch.128 - 286
AGING, OFFICE ON
Approp.....Ch.235 - 744
AGRICULTURE
Bees, African, exotic strains, disease, control.....Ch. 18 - 33
Canadian barley/wheat shipments, tariffs imposed.....SJM110 - 1503
Dept, approp.....Ch.306 - 958
Dept, approp.....Ch.442 - 1414
Dept, approp, Animal Damage.....Ch.306 - 958
Dept, approp, Animal Industry.....Ch.306 - 958
Dept, approp, Inspections.....Ch.306 - 958
Dept, approp, Market & Development.....Ch.306 - 958
Dept, approp, Pest Control Deficiency, add'l/FY 94.....Ch. 24 - 38
Dept, approp, Plant Industries.....Ch.306 - 958
Dept, approp, Quality Assurance Laboratory.....Ch.306 - 958
Dept, approp, Sheep Com.....Ch.306 - 958

AGRICULTURE (Continued) Chapter - Page
Dept, aquaculture facility, waste treatment, plan.....Ch.290 - 910
Dept, aquaculture, commercial fisheries, standards.....Ch.363 - 1137
Dept, director, subpoenas, issuance, oaths.....Ch. 96 - 219
Dept, livestock market/public, redefined, licensure....Ch.314 - 998
Farm produce, dealers, application fees, increased.....Ch. 97 - 222
Farms/cervidae (elk), disease prevention/inspection....Ch. 73 - 151
Farms/ratite (emu), disease prevention/inspection.....Ch. 72 - 149
Feed stuffs, commercial, inspection, fees.....Ch. 30 - 47
FHA inventory property, property tax.....Ch.117 - 266
Livestock, brands, recording period/5 year, renewal....Ch.101 - 229
Organic food, appeals process, definition revised.....Ch. 99 - 224
Pests, animals/insects, prey upon livestock.....Ch. 80 - 182
Potato Com, licensing agreements, violations.....Ch. 48 - 78
Potatoes, container, seal/label/origin, required.....Ch. 48 - 78
Rangeland Resources Com, created.....Ch.374 - 1203
Research Program, approp, UofI.....Ch.225 - 713
Right to farm, operations not nuisance, ordinances.....Ch.107 - 238
Seed, dealers, sales, licensure, each separate.....Ch. 50 - 88
Taylor Grazing Act, Range Improvement Fund, moneys.....Ch.249 - 793
Water rights, transfer, federal cropland set-aside.....HCR 67 - 1545
Water rights, transfer, federal cropland set-aside.....HJM 14 - 1516
Workers compensation, inclusion, legislative study.....HCR 59 - 1541
AIDS
See ACQUIRED IMMUNODEFICIENCY SYNDROME
AIR POLLUTION
See ENVIRONMENT
AIRPLANES
Sale, lease, sales tax, exemption, when.....Ch. 44 - 72
ALCOHOL
See LIQUOR
ALCOHOLIC BEVERAGES
See LIQUOR
AMBULANCES
Dists, Capital Improvement Acct, created.....Ch. 34 - 51
Dists, tax levy, County Com, authorized.....Ch. 52 - 90
ANIMALS
Cruelty to, laws, recodification.....Ch.346 - 1089
Dog racing, pari-mutuel, deposits, distribution.....Ch.325 - 1044
Dogs, accelerant detection, injuring, penalties.....Ch.157 - 356
Dogs, attacking/harassing big game, penalties.....Ch. 94 - 213
Dogs, search/rescue, injuring/tormenting, penalties....Ch.157 - 356
Farms/cervidae (elk), disease prevention/inspection....Ch. 73 - 151
Farms/ratite (emu), disease prevention/inspection.....Ch. 72 - 149
Livestock market/public, redefined, licensure.....Ch.314 - 998
Livestock, brands, recording period/5 year, renewal....Ch.101 - 229
Police dogs/horses, injuring/tormenting, penalties.....Ch.157 - 356
Prey upon livestock, classified/agricultural pests.....Ch. 80 - 182
Wildlife, wasteful destruction/mutilation, unlawful....Ch. 88 - 205
Wildlife, Winter Feeding Advisory Comm, established....Ch.183 - 601
ANNEXATION
City, adjacent territory, conditions.....Ch.375 - 1208

APPEALS Chapter - Page
County Com, Bd, decisions, time limit/mandatory.....Ch.241 - 760
APPRAISALS
Property, circuit breaker tax, amount clarified.....Ch.221 - 705
APPRAISERS
Real estate, licensure, Transportation Dept employee...Ch. 71 - 148
APPROPRIATIONS
Accountancy, Bd.....Ch.156 - 353
Administration, Dept.....Ch.304 - 955
Administration, Dept.....Ch.442 - 1414
Administration, Dept, Information Technology Prog.....Ch.436 - 1400
Administration, Dept, Personnel Com.....Ch.256 - 800
Administration, Dept, Public Works, additional, FY94...Ch.302 - 954
Aging, Office on.....Ch.235 - 744
Agriculture, Dept.....Ch.306 - 958
Agriculture, Dept.....Ch.442 - 1414
Agriculture, Dept, Animal Damage.....Ch.306 - 958
Agriculture, Dept, Animal Industry.....Ch.306 - 958
Agriculture, Dept, Inspections.....Ch.306 - 958
Agriculture, Dept, Market & Development.....Ch.306 - 958
Agriculture, Dept, Pest Control Deficiency, add'l.....Ch. 24 - 38
Agriculture, Dept, Plant Industries.....Ch.306 - 958
Agriculture, Dept, Quality Assurance Laboratory.....Ch.306 - 958
Agriculture, Dept, Sheep Com.....Ch.306 - 958
Arts, Com on.....Ch.205 - 636
Athletic Com, State.....Ch.156 - 353
Attorney General.....Ch.251 - 796
Attorney General.....Ch.442 - 1414
Attorney General, additional, FY94.....Ch. 62 - 120
Attorney General, education lawsuits, add'l, FY94.....Ch. 62 - 120
Attorney General, Special Litigation Program.....Ch.251 - 796
Auditor, State.....Ch.305 - 957
Auditor, State.....Ch.442 - 1414
Auditor, State, additional, FY94.....Ch. 19 - 34
Blind, Com.....Ch.199 - 630
Boise/Lower, River Water Quality Plan, FY94, intent....Ch. 92 - 208
Brand Inspection.....Ch.257 - 800
BSU.....Ch.223 - 710
Budget Reserve Fund, additional, FY94.....Ch.103 - 232
Budget Reserve Fund, transfer from Liquor Fund.....Ch.388 - 1240
Capitol Mall Fiber Optic Network.....Ch.436 - 1400
Centralized Uniform Commercial Code.....Ch.205 - 636
Certified Shorthand Reporters Bd.....Ch.156 - 353
Commerce, Dept.....Ch.170 - 381
Commerce, Dept.....Ch.442 - 1414
Commerce, Dept, Gem Community Grant, add'l FY94.....Ch. 32 - 49
Commerce, Dept, HOME Program, additional, FY94.....Ch. 32 - 49
Correction, Dept.....Ch.387 - 1237
Correction, Dept.....Ch.442 - 1414
Correction, Dept, additional, FY94.....Ch. 6 - 8
Correction, Dept, Parole Com, intent.....Ch.389 - 1240
Correctional institutions.....Ch.387 - 1237
Council on Economic Education, Education, Dept.....Ch.437 - 1400

APPROPRIATIONS (Continued) Chapter - Page
Crime Victims Compensation, Industrial Com.....Ch.336 - 1068
Deaf & Blind School.....Ch.262 - 811
Dentistry, Bd.....Ch.156 - 353
Displaced Homemaker Program.....Ch.438 - 1402
Education, Bd.....Ch.442 - 1414
Education, Bd, community colleges.....Ch.201 - 633
Education, Bd, Deaf & Blind School.....Ch.262 - 811
Education, Bd, Educational Technology Initiative.....Ch.441 - 1413
Education, Bd, Geological Survey Program.....Ch.224 - 712
Education, Bd, ISU, Museum of Natural History.....Ch.224 - 712
Education, Bd, office administration.....Ch.154 - 351
Education, Bd, public broadcasting system.....Ch.260 - 810
Education, Bd, scholarships/grants.....Ch.224 - 712
Education, Bd, Small Business Development Centers.....Ch.224 - 712
Education, Bd, State Historical Society.....Ch.202 - 634
Education, Bd, UofI, Forest Utilization Research.....Ch.224 - 712
Education, Bd, Vocational Education.....Ch.438 - 1402
Education, Bd, Vocational Rehabilitation, Div.....Ch.230 - 719
Education, higher.....Ch.223 - 710
Elective officers/state, salaries increased, SB1602....Ch.392 - 1242
Endowment Fund Investment Bd.....Ch.188 - 616
Endowment Fund Investment Bd, additional, FY94.....Ch. 11 - 18
Engineering Examiners, Bd.....Ch.156 - 353
F&G, Dept.....Ch.378 - 1215
F&G, Dept.....Ch.442 - 1414
F&G, Dept, depredation control/winter feeding.....Ch.378 - 1215
F&G, Dept, wildlife biologists, A.F. Training Range....Ch.378 - 1215
Family Practice Residencies.....Ch.155 - 351
Finance, Dept.....Ch.228 - 716
Finance, Dept.....Ch.442 - 1414
Financial Management Div.....Ch.198 - 629
General Fund, One-time, expenditure limit, exempt.....Ch.338 - 1074
Geologists Bd.....Ch.156 - 353
Governor, Office of.....Ch.442 - 1414
Governor, Office of.....Ch.384 - 1232
Governor, Office of, additional, FY94.....Ch. 9 - 14
Governor, Office of, administration.....Ch.384 - 1232
Governor, Office of, Aging, Office on.....Ch.235 - 744
Governor, Office of, Blind, Com.....Ch.199 - 630
Governor, Office of, Early Childhood programs.....Ch.384 - 1232
Governor, Office of, Emergency Fund.....Ch.252 - 798
Governor, Office of, Emergency Response Com.....Ch.384 - 1232
Governor, Office of, Endowment Fund Investment, FY94...Ch. 11 - 18
Governor, Office of, Financial Management Div.....Ch.198 - 629
Governor, Office of, Juvenile Justice Programs.....Ch.384 - 1232
Governor, Office of, Liquor Dispensary, State.....Ch.197 - 629
Governor, Office of, Military Div.....Ch.196 - 628
Governor, Office of, residence.....Ch.384 - 1232
Governor, Office of, Rural Development Council.....Ch.198 - 629
Governor, Office of, Social Services Programs.....Ch.384 - 1232
H&W, Dept.....Ch.337 - 1069
H&W, Dept.....Ch.442 - 1414

APPROPRIATIONS (Continued) Chapter - Page
H&W, Dept, additional, FY94.....Ch. 81 - 182
H&W, Dept, Adult & ADC Assistance Payments.....Ch.337 - 1069
H&W, Dept, Adult/ADC Assistance Payments, add'l/FY94...Ch. 81 - 182
H&W, Dept, Alcohol/Drug Abuse, Com.....Ch.258 - 803
H&W, Dept, Child Support Enforcement.....Ch.337 - 1069
H&W, Dept, Child Support Enforcement, add'l/FY94.....Ch. 81 - 182
H&W, Dept, Community Mental Health Services.....Ch.439 - 1404
H&W, Dept, Community Rehabilitation, Div.....Ch.439 - 1404
H&W, Dept, Deaf/Hearing Impaired Council.....Ch.258 - 803
H&W, Dept, DEQ.....Ch.259 - 805
H&W, Dept, DEQ, Community Programs.....Ch.259 - 805
H&W, Dept, Developmental Disabilities Council.....Ch.258 - 803
H&W, Dept, Domestic Violence Council.....Ch.258 - 803
H&W, Dept, Eligibility Services.....Ch.337 - 1069
H&W, Dept, Emergency Medical Services.....Ch.337 - 1069
H&W, Dept, Environment, Div, additional, FY94.....Ch. 92 - 208
H&W, Dept, Environment, Div, FY94, amended, intent.....Ch.146 - 327
H&W, Dept, Family Self-Support, additional, FY94.....Ch. 81 - 182
H&W, Dept, Family/Children's Services, Div.....Ch.439 - 1404
H&W, Dept, Indirect Support Services.....Ch.258 - 803
H&W, Dept, INEL Oversight.....Ch.259 - 805
H&W, Dept, Juvenile Justice.....Ch.439 - 1404
H&W, Dept, juvenile offender releases, add'l/FY94.....Ch.106 - 238
H&W, Dept, Laboratory Services.....Ch.337 - 1069
H&W, Dept, Medical Assistance Payments.....Ch.337 - 1069
H&W, Dept, Medical Assistance Payments, add'l, FY94....Ch. 81 - 182
H&W, Dept, Physical Health Services.....Ch.337 - 1069
H&W, Dept, Social Services, additional, FY94.....Ch. 81 - 182
H&W, Dept, State Hospital North.....Ch.439 - 1404
H&W, Dept, State Hospital South.....Ch.439 - 1404
H&W, Dept, State School and Hospital.....Ch.439 - 1404
H&W, Dept, State Youth Services Center.....Ch.439 - 1404
H&W, Dept, Veterans Services Programs.....Ch.258 - 803
H&W, Dept, Welfare, Div.....Ch.337 - 1069
Hazardous Substance Emergency Response Fund, FY94.....Ch. 9 - 14
Hazardous Waste Training, Monitoring Fund, FY94.....Ch. 2 - 3
Health Dists, Public.....Ch.187 - 615
Health Dists, Public, Public Health Trust Fund.....Ch.442 - 1414
Health Dists, Public, Public Health Trust Fund, FY94...Ch. 22 - 36
Hispanic Affairs, Com.....Ch.156 - 353
Human Rights Com.....Ch.254 - 799
IDEP Dental Education.....Ch.155 - 351
Industrial Com.....Ch.336 - 1068
Industrial Com.....Ch.442 - 1414
Industrial Com, additional, FY94.....Ch. 31 - 48
Insurance, Dept.....Ch.442 - 1414
Insurance, Dept.....Ch.303 - 954
Insurance, Dept, additional, FY94.....Ch.203 - 635
Insurance, Fund, State.....Ch.189 - 616
Insurance, Fund, State, Petroleum Storage Tank Prog....Ch.189 - 616
ISU.....Ch.223 - 710
Labor & Industrial Services, Dept.....Ch.442 - 1414

APPROPRIATIONS (Continued) Chapter - Page
Labor & Industrial Services, Dept.....Ch.206 - 637
Lands, Dept.....Ch.442 - 1414
Lands, Dept.....Ch.168 - 378
Lands, Dept, Forest Management/Fire Protection.....Ch.168 - 378
Lands, Dept, Pest Control Deficiency, add'l, FY94.....Ch. 12 - 19
Lands, Dept, Soil/Water Conservation.....Ch.168 - 378
Lava Hot Springs Foundation, additional, FY94.....Ch. 87 - 204
Law Enforcement, Dept.....Ch.257 - 800
Law Enforcement, Dept.....Ch.442 - 1414
Law Enforcement, Dept, additional, FY94.....Ch. 10 - 16
Law Enforcement, Dept, Alcohol Beverage Control.....Ch.257 - 800
Law Enforcement, Dept, POST Academy.....Ch.257 - 800
LCSC.....Ch.223 - 710
Legislative Council.....Ch.442 - 1414
Legislative Council, additional FY94.....Ch. 55 - 96
Legislative Council, Juvenile Justice System, study....Ch.390 - 1241
Legislative Council, Legislative Services Office.....Ch.250 - 796
Library, Bd, State.....Ch.261 - 810
Library, Law.....Ch.335 - 1066
Lieutenant Governor.....Ch.204 - 636
Lieutenant Governor.....Ch.442 - 1414
Liquor Dispensary, State.....Ch.197 - 629
Lottery Com.....Ch.226 - 714
Lottery Com, additional, FY94.....Ch. 3 - 5
Medicine, Bd.....Ch.156 - 353
Military Div.....Ch.196 - 628
Nursing, Bd.....Ch.156 - 353
Occupational Licenses, Bureau of.....Ch.156 - 353
Optometry, Bd.....Ch.156 - 353
Oregon Trail reenact, Park/Recreation Fund/intent.....Ch.103 - 232
Outfitters & Guides Bd.....Ch.156 - 353
Parks & Recreation, Dept.....Ch.391 - 1241
Parks & Recreation, Dept.....Ch.195 - 625
Parks & Recreation, Dept.....Ch.442 - 1414
Parks & Recreation, Dept, additional, FY94.....Ch. 8 - 11
Parks & Recreation, Dept, Ashton to Tetonia Trail.....Ch.195 - 625
Parks & Recreation, Dept, headquarters bldg.....Ch.339 - 1075
Parole Com.....Ch.387 - 1237
Permanent Building Acct.....Ch. 47 - 77
Permanent Building Acct.....Ch.200 - 630
Permanent Building Acct, Asbestos Abatement.....Ch.200 - 630
Permanent Building Acct, BSU, Multi-purpose Classroom..Ch. 47 - 77
Permanent Building Acct, Correction, Dept, projects....Ch.385 - 1234
Permanent Building Acct, CSI, Library/Academic Center..Ch. 47 - 77
Permanent Building Acct, EITC, Classroom/Lab Bldg.....Ch. 47 - 77
Permanent Building Acct, EPA Green Lights Program.....Ch.200 - 630
Permanent Building Acct, F&G, Dept, projects.....Ch.200 - 630
Permanent Building Acct, Historical Society Library....Ch. 47 - 77
Permanent Building Acct, ISU/Physical Science Bldg.....Ch. 47 - 77
Permanent Building Acct, LCSC, Centennial Mall.....Ch.200 - 630
Permanent Building Acct, LCSC, Classroom/Lab.....Ch. 47 - 77
Permanent Building Acct, NIC/Library/Lee Hall.....Ch. 47 - 77

APPROPRIATIONS (Continued) Chapter - Page
Permanent Building Acct, NICI-Cottonwood.....Ch.200 - 630
Permanent Building Acct, SICI-Boise.....Ch.200 - 630
Permanent Building Acct, Transportation Dept.....Ch.200 - 630
Permanent Building Acct, Underground Storage Tanks.....Ch.200 - 630
Permanent Building Acct, UofI, Engineering/Physics.....Ch. 47 - 77
PERSI.....Ch.253 - 798
PERSI, Phase III.....Ch.442 - 1414
Personnel Com.....Ch.256 - 800
Pharmacy, Bd.....Ch.156 - 353
Public broadcasting system.....Ch.260 - 810
Public School Income Fund.....Ch.456 - 1491
Public Works Contractors License Bd.....Ch.156 - 353
PUC.....Ch.153 - 349
Racing Com.....Ch.257 - 800
Real Estate Com.....Ch.156 - 353
Revenue & Taxation, Dept.....Ch.442 - 1414
Revenue & Taxation, Dept.....Ch.307 - 961
Revenue & Taxation, Dept, additional, FY94.....Ch. 23 - 37
Rural Development Council.....Ch.198 - 629
Secretary of State.....Ch.205 - 636
Secretary of State.....Ch.442 - 1414
Self-Governing Agencies.....Ch.442 - 1414
Self-governing Agencies.....Ch.156 - 353
Self-governing Agencies, additional, FY94.....Ch.156 - 353
Snake Basin Adjudication, Attorney General, add'l/94...Ch. 62 - 120
Snake Basin Adjudication, Water Resources, Dept.....Ch.169 - 380
State agencies.....Ch.442 - 1414
Superintendent of Public Instruction.....Ch.442 - 1414
Superintendent of Public Instruction.....Ch.437 - 1400
Supreme Court.....Ch.442 - 1414
Supreme Court.....Ch.335 - 1066
Tax Com, salaries, increased, SB1601.....Ch.392 - 1242
Transportation Dept.....Ch.231 - 721
Transportation Dept.....Ch.442 - 1414
Transportation Dept, roads/bridges, line item VETO.....Ch.231 - 721
Treasurer, State.....Ch.442 - 1414
Treasurer, State.....Ch.227 - 715
Treasurer, State, additional, FY94.....Ch.126 - 284
Triumph Mine Remediation Project, Lands, Dept.....Ch.168 - 378
Uniform Laws, Com on.....Ch.205 - 636
UofI.....Ch.223 - 710
UofI, Agricultural Research Program.....Ch.225 - 713
UofI, Center for Business Development/Research.....Ch.380 - 1222
Veterinary Medicine, Bd.....Ch.156 - 353
Vocational Education.....Ch.438 - 1402
Vocational Education, FY94, amended.....Ch. 2 - 3
Vocational Rehabilitation, Div.....Ch.230 - 719
Vocational Rehabilitation, Div, additional, FY94.....Ch. 56 - 97
Vocational Rehabilitation, Div, Independent Living.....Ch.230 - 719
WAMI Education Program.....Ch.155 - 351
Water Management Fund, Aquifer Recharge, intent.....Ch.451 - 1440
Water Resource Revolving Development Fund, FY94, supp..Ch. 20 - 35

APPROPRIATIONS (Continued) Chapter - Page
Water Resources, Bd, aquifer recharge project.....Ch.451 - 1440
Water Resources, Bd, grantees, report requirements.....Ch.451 - 1440
Water Resources, Bd, pumping alternatives.....Ch.451 - 1440
Water Resources, Dept.....Ch.442 - 1414
Water Resources, Dept.....Ch.169 - 380
Water Resources, Dept, additional, FY94.....Ch.386 - 1236
WICHE/University of Utah, Education, Bd.....Ch.155 - 351
WOI Veterinary Education Program.....Ch.155 - 351
Women's Programs, Com on.....Ch.255 - 799
AQUACULTURE
Facility, defined, Commercial Fisheries Acct.....Ch.363 - 1137
Facility, waste treatment/disposal, plan/review.....Ch.290 - 910
ARCHERY
F&G, license, hunting, 8th class, requirements.....Ch. 84 - 198
ARCHITECTS
Licensure, exam, fee, amount.....Ch. 17 - 32
ARMED FORCES
Absentee voting, uniformed overseas citizens.....Ch.122 - 271
ARSON
See FIRE
ARTS
Com, on, approp.....Ch.205 - 636
ASSESSMENTS
See TAX AND TAXATION
ATHLETICS
State, Com, approp.....Ch.156 - 353
ATTORNEY GENERAL
Approp.....Ch.251 - 796
Approp.....Ch.442 - 1414
Approp, additional, FY94.....Ch. 62 - 120
Approp, public education lawsuits, add'l, FY94.....Ch. 62 - 120
Approp, Snake River Basin adjudication, add'l, FY94....Ch. 62 - 120
Approp, Special Litigation Program.....Ch.251 - 796
Initiative, referendum, review, time period.....Ch.400 - 1263
Office of, Ada County/residency, term/office, deleted..HJR 24 - 1500
Regulatory takings, guidelines, state agencys.....Ch.116 - 265
Salary, adjusted, SB1602, approp.....Ch.392 - 1242
Salary, adjusted, term/1995.....Ch.435 - 1398
Water rights, Musser v. Higginson, rehearing petition..HCR 61 - 1543
ATTORNEYS
Dist Magistrates Com, membership, vacancy.....Ch.396 - 1253
Fees, awarded, administrative/judicial proceedings.....Ch. 36 - 55
Fees, post-judgment, civil actions.....Ch.353 - 1113
Prosecuting, property, forfeited, receive/dispose of...Ch.286 - 900
AUDITOR
State, Ada County/residency, term/office, delete.....HJR 24 - 1500
State, approp.....Ch.305 - 957
State, approp.....Ch.442 - 1414
State, approp, additional, FY94.....Ch. 19 - 34
State, salary, adjusted, SB1602, approp.....Ch.392 - 1242
State, salary, adjusted, term/1995.....Ch.435 - 1398
State, title change to State Controller.....SJR109 - 1493

AUDITOR (Continued) Chapter - Page
State, title change to State Controller.....Ch.181 - 575
State, title change to State Controller, Office of.....Ch.180 - 420
AUDITS
Post, State Controller not perform.....Ch.181 - 575
Post, State Controller not perform.....SJR109 - 1493
BANKS AND BANKING
Checks, dishonored, collection costs, fees.....Ch.185 - 603
Checks, insufficient funds, felony, when, fines.....Ch.184 - 601
Money Transmitters Act, regulation.....Ch.410 - 1282
BEER
Keg, fee, increased.....Ch. 13 - 20
Retailer, aid/certain, by brewery/dealer, permitted....Ch.361 - 1131
BEES
African, exotic strains, disease, control, rules.....Ch. 18 - 33
BEVERAGES
Low proof spirit based, alcohol content, 14%.....Ch.266 - 823
BIDS
Purchasing Div, suppliers, Idaho economic presence.....Ch.242 - 760
State, vendors, pre-bid activities, restrictions.....Ch.110 - 243
BINGO
Duck races, raffles, Lottery Com, regulate.....Ch.281 - 874
BIRDS
Bird of prey capture permit/nonresident, allowed.....Ch.118 - 267
BIRTH CERTIFICATES
Failure to sign, penalties.....Ch.323 - 1027
BLIND
Com, approp.....Ch.199 - 630
Com, Blind & Visually Impaired, name change.....Ch.159 - 359
Com, membership, increased, composition.....Ch.159 - 359
BOATS
Registration, fees, increased.....Ch. 65 - 128
Use permit, fees, reference, deleted.....Ch. 65 - 128
BOISE STATE UNIVERSITY
See COLLEGES AND UNIVERSITIES
BONDS
Notaries public, employee/state, state post, when.....Ch.145 - 324
BRANDS
Inspections, approp.....Ch.257 - 800
Livestock, recording period/5 year, renewal required...Ch.101 - 229
BREWERIES
Posters/clothing/calendars, may sell/beer retailers....Ch.361 - 1131
BRIDGES
Maintenance, Highway Dists, approp, line item VETO.....Ch.231 - 721
BUDGETS
City, expenditures/revenue, 2 years previous required..Ch. 89 - 205
Executive, performance plans, code reference.....Ch.109 - 242
Governor's, Address.....HCR 42 - 1530
Reserve Fund, moneys transferred from Liquor Fund.....Ch.388 - 1240
BUSES
Public transportation service, counties, establish.....Ch.121 - 271
Public transportation service, regional authority.....Ch.327 - 1052

BUSINESS Chapter - Page
Employer/professional, services, recognition.....Ch.129 - 287
Limited liability companies/partnerships, name.....Ch.405 - 1272
Limited liability company, merge, corporations.....Ch.293 - 916
CAMPAIGNS
Expenditures statement, filed, when.....Ch. 54 - 93
Finance, contributions, report, timing requirement.....Ch.379 - 1218
Finance, nonbusiness entity, reporting, Sunshine Law...Ch. 5 - 6
Finance, nonbusiness entity, reports, requirement.....Ch.379 - 1218
Finance, political comm, definition revised.....Ch.379 - 1218
CATTLE
See LIVESTOCK
CEMETERIES
Person's remains, disposition, instructions.....Ch.423 - 1329
CHARITIES
Organizations, bingo/duck races/raffles, regulate.....Ch.281 - 874
CHECKS
See BANKS AND BANKING
CHILD CARE
See DAY CARE
CHILDREN
Adoption, by grandparent, special conditions.....Ch.426 - 1334
Adoption, fathers/putative, parental rights.....Ch.393 - 1243
Adoption, insurance/health, restrictions prohibited....Ch.365 - 1144
Adoption, legal/medical expenses, tax deduction.....Ch.354 - 1114
Adoption, special needs children, interstate compact...Ch. 69 - 141
AFDC, child support, June Reid case, Post Falls.....SJM109 - 1502
AFDC, payments, amount, conditions removed.....Ch.287 - 906
Alcohol, tobacco, possession, by minor, misdemeanor....Ch.133 - 305
Child support, death/parent, vehicular manslaughter....Ch.413 - 1301
Child support, guidelines, sunset date, extend.....Ch.236 - 745
Child support, health insurance, medical care.....Ch.308 - 963
Child support, income withholding orders, 2/more.....Ch.308 - 963
Child support, paternity, voluntary acknowledgment.....Ch.237 - 746
Child support, Uniform Interstate Family Support Act...Ch.207 - 639
Commitment/obligations to, school years.....SCR139 - 1523
Custody/joint, not best interest of child, when.....Ch.340 - 1075
Day care center, health standards, add'l, added.....Ch.147 - 335
Day care center, staff, criminal check, minor.....Ch.453 - 1442
Family, Year of, 1994, designated.....HCR 45 - 1531
Grandparents/great, visitation rights.....Ch.407 - 1278
Insurance, health, court order.....Ch.365 - 1144
Insurance, health, enrollment/direct.....Ch.365 - 1144
Juvenile Justice System, legislative study, approp.....Ch.390 - 1241
Juvenile, guilty/felony, name/crime, disclosure.....Ch.326 - 1046
McGruff House, safe house program for children.....SCR138 - 1522
Minors, tort claims, filing, time.....Ch.349 - 1109
Weapons, possession, parental permission/written.....Ch.369 - 1186
Weapons, sale to, unlawful.....Ch.369 - 1186
CHINA
Republic/Taiwan, United Nations, full participation....SCR135 - 1521
CIGARETTES
Possession, by minor, misdemeanor penalties.....Ch.133 - 305

CIGARETTES (Continued) Chapter - Page
Tax, distribution, limited, approp amount.....Ch. 45 - 73
Tax, increased, 10¢/pack, Substance Abuse Program.....Ch.447 - 1431
Tax, stamps, returned, when.....Ch. 43 - 71
CIRCUIT BREAKER TAX RELIEF
See TAX AND TAXATION, PROPERTY
CITIES
Annexation, adjacent territory, conditions.....Ch.375 - 1208
Border community, competitively disadvantaged.....Ch.381 - 1222
Budgets, expenditures/revenue, 2 years previous.....Ch. 89 - 205
Elections, qualified elector, further defined.....Ch. 66 - 135
Mandates/environmental, state/local agreements.....Ch.162 - 369
Public transportation service, regional authority.....Ch.327 - 1052
CIVIL ACTIONS
Attorney fees, awarded, administrative proceedings.....Ch. 36 - 55
Attorney fees, post-judgment.....Ch.353 - 1113
Garnishments, sheriff, personal service, by mail.....Ch. 27 - 44
CODE
See IDAHO CODE
COLLEGE OF SOUTHERN IDAHO
See COLLEGES AND UNIVERSITIES
COLLEGES AND UNIVERSITIES
Albion Normal School, funds, use, field institute.....Ch.222 - 708
BSU, approp.....Ch.223 - 710
BSU, approp, Multi-purpose Classroom Bldg.....Ch. 47 - 77
Community, approp.....Ch.201 - 633
Community, tuition, resident, increased per annum.....Ch.179 - 418
CSI, approp, Library/Academic Center.....Ch. 47 - 77
Education, Bd, approp, Family Practice Residencies.....Ch.155 - 351
Education, Bd, approp, Forest Utilization Research.....Ch.224 - 712
Education, Bd, approp, Geological Survey Program.....Ch.224 - 712
Education, Bd, approp, IDEP Dental Education.....Ch.155 - 351
Education, Bd, approp, ISU, Natural History Museum.....Ch.224 - 712
Education, Bd, approp, scholarships/grants.....Ch.224 - 712
Education, Bd, approp, Small Business Development.....Ch.224 - 712
Education, Bd, approp, Technology Initiative.....Ch.441 - 1413
Education, Bd, approp, WAMI Program.....Ch.155 - 351
Education, Bd, approp, WICHE Program.....Ch.155 - 351
Education, Bd, approp, WOI Program.....Ch.155 - 351
EITC, approp, Classroom/Lab Bldg.....Ch. 47 - 77
ISU, approp.....Ch.223 - 710
ISU, approp, Physical Science Bldg.....Ch. 47 - 77
LCSC, approp.....Ch.223 - 710
LCSC, approp, Centennial Mall.....Ch.200 - 630
LCSC, approp, Classroom/Lab.....Ch. 47 - 77
NIC, approp, Library/Lee Hall.....Ch. 47 - 77
NICI-Cottonwood, approp, construction projects.....Ch.200 - 630
SICI-Boise, approp, construction projects.....Ch.200 - 630
Student, employed by, not eligible PERSI.....Ch.209 - 658
Technology Initiative, 1994, Council, established.....Ch.229 - 716
Tuition, native American students, residency status....Ch.140 - 312
UofI, approp.....Ch.223 - 710
UofI, approp, Agricultural Research Program.....Ch.225 - 713

COLLEGES AND UNIVERSITIES (Continued) Chapter - Page
UofI, approp, Center/Business Development/Research.....Ch.380 - 1222
UofI, approp, Engineering/Physics space.....Ch. 47 - 77
UofI, Forest Range, Wildlife Policy Analysis Group.....Ch.194 - 623
COMMERCE
Dept, approp.....Ch.170 - 381
Dept, approp.....Ch.442 - 1414
Dept, approp, Gem Community Action Grant, add'l, FY94..Ch. 32 - 49
Dept, approp, HOME Program, additional, FY94.....Ch. 32 - 49
Dept, tourism assessment information, Tax Com.....Ch. 91 - 207
COMMUNICATIONS
Emergency, services, 911, multicounty basis.....Ch. 86 - 202
COMPACTS
Interstate, adoption, children, special needs.....Ch. 69 - 141
State-Tribe, lottery revenues/Indian lands, negotiate..SCR146 - 1528
COMPUTERS
Educational Technology Initiative, approp.....Ch.441 - 1413
Educational Technology Initiative, 1994, established...Ch.229 - 716
CONFLICTS OF INTEREST
Public officials, contract, remote interest.....Ch.332 - 1063
CONGRESSMEN
U.S. Representative Mike Crapo, commended, reform.....SJM108 - 1502
CONSTITUTIONAL AMENDMENTS
Article I, Section 22, proposed.....HJR 16 - 1498
Article III, Section 23, proposed.....SJR109 - 1493
Article IV, Section 1, proposed.....SJR109 - 1493
Article IV, Section 1, proposed.....HJR 24 - 1500
Article IV, Section 19, proposed.....SJR109 - 1493
Article IV, Section 20, proposed.....SJR109 - 1493
Article IV, Section 3, proposed.....SJR109 - 1493
Article IV, Section 6, proposed.....SJR109 - 1493
Article IX, Section 7, proposed.....SJR109 - 1493
Article V, Section 27, proposed.....SJR109 - 1493
Article XVIII, Section 12, proposed.....HJR 17 - 1499
CONSTRUCTION
Highway, recycled material use, encouraged.....Ch.409 - 1280
CONTRACTS
Health care provider, grievance procedure.....Ch.275 - 853
Parks & Recreation, Dept, building, construction.....Ch.339 - 1075
Public official, conflict/interest, remote interest....Ch.332 - 1063
School Dist Trustees, award, interest in, when.....Ch.300 - 947
CONTROLLED SUBSTANCES ACT
Drug case, utility records, subpoena standard.....Ch.358 - 1125
Property, forfeiture, firearms/weapons.....Ch.285 - 893
Property, forfeiture, prosecuting attorney, receive....Ch.286 - 900
Property, forfeiture, sale, manner, Law Enforcement....Ch.395 - 1250
CONTROLLER
State, Office of.....SJR109 - 1493
State, Office of, title change from State Auditor.....Ch.180 - 420
State, post-audit function, removed.....SJR109 - 1493
State, post-audit function, removed.....Ch.181 - 575
CORPORATIONS
Engineers, staff, internal use only, licensure.....Ch.356 - 1115

CORPORATIONS (Continued) Chapter - Page
Limited liability companies/partnerships, name.....Ch.405 - 1272
Limited liability companies, merger, procedure.....Ch.293 - 916
Nonprofit, membership, assessments levied.....Ch.295 - 932
Tax, income, multistate, electrical/telephone.....Ch.301 - 948
Tax, income, waters-edge basis, combined returns.....Ch.247 - 777
CORRECTIONS
Bd, Pardons/Parole Com, executive director.....Ch.171 - 382
Bd, prisoners, female, care, laws, certain, repealed...Ch. 37 - 56
Dept, approp.....Ch.442 - 1414
Dept, approp.....Ch.387 - 1237
Dept, approp, FY94, additional.....Ch. 6 - 8
Dept, approp, Parole Com, intent.....Ch.389 - 1240
Dept, approp, Public Works, Div, projects.....Ch.385 - 1234
Probation officers/misdemeanor, authority.....Ch.424 - 1332
CORRECTIONAL INSTITUTIONS
Approp, Correction, Dept.....Ch.387 - 1237
Convicts, female, care of, laws, certain, repealed.....Ch. 37 - 56
DUI, prisoner, work detail program, when.....Ch.148 - 336
Inmates, jail, confinement cost, nonemployment days....Ch. 28 - 45
Inmates, jail, medical expenses, medicaid rate.....Ch.362 - 1135
Inmates, jail, medical service fee, doctor/pharmacy....Ch.213 - 671
Jails, county, Commissary Fund, Self-Perpetuating.....Ch. 29 - 46
Jails, probationers, breath, bodily fluid testing.....Ch.248 - 792
COSMETOLOGY
Bd, licensure refusal, student loan defaulter.....Ch.351 - 1111
Electrologist/esthetician instructor, licensure.....Ch.312 - 988
COUNSELORS
School, elementary, social workers, requirement.....Ch.443 - 1424
COUNTIES
Ambulance Dist, Capital Improvement Acct, created.....Ch. 34 - 51
Ambulance Dist, tax levy, authorized.....Ch. 52 - 90
Com, advisory ballot, primary/general elections.....Ch.372 - 1197
Com, Bd, decisions, appeals, time limit, mandatory.....Ch.241 - 760
Com, incorporation/dists, postcard notice, eliminate...Ch. 77 - 172
Court Facilities Fund, construction/remodeling.....Ch.208 - 656
Emergency 911 services, multicounty basis.....Ch. 86 - 202
Fremont, precinct boundaries, "visible feature".....Ch.397 - 1255
Government, optional forms, electors approve.....HJR 17 - 1499
Initiative, referendum, signatures, time limits.....Ch.372 - 1197
Jails, Commissary, Self-Perpetuating Fund.....Ch. 29 - 46
Jails, inmates, confinement costs, nonemployment days..Ch. 28 - 45
Jails, inmates, medical expenses, medicaid rate.....Ch.362 - 1135
Jails, inmates, medical service fee, doctor/pharmacy...Ch.213 - 671
Justice Fund, general reserve approp, limits.....Ch. 4 - 5
Mandates/environmental, state/local agreements.....Ch.162 - 369
Pest control, animals/insects, prey upon livestock.....Ch. 80 - 182
Probation officers/misdemeanor, authority.....Ch.424 - 1332
Property, lease, time period, use, Industrial Park.....Ch.158 - 358
Public transportation service, establish, operate.....Ch.121 - 271
Public transportation service, regional authority.....Ch.327 - 1052
Sheriffs, garnishments, personal service, by mail.....Ch. 27 - 44
Treasurer, plats, vacations, recorded, taxes paid.....Ch. 79 - 181

COUNTIES (Continued) Chapter - Page
Warrants, signatures, payment, procedure.....Ch. 35 - 53
COURTS
Attorney fees, awarded, administrative proceedings.....Ch. 36 - 55
Attorney fees, post-judgment, civil actions.....Ch.353 - 1113
Child custody/joint, not best interest/child, when.....Ch.340 - 1075
Child support, death/parent, vehicular manslaughter....Ch.413 - 1301
Child support, guidelines, sunset date, extend.....Ch.236 - 745
Child support, income witheld, 2/more/health ins.....Ch.308 - 963
Child support, paternity, voluntary acknowledgment.....Ch.237 - 746
Child support, Uniform Interstate Family Support Act...Ch.207 - 639
Children, grandparents/great, visitation rights.....Ch.407 - 1278
Community service, penalty, workers compensation.....Ch.233 - 724
County, Facilities Fund, construction/remodeling.....Ch.208 - 656
Dist Magistrates Com, members, vacancy, attorney.....Ch.396 - 1253
Divorce, legal separation decree, conditions.....Ch.352 - 1112
Interpreters, payment, Dist Court Fund.....Ch.215 - 672
Judicial confirmation, political subdivision.....Ch.173 - 399
Juvenile Justice System, legislative study, approp.....Ch.390 - 1241
Juvenile, felony/guilty of, name disclosure.....Ch.326 - 1046
Obsolete language, terms of court, removed.....Ch.270 - 833
POST, fee, increase, person guilty, violations.....Ch.193 - 623
Probationers, breath/bodily fluid tests, payment.....Ch.248 - 792
Sentencing, judgment, suspension, time extended.....Ch. 33 - 50
Snake Basin Adjudication, approp, add'l, FY94.....Ch. 62 - 120
Snake Basin Adjudication, approp, Water Resources.....Ch.169 - 380
Snake Basin Adjudication, claims, filing, deadline.....Ch. 63 - 121
Snake Basin Adjudication, legislative study comm.....HCR 70 - 1546
Snake Basin Adjudication, Musser/Higginson rehearing...HCR 61 - 1543
Snake Basin Adjudication, provisions revised.....Ch.454 - 1443
Snake Basin Adjudication, provisions revised/HB969.....Ch.455 - 1478
Supreme, approp.....Ch.335 - 1066
Supreme, approp.....Ch.442 - 1414
Supreme, death sentence, proportionality issue.....Ch.127 - 285
Warrants, affidavits, oral/telephonic, procedure.....Ch.415 - 1304
Witness fees, awarded, judicial proceedings.....Ch. 36 - 55
CRIMINAL CODE
Alcohol age violations, tobacco offenses, by minor.....Ch.133 - 305
Archaic provisions, vulgar language/presence/women.....Ch.167 - 374
Obsolete language, terminology corrected.....Ch.131 - 296
Prostitution, obsolete language deleted.....Ch.130 - 291
Rape, obsolete references, "lunacy", deleted.....Ch.135 - 307
Sexual disorders, cures, advertised, repealed.....Ch.137 - 310
Theft, grand, grading of, definitions.....Ch.132 - 301
CRIMINAL OFFENSES & PROCEDURES
Adults, vulnerable, abuse, neglect, misdemeanor.....Ch.136 - 308
Alcohol, tobacco, possession by minor, penalties.....Ch.133 - 305
Animals/cruelty to, laws, recodification.....Ch.346 - 1089
Arson, insurance fraud, penalites, restitution.....Ch.219 - 696
Brady Bill, handgun sale, background check/toll-free...Ch.377 - 1210
Checks, insufficient funds, felony, when, fines.....Ch.184 - 601
Community service, penalty, workers compensation.....Ch.233 - 724
Controlled Substances Act, property, forfeiture.....Ch.395 - 1250

CRIMINAL OFFENSES & PROCEDURES (Continued) Chapter - Page
Convicts, female, care of, laws, certain, repealed.....Ch. 37 - 56
Court terms, obsolete language, removed.....Ch.270 - 833
Crime victims, rights, constitutional, 10, provided....HJR 16 - 1498
Crime, attempted, 15 year prison term.....Ch.131 - 296
Criminal history check, day care staff, minors.....Ch.453 - 1442
Death sentence, Supreme Court, proportionality.....Ch.127 - 285
Dogs, search/rescue, injuring/tormenting, penalties....Ch.157 - 356
Domestic disturbance, parties subject to arrest.....Ch.318 - 1019
Drugs, illegal, firearms/weapons, forfeiture.....Ch.285 - 893
Drugs, illegal, property/forfeited, disposition.....Ch.286 - 900
DUI, blood alcohol content, .02-.10, person/21.....Ch.422 - 1322
DUI, blood alcohol content, .20/more, penalties.....Ch.421 - 1316
DUI, license suspension, hearings, reinstatement fee...Ch.357 - 1117
DUI, prisoner, work detail program, sheriff, when.....Ch.148 - 336
Felony, fine, maximum, $50,000.....Ch.134 - 307
Fines/criminal, nonpayment, imprisonment, credit.....Ch.142 - 316
Harassment, telephone, use of, defined.....Ch.167 - 374
Intoxication, public place, repealed.....Ch.143 - 316
Jails, county, Commissary Fund, Self-Perpetuating.....Ch. 29 - 46
Jails, inmates, confinement cost, nonemployment days...Ch. 28 - 45
Jails, inmates, medical expenses, medicaid rate.....Ch.362 - 1135
Jails, inmates, medical service fee, doctor/pharmacy...Ch.213 - 671
Jails, probationers, breath/bodily fluid testing.....Ch.248 - 792
Juvenile Justice System, legislative study comm.....HCR 56 - 1538
Juvenile Justice System, legislative study, approp.....Ch.390 - 1241
Juvenile, guilty/felony, name/crime, disclosure.....Ch.326 - 1046
Littering, public service/clean up/fines/jail.....Ch.119 - 269
Logging, solicitation to halt/impede, felony.....Ch.214 - 672
Mail, sealed, letters/packages, unlawful to open.....Ch.167 - 374
Manslaughter/vehicular, pay child support, when.....Ch.413 - 1301
Marijuana/drug paraphernalia, minor, possession.....Ch.414 - 1302
McGruff House, safe house program for children.....SCR138 - 1522
Misdemeanors, fine, court imposed, $300, when.....Ch.141 - 315
MV, drivers, fleeing, police officer, penalties.....Ch.165 - 373
Pardons, Parole, Com, meetings, procedures revised.....Ch.171 - 382
Police dogs/horses, injuring/tormenting, penalties.....Ch.157 - 356
POST, fee, increase, persons guilty, violations.....Ch.193 - 623
Probation, officers, misdemeanor, authority.....Ch.424 - 1332
Prostitution, trafficking in, fines, increased.....Ch.130 - 291
Railroads, property/offenses against, penalties.....Ch.263 - 812
Rape, female, further defined.....Ch. 83 - 197
Rape, obsolete references, "lunacy", deleted.....Ch.135 - 307
Sentencing, judgment, suspension, time extended.....Ch. 33 - 50
Sexual assault charge, prisoners, HIV/hepatitus B.....Ch.408 - 1278
Theft, grand, grading of, definitions.....Ch.132 - 301
Unlawful entry, building types, misdemeanor.....Ch.216 - 673
Warrants, affidavits, oral/telephonic, procedure.....Ch.415 - 1304
Weapons, sale to minors, unlawful.....Ch.369 - 1186
Wildlife, wasteful destruction/mutilation, unlawful....Ch. 88 - 205
DAMS
Milner, Snake River, State Water Plan, 12/10/93.....Ch.108 - 239

DAY CARE Chapter - Page
Center, health standards, additional, added.....Ch.147 - 335
Center, staff, criminal history check, 12 years/age....Ch.453 - 1442
DEAF
Deaf & Blind School, approp.....Ch.262 - 811
DEATH
Certificate, failure to sign, penalties.....Ch.323 - 1027
Person's remains, disposition, instructions.....Ch.423 - 1329
Sentence, Supreme Court review, disproportionate.....Ch.127 - 285
DEBTS
Public assistance, collection, not from AFDC parent....Ch.289 - 909
DEEDS
See also TRUST DEEDS
Tax, Irrigation Dists, delinquent assessments.....Ch.144 - 316
DEER
See WILDLIFE
DENTISTS AND DENTISTRY
Bd, approp.....Ch.156 - 353
Bd, law updated, disciplinary proceedings, licensure...Ch. 58 - 98
DIESEL FUEL
See FUELS
DIETITIANS AND DIETETICS
Licensure, requirements.....Ch.217 - 674
DISABLED
Developmentally, income tax credit, dependent.....Ch.104 - 232
Developmentally, income tax deduction, file return.....Ch.104 - 232
Handicapped, person, redefined, parking space.....Ch.264 - 813
PERSI, term, further defined.....Ch.411 - 1296
Persons, discrimination prohibited, real estate.....Ch.268 - 825
Persons, parking, accessible, unauthorized use.....Ch.264 - 813
Vocational Rehabilitation Act, references, corrected...Ch. 46 - 74
DISCRIMINATION
Disabled person, real estate transactions.....Ch.268 - 825
DISTRICTS
Ambulance, Capital Improvement Acct, created.....Ch. 34 - 51
Ambulance, tax levy, County Com, authorized.....Ch. 52 - 90
Aquifer Recharge, encourage use/augment recharge.....Ch.274 - 851
County Coms, incorporation/dists, postcard notice.....Ch. 77 - 172
Fire Protection, contiguous/noncontiguous territory....Ch.360 - 1127
Grazing, Taylor Grazing Act, moneys, use, revised.....Ch.249 - 793
Health, Public, approp.....Ch.187 - 615
Health, Public, Health Trust Fund, approp/FY94.....Ch. 22 - 36
Health, Public, rules, fees, food inspection.....SCR126 - 1519
Highway, authority extended, within jurisdiction.....Ch.324 - 1039
Highway, detachment procedure, new dist organized.....Ch.331 - 1060
Highway, elections, procedures.....Ch.123 - 274
Irrigation, encourage use/augment recharge.....Ch.274 - 851
Irrigation, tax deeds, delinquent assessments.....Ch.144 - 316
Legislative, Fremont County, precinct boundaries.....Ch.397 - 1255
Magistrates Com, membership, vacancy, attorney.....Ch.396 - 1253
Port, public park/recreation areas, construct.....Ch.114 - 261
Recharge, water/ground, basins, projects, fee.....Ch.273 - 849
Recreation, claims against, procedures revised.....Ch. 53 - 92

DISTRICTS (Continued) Chapter - Page
Recreation, election, directors, when not held.....Ch.328 - 1058
Recreation, election, directors, write-in candidate....Ch.328 - 1058
Taxing, fees, increase, advertisement required.....Ch.445 - 1427
Television Translator, assessment, per service unit....Ch.279 - 866
Water, distribution, by organized dists only.....Ch.450 - 1434
Water, encourage use, augment recharge.....Ch.274 - 851
Water, sewer, elections, consolidation law.....Ch. 51 - 89
DIVORCE
See DOMESTIC RELATIONS
DOG RACING
See RACING
DOGS
See ANIMALS
DOMESTIC RELATIONS
Adoption, by grandparent, special conditions.....Ch.426 - 1334
Adoption, child/special needs, interstate compact.....Ch. 69 - 141
Adoption, expenses, medical/legal, income tax credit...Ch.354 - 1114
Adoption, health insurance, restrictions prohibited....Ch.365 - 1144
Adoption, proceedings, fathers/putative, consent.....Ch.393 - 1243
Child custody/joint, not in best interest, when.....Ch.340 - 1075
Child support, death/parent, vehicular manslaughter....Ch.413 - 1301
Child support, guidelines, sunset date, extend.....Ch.236 - 745
Child support, health insurance, medical care.....Ch.308 - 963
Child support, income withholding orders, 2/more.....Ch.308 - 963
Child support, paternity, voluntary acknowledgment.....Ch.237 - 746
Child support, Uniform Interstate Family Support Act...Ch.207 - 639
Children, grandparents/great, visitation rights.....Ch.407 - 1278
Divorce, legal separation decree, conditions.....Ch.352 - 1112
Domestic disturbance, arrests, parties subject to.....Ch.318 - 1019
Family, Year of, 1994, designated.....HCR 45 - 1531
Marriage, solemnized, federal judge.....Ch. 7 - 11
Spouse, property tax reduction, claim file, when.....Ch.120 - 270
DOMESTIC VIOLENCE
Child custody/joint, not best interest of child.....Ch.340 - 1075
Domestic disturbance, parties subject to arrest.....Ch.318 - 1019
DRIVER TRAINING
School/commercial, exclusions, free instruction.....Ch.163 - 371
School/commercial, instructors.....Ch.347 - 1098
School/public, MV, use tax, exempt.....Ch.376 - 1209
DRIVERS
DUI, blood alcohol content, .02-.10, person/21.....Ch.422 - 1322
DUI, blood alcohol content, .20/more, penalties.....Ch.421 - 1316
DUI, license, suspension, hearings, reinstatement.....Ch.357 - 1117
DUI, prisoner, work detail program, sheriff, when.....Ch.148 - 336
License, minor, UNDER 21, boldly printed.....Ch. 85 - 200
License, motorcycle endorsement.....Ch.234 - 728
Training courses, standards, temporary permit.....Ch.347 - 1098
Training school/commercial, exclusions.....Ch.163 - 371
Training school/commercial, instructors.....Ch.347 - 1098
Training school, public school, MV, use tax, exempt....Ch.376 - 1209
DRUGS
Cases, record inspection, utilities, subpoena.....Ch.358 - 1125

DRUGS (Continued) Chapter - Page
Controlled Substances Act, property forfeiture.....Ch.395 - 1250
DUI, blood alcohol content, .02-.10, person/21.....Ch.422 - 1322
DUI, blood alcohol content, .20/more, penalties.....Ch.421 - 1316
DUI, license suspension, hearings, reinstatement fee...Ch.357 - 1117
DUI, prisoner, work detail program, sheriff, when.....Ch.148 - 336
Illegal, property, forfeited, firearms/weapons.....Ch.285 - 893
Illegal, property, forfeited, prosecuting attorney.....Ch.286 - 900
Paraphernalia/possession, minor, penalty.....Ch.414 - 1302
Pharmacies, out-of-state, mail service, licensure.....Ch.348 - 1104
ECONOMIC DEVELOPMENT
Competitively disadvantaged border community.....Ch.381 - 1222
Pacific Northwest Economic Region Organization.....Ch.416 - 1305
EDUCATION
See also COLLEGES AND UNIVERSITIES, VOCATIONAL EDUCATION
Albion Normal School, funds, use, Field Institute.....Ch.222 - 708
Bd, approp.....Ch.223 - 710
Bd, approp.....Ch.442 - 1414
Bd, approp, BSU, ISU, LCSC, UofI.....Ch.223 - 710
Bd, approp, community colleges.....Ch.201 - 633
Bd, approp, Deaf & Blind School.....Ch.262 - 811
Bd, approp, Educational Technology Initiative.....Ch.441 - 1413
Bd, approp, Family Practice Residencies.....Ch.155 - 351
Bd, approp, Geological Survey Program.....Ch.224 - 712
Bd, approp, IDEP Dental Education.....Ch.155 - 351
Bd, approp, ISU, Museum of Natural History.....Ch.224 - 712
Bd, approp, Library, Bd, State.....Ch.261 - 810
Bd, approp, office administration.....Ch.154 - 351
Bd, approp, public broadcasting system.....Ch.260 - 810
Bd, approp, scholarships/grants.....Ch.224 - 712
Bd, approp, Small Business Development Centers.....Ch.224 - 712
Bd, approp, State Historical Society.....Ch.202 - 634
Bd, approp, UofI/Center/Business Development.....Ch.380 - 1222
Bd, approp, UofI, Forest Utilization Research.....Ch.224 - 712
Bd, approp, Vocational Rehab, Div, add'l/FY94.....Ch. 56 - 97
Bd, approp, WAMI Education Program.....Ch.155 - 351
Bd, approp, WICHE, University of Utah.....Ch.155 - 351
Bd, approp, WOI Veterinary Medicine Program.....Ch.155 - 351
Bd, private schools, courses/study/prescribe, repeal...Ch.333 - 1064
Bd, rules, public schools, thorough education.....Ch.448 - 1432
Bd, rules, public schools, rewrite, intent.....Ch.448 - 1432
Bd, rules, public schools, sunset.....Ch.448 - 1432
Continuing, social worker, requirements.....Ch.139 - 311
Counselors, elementary school, social workers.....Ch.443 - 1424
Driver training courses, standards, temporary permit...Ch.347 - 1098
Driver training school/commercial, exclusions.....Ch.163 - 371
Driver training school/commercial, instructors.....Ch.347 - 1098
Driver training school, public school, MV, use tax.....Ch.376 - 1209
Evans, Jerry L., contributions/education, recognized...HCR 66 - 1544
Performance measurements, uniform reporting.....Ch.175 - 402
Public School Income Fund, approp.....Ch.456 - 1491
Scholarships, firefighter/police officer dependents....Ch.417 - 1307
School Dist Building Acct, lottery moneys, ADA.....Ch.345 - 1088

EDUCATION (Continued) Chapter - Page
School Dist, election, absentee ballot.....Ch.161 - 368
School Dist, trustee zones, redefine, when, members....Ch.182 - 599
School Dist, Trustees, Bd, candidate withdrawal.....Ch.164 - 372
School Dist, Trustees, Bd, contracts/award, interest...Ch.300 - 947
School Dist, Trustees, Bd, no election, when.....Ch.160 - 367
School Plant Facilities Fund, levy, % votes needed.....Ch.299 - 946
School, nonpublic, federal intervention, resist.....SJM114 - 1506
Student records/transfer, discipline action recorded...Ch.174 - 401
Superintendent of Public Instruction, approp.....Ch.437 - 1400
Superintendent of Public Instruction, qualifications...Ch.277 - 864
Support Program, adjusted market value, assessment.....Ch.316 - 1008
Support Program, exceptional child tuition.....Ch.440 - 1409
Support Program, funding formula, revised.....Ch.428 - 1368
Teachers, salary-based apportionment, calculation.....Ch.428 - 1368
Technology Initiative, 1994, Council, established.....Ch.229 - 716
Thorough system of public schools, defined.....Ch. 25 - 38
Thorough system of public schools, rules/rewrite.....Ch.448 - 1432
Tuition, community college, resident.....Ch.179 - 418
Tuition, native Americans, residency status.....Ch.140 - 312
ELDERLY
See SENIOR CITIZENS
ELECTIONS
Absentee voting, any qualified voter may do so.....Ch.122 - 271
Absentee voting, polls, electioneering, prohibited.....Ch. 21 - 36
Absentee voting, procedures clarified.....Ch.122 - 271
Absentee voting, uniformed overseas citizens.....Ch.122 - 271
Campaign contributions, reports, timing requirement....Ch.379 - 1218
Campaign, expenditures statement, filed, when.....Ch. 54 - 93
City, qualified elector, further defined.....Ch. 66 - 135
County advisory ballot, provided.....Ch.372 - 1197
County, government, optional forms, electors approve...HJR 17 - 1499
Crime victims, rights, constitutional, 10, provided....HJR 16 - 1498
Executive officers, Ada County/residency, term/office..HJR 24 - 1500
Highway Dist, procedures.....Ch.123 - 274
Initiatives, referendums, county, signatures, time.....Ch.372 - 1197
Recreation Dists, directors, when not held.....Ch.328 - 1058
Recreation Dists, directors, write-in candidate.....Ch.328 - 1058
School Dist, absentee ballot, 28 days prior.....Ch.161 - 368
School Dist, Trustees, Bd, candidate withdrawal.....Ch.164 - 372
School Dist, Trustees, Bd, one candidate, procedure....Ch.160 - 367
Sunshine law, reporting, nonbusiness entity, defined...Ch. 5 - 6
Voters, registration, election day, by mail.....Ch. 67 - 137
Water, sewer dists, consolidation law.....Ch. 51 - 89
ELECTRICAL
Corporations/multistate, income tax, formula.....Ch.301 - 948
ELECTROLOGY
Electrologist/esthetician instructor, licensure.....Ch.312 - 988
EMERGENCY MEDICAL TECHNICIANS
See MEDICAL
EMPLOYEES AND EMPLOYMENT
Dept, retirement plan, roll over, IRA acct.....Ch.210 - 665
Drivers, public utilities, emergency, hours/service....Ch. 61 - 120

EMPLOYEES AND EMPLOYMENT (Continued) Chapter - Page
Employer/professional, services, recognition.....Ch.129 - 287
Employer, income tax, withholding, reporting.....Ch. 40 - 66
Medical Care Savings Acct, offered.....Ch.186 - 606
Miners/underground, 10 hours day/40 hour week/1 year...Ch.367 - 1179
Minors, wine, handle/deliver, allowed.....Ch. 60 - 119
PERSI, approp.....Ch.253 - 798
PERSI, approp, Phase III.....Ch.442 - 1414
PERSI, disabled, term, further defined.....Ch.411 - 1296
PERSI, phase IV, eliminate.....Ch.276 - 856
PERSI, state institution enrollee, not eligible.....Ch.209 - 658
Public, waste reported, "whistle blower", protection...Ch.100 - 226
School Dist, noncertificated, health insurance.....Ch.282 - 883
State, compensation ranges/benchmark classification....Ch.272 - 836
State, cost of living, 5.38% increase, FY95.....HCR 58 - 1539
State, notaries public, state post bond, when.....Ch.145 - 324
State, probationary period, defined further.....Ch.294 - 928
State, waste reported, "whistle blower", protection....Ch.100 - 226
Teachers, salary-based apportionment, calculation.....Ch.428 - 1368
Whistle blower, government waste reported, protect.....Ch.100 - 226
Workers compensation, agricultural labor, inclusion....HCR 59 - 1541
Workers compensation, cancellation notice, served.....Ch.178 - 417
Workers compensation, community service worker.....Ch.446 - 1427
Workers compensation, community service, 60¢/hour.....Ch.233 - 724
Workers compensation, psychological injuries.....Ch.112 - 255
Workplace Productivity Through Literacy Year, 1994.....HCR 46 - 1532
EMPLOYMENT SECURITY LAW
Employment, Dept, retirement plan, roll over, IRA.....Ch.210 - 665
ENDANGERED SPECIES ACT
See WILDLIFE
ENDOWMENT FUND
Investment Bd, approp.....Ch.188 - 616
Investment Bd, approp, FY94, additional.....Ch. 11 - 18
ENGINEERS
Corporations, staff, internal use only, licensure.....Ch.356 - 1115
Examiners, Bd, approp.....Ch.156 - 353
ENVIRONMENT
Abandoned Hardrock Mine Reclamation Act.....Ch.220 - 702
Div, H&W, Dept, approp, additional, FY94.....Ch. 92 - 208
Div, H&W, Dept, approp, FY94, amended, intent.....Ch.146 - 327
Mandates/federal, state/local agreements.....Ch.162 - 369
PCBs, waste disposal, fee, per gate ton.....Ch.419 - 1310
Waste/postconsumer, equipment utilizing, tax credit....Ch.342 - 1077
Waste/Solid, Facilities Act, federal regulations.....Ch. 75 - 156
EUTHANASIA
Assisted, mercy killing, not condone.....Ch.298 - 941
EXECUTIVE ORDERS
93-01 thru 93-09.....1553
94-01 thru 94-03.....1570
FACSIMILE MACHINES
Liens, tax, notarization, Tax Com, fax, permitted.....Ch. 42 - 70
FARMERS HOME ADMINISTRATION
Inventory property, property tax.....Ch.117 - 266

FARMS Chapter - Page
See AGRICULTURE
FEDERAL GOVERNMENT
See GOVERNMENT
FEDERAL LAWS
Americans/Disabilities Act, 1990, MV parking space.....Ch.264 - 813
Brady Bill, handgun sale, background check.....Ch.377 - 1210
Endangered Species Act, Salmon, critical habitat.....HJM 9 - 1510
Endangered Species Act, Wolf Oversight Com, F&G plan...Ch.382 - 1228
Fairness for Main Street Business Act, 1994.....HJM 13 - 1514
Federal cropland set-aside, water rights, transfer.....HJM 14 - 1516
Federal cropland set-aside, water rights, transfer.....HCR 67 - 1545
Motorcycle helmet law, ISTEA, federal-aid, highways....SJM115 - 1507
National Voter Registration Act, 1993, compliance.....Ch. 67 - 137
Omnibus Reconciliation Act, 1993, child support.....Ch.237 - 746
Rules, administrative, federal statute, citation.....Ch.271 - 834
Safe Drinking Water Act, amendments supported.....SJM112 - 1504
Solid Waste Facilities Act, state status.....Ch. 75 - 156
Taylor Grazing Act, Range Improvement Fund, moneys.....Ch.249 - 793
Uniformed Overseas Citizens Absentee Voting Act.....Ch.122 - 271
Vocational Rehabilitation Act, references, corrected...Ch. 46 - 74
FEED
Commercial, stuffs, inspection, fees, increased.....Ch. 30 - 47
FEES
Architects, licensure, exam, amount.....Ch. 17 - 32
Attorneys, awarded, administrative/civil proceedings...Ch. 36 - 55
Attorneys, post-judgment, civil actions.....Ch.353 - 1113
Beer, keg, increased.....Ch. 13 - 20
Boat, motorboat, sailboat, registration, increased.....Ch. 65 - 128
Boat, vessel use permit, reference repealed.....Ch. 65 - 128
Checks, dishonored, collection costs.....Ch.185 - 603
Community service, penalty, workers compensation.....Ch.233 - 724
Court, Dist, civil cases, administrative surcharge.....Ch.208 - 656
F&G, processing, wildlife/illegal take, feed needy.....Ch.149 - 342
Farm produce, dealers, licensure, increased.....Ch. 97 - 222
Feed stuffs, commercial, inspection, increased.....Ch. 30 - 47
Food, inspection, Public Health Dist, rules.....SCR126 - 1519
Furbuyer, nonresident, license, amount.....Ch.341 - 1077
Gas, distributor, license, deleted.....Ch. 41 - 69
Highway use, multijurisdictional agreements.....Ch.311 - 977
Investment administration, treasure/state.....Ch.402 - 1265
MV, commercial, use, accrued, quarterly report.....Ch.320 - 1021
MV, license plates, old timer/classic, renewal/no.....Ch.313 - 996
MV, license plates, special, radio amateur.....Ch.278 - 865
MV, license, distribution, State Highway Acct.....Ch.246 - 766
Off-highway vehicle/motorbike, registration.....Ch.288 - 907
PCBs, hazardous, waste disposal, per gate ton.....Ch.419 - 1310
POST, increased, paid by persons guilty, violations....Ch.193 - 623
Psychologists, licensure, exam, amount.....Ch. 16 - 31
Recorders, highway right-of-way plat, copying.....Ch.364 - 1139
Securities, registration.....Ch.265 - 820
Taxidermists, nonresident, license.....Ch.399 - 1262
Taxing Dists, increase, advertisement required.....Ch.445 - 1427

FEES (Continued) Chapter - Page
Warrant, distraint, issuance, increased.....Ch. 57 - 98
Water rights, permit to approp, increased.....Ch. 64 - 121
FELONS
See CRIMINAL OFFENSES AND PROCEDURES
FINANCE
Dept, approp.....Ch.228 - 716
Dept, approp.....Ch.442 - 1414
Dept, money transmission, regulation.....Ch.410 - 1282
FINANCIAL MANAGEMENT
Div, approp.....Ch.198 - 629
FINES
Criminal, nonpayment, imprisonment, credit, repeal.....Ch.142 - 316
Misdemeanors, court imposed, $300, when.....Ch.141 - 315
FIRE
Arson, insurance fraud, claims, report.....Ch.219 - 696
Protection Dists, contiguous/noncontiguous territory...Ch.360 - 1127
Smoke detector, landlord, provide, each unit.....Ch.418 - 1308
FIREARMS
Concealed, license, background check, exempt, when.....Ch.431 - 1392
Controlled Substances Act, violation, forfeiture.....Ch.285 - 893
Possession, minor, parental permission/written.....Ch.369 - 1186
Sale, background check, public records, open.....Ch.368 - 1180
Sale, background check, toll-free telephone number.....Ch.377 - 1210
FIREFIGHTERS
See FIREMEN
FIREMEN
Scholarships, dependents, restriction, deleted.....Ch.417 - 1307
FISH AND GAME
Advisory Com, terms, maximum number.....Ch.113 - 260
Bird of prey capture permit/nonresident.....Ch.118 - 267
Com, term limits, 4 years, 2 consecutive terms.....Ch.406 - 1276
Deer, elk set-aside tags, winter feeding program.....Ch.269 - 832
Dept, approp.....Ch.378 - 1215
Dept, approp.....Ch.442 - 1414
Dept, approp, biologist, A.F. Training Range.....Ch.378 - 1215
Dept, approp, construction projects.....Ch.200 - 630
Dept, approp, depredation control/winter feeding.....Ch.378 - 1215
Dept, aquaculture facility, waste treatment, plan.....Ch.290 - 910
License, fishing, hunting, resident, defined.....Ch. 26 - 41
License, hunting, 8th class, archery education.....Ch. 84 - 198
Salmon, critical habitat designation, moratorium.....HJM 9 - 1510
Salmon, migration, Snake River flows, rental waters....Ch.452 - 1441
Taxidermist, nonresident, license, fee.....Ch.399 - 1262
Wildlife depredation hunts, permits, 50%/landowner.....Ch.218 - 679
Wildlife depredation, claims, eligibility, procedure...Ch.218 - 679
Wildlife, illegally taken, process fee, feed needy.....Ch.149 - 342
Wildlife, simulated, unlawful taking, penalties.....Ch.115 - 262
Wildlife, wasteful destruction/mutilation, unlawful....Ch. 88 - 205
Winter Feeding Advisory Comm, established.....Ch.183 - 601
Winter feeding program, deer, elk set-aside acct.....Ch.269 - 832
Wolf Management Plan, Oversight Comm, Idaho Plan.....Ch.382 - 1228

FOOD Chapter - Page
Establishment, defined, exclusions/regulation.....Ch.138 - 310
Inspection, fees, Public Health Dist, rules.....SCR126 - 1519
Organic, law, appeals process, definition revised.....Ch. 99 - 224
FORESTS AND FORESTRY
Land, tax, deferred/yield amounts, collection.....Ch.370 - 1188
Logging, solicitation, to halt/impede, felony.....Ch.214 - 672
Range, Wildlife Policy Analysis Group, duties.....Ch.194 - 623
Slash hazard bond, deduct/3%, Forest Practices Act.....Ch.152 - 347
FOSTER HOMES
Adult, care, certification, inspections.....Ch.284 - 887
FRATERNAL ORGANIZATIONS
Food establishment, definition, not included in.....Ch.138 - 310
FRAUD
Insurance, arson, claims, report.....Ch.219 - 696
FUELS
Gas, distributor, license, fee, deleted.....Ch. 41 - 69
Motor, Tax Act, technical amendments.....Ch.344 - 1080
Petroleum Storage Tank Prog, approp, Insurance Fund....Ch.189 - 616
Special, gasohol, gasoline, defined.....Ch.166 - 373
Underground Storage Tank Technician Bd, membership.....Ch.412 - 1301
Underground Storage Tanks Program, approp.....Ch.200 - 630
FUNDS
Albion Normal School, use, field institute.....Ch.222 - 708
Budget Reserve, moneys transfer from Liquor Fund.....Ch.388 - 1240
County Court Facilities, construction/remodeling.....Ch.208 - 656
County Justice, general reserve approp, limits.....Ch. 4 - 5
Endowment, Investment Bd, approp.....Ch.188 - 616
Endowment, Investment Bd, approp, additional, FY94.....Ch. 11 - 18
General, one-time approps, limit, exempt.....Ch.338 - 1074
Heritage Trust Foundation, sunset extended.....Ch.125 - 284
Internal service, fee, Treasurer/State.....Ch.402 - 1265
Jail Commissary Self-Perpetuating, established.....Ch. 29 - 46
Public Health Trust, approp, additional, FY94.....Ch. 22 - 36
Public School Income, approp.....Ch.456 - 1491
Public School, formula, revised.....Ch.428 - 1368
School Dist Building Acct, lottery moneys, ADA.....Ch.345 - 1088
School Plant Facilities Reserve, levy, % votes.....Ch.299 - 946
School Support Program, clarified.....Ch.316 - 1008
School Support Program, exceptional child tuition.....Ch.440 - 1409
School Support Program, formula, revised.....Ch.428 - 1368
Water Resource Revolving Development, approp, FY94.....Ch. 20 - 35
Waterways Improvement, Advisory Comm, created.....Ch. 68 - 140
FUNERALS
Crematory, licensure, required.....Ch.105 - 234
Director, death certificate, failure to sign.....Ch.323 - 1027
Embalmers, obsolete references deleted.....Ch.105 - 234
Establishment, name/nonemployee, use prohibited.....Ch. 95 - 218
Morticians, references included.....Ch.105 - 234
Person's remains, disposition, instructions.....Ch.423 - 1329
FURBUYERS
Nonresident, license, fees.....Ch.341 - 1077

GAMBLING Chapter - Page
Bingo, duck races, raffles, Lottery Com regulate.....Ch.281 - 874
Dog racing, pari-mutuel, deposits, distribution.....Ch.325 - 1044
Lottery revenues, Indian Tribes-State Compact.....SCR146 - 1528
GARNISHMENT
Sheriff, county, accomplish personal service, mail.....Ch. 27 - 44
GAS
See FUELS
GASOHOL
See FUELS
GEOLOGISTS AND GEOLOGY
Bd, approp.....Ch.156 - 353
GOVERNMENT
County, optional forms, electors approve.....HJR 17 - 1499
Federal, aquifer recharge, beneficial use/recognize....SJM116 - 1508
Federal, intervention, schools/nonpublic, resist.....SJM114 - 1506
Officials, conflict of interest, contracts.....Ch.332 - 1063
Regulatory takings, property/private, guidelines.....Ch.116 - 265
State Seal, authorship, Emma Edwards Green.....Ch.444 - 1425
State, agencies, performance plans/accountability.....Ch.420 - 1312
State, elective officers, salaries, adjusted.....Ch.435 - 1398
State, Executive officers, Ada County/residency.....HJR 24 - 1500
State, performance plans, annual, code reference.....Ch.109 - 242
U.S. Congressman Crapo, commended, reform measures.....SJM108 - 1502
GOVERNOR
Andrus, Cecil D., contributions to Idaho, recognized...HCR 71 - 1548
Budget Address.....HCR 42 - 1530
Executive Orders
93-01 thru 93-09.....1553
94-01 thru 94-03.....1570
Office of, Ada County/residency, term/office, delete...HJR 24 - 1500
Office of, approp.....Ch.384 - 1232
Office of, approp.....Ch.442 - 1414
Office of, approp, administration.....Ch.384 - 1232
Office of, approp, Aging, Office on.....Ch.235 - 744
Office of, approp, Blind, Com.....Ch.199 - 630
Office of, approp, Early Childhood Programs.....Ch.384 - 1232
Office of, approp, Emergency Fund.....Ch.252 - 798
Office of, approp, Emergency Response Com.....Ch.384 - 1232
Office of, approp, Emergency Response Fund, FY94.....Ch. 9 - 14
Office of, approp, Endowment Fund Investment Bd, FY94..Ch. 11 - 18
Office of, approp, Financial Management Div.....Ch.198 - 629
Office of, approp, Human Rights Com.....Ch.254 - 799
Office of, approp, Juvenile Justice Programs.....Ch.384 - 1232
Office of, approp, Liquor Dispensary, State.....Ch.197 - 629
Office of, approp, PERSI.....Ch.253 - 798
Office of, approp, residence.....Ch.384 - 1232
Office of, approp, Rural Development Council.....Ch.198 - 629
Office of, approp, Women's Programs, Com on.....Ch.255 - 799
Office of, Military Div.....Ch.196 - 628
Office of, salary, adjusted, SB1602, approp.....Ch.392 - 1242
Office of, salary, adjusted, term/1995.....Ch.435 - 1398
Office of, Social Services Programs.....Ch.384 - 1232

GOVERNOR (Continued) Chapter - Page
Proclamation, Payette River Basin, water rights/H989...Ch.452 - 1441
State of Budget Address.....HCR 42 - 1530
State of State Address.....HCR 41 - 1530
GRAPES
Growers, Wine Producers Acct, wine tax revenues.....Ch.243 - 762
GRAZING
Rangeland Resources Com, created.....Ch.374 - 1203
Taylor, Act, Range Improvement Fund, moneys, use.....Ch.249 - 793
GRIEVANCES
Procedure, insurance, health, provider contracts.....Ch.275 - 853
GROUP DAY CARE HOMES
See DAY CARE
GUNS
See FIREARMS
HANDICAPPED
See DISABLED
HAZARDOUS SUBSTANCES
Emergency Response Fund, approp, additional, FY94.....Ch. 9 - 14
Waste Training, Monitoring Fund, approp, FY94.....Ch. 2 - 3
Waste, PCBs, disposal, fees, per gate ton.....Ch.419 - 1310
HEALTH
Care, certificate of public advantage.....Ch.283 - 883
Care, primary, access, rural/medically underserved.....SCR121 - 1518
Care, providers, cooperative agreement/duplication.....Ch.283 - 883
Day care centers, standards.....Ch.147 - 335
Insurance, child, adopted, restrictions prohibited.....Ch.365 - 1144
Insurance, child, court order.....Ch.365 - 1144
Insurance, child, enrollment/direct.....Ch.365 - 1144
Insurance, contracts, grievance procedure.....Ch.275 - 853
Insurance, coverage converted, when.....Ch.404 - 1268
Insurance, individual, person not covered/employer.....Ch.427 - 1337
Insurance, School Dist employees/noncertificated.....Ch.282 - 883
Insurance, uniform claims, uniform billing, adopted....Ch. 98 - 223
Planning Act, created.....Ch.283 - 883
Public, Dists, approp.....Ch.187 - 615
Public, Dists, Public Health Trust Fund, approp.....Ch.442 - 1414
Public, Dists, rules, fees, food inspection.....SCR126 - 1519
Public, mandates/environmental, state/local agree.....Ch.162 - 369
Public, Trust Fund, approp, additional, FY94.....Ch. 22 - 36
Sexual disorders, cures, advertising, deleted.....Ch.137 - 310
Terminally ill, care, do not resuscitate (DNR).....Ch.298 - 941
HEALTH AND WELFARE
AFDC, child support, June Reid case, Post Falls.....SJM109 - 1502
AFDC, debt, collection, not recipient parent.....Ch.289 - 909
AFDC, payments, amount, conditions removed.....Ch.287 - 906
Dept, approp.....Ch.337 - 1069
Dept, approp.....Ch.442 - 1414
Dept, approp, additional, FY94.....Ch. 81 - 182
Dept, approp, Adult & ADC Assistance Payments.....Ch.337 - 1069
Dept, approp, Adult & ADC Assistance, add'lFY94.....Ch. 81 - 182
Dept, approp, Alcohol/Drug Abuse, Com.....Ch.258 - 803

HEALTH AND WELFARE (Continued) Chapter - Page
Dept, approp, Child Support Enforcement.....Ch.337 - 1069
Dept, approp, Child Support Enforcement, add'l/FY94....Ch. 81 - 182
Dept, approp, Community Mental Health Services.....Ch.439 - 1404
Dept, approp, Community Rehabilitation, Div.....Ch.439 - 1404
Dept, approp, Deaf/Hearing-Impaired Council.....Ch.258 - 803
Dept, approp, DEQ.....Ch.259 - 805
Dept, approp, DEQ, Community Programs.....Ch.259 - 805
Dept, approp, Developmental Disabilities Council.....Ch.258 - 803
Dept, approp, Domestic Violence Council.....Ch.258 - 803
Dept, approp, Eligibility Services.....Ch.337 - 1069
Dept, approp, Emergency Medical Services.....Ch.337 - 1069
Dept, approp, Environment, Div, additional, FY94.....Ch. 92 - 208
Dept, approp, Environment, Div, FY94, intent.....Ch.146 - 327
Dept, approp, Family Self-Support, additional, FY94....Ch. 81 - 182
Dept, approp, Family/Children's Services, Div.....Ch.439 - 1404
Dept, approp, Indirect Support Services.....Ch.258 - 803
Dept, approp, INEL Oversight.....Ch.259 - 805
Dept, approp, Juvenile Justice.....Ch.439 - 1404
Dept, approp, juvenile offender releases, add'l/FY94...Ch.106 - 238
Dept, approp, Laboratory Services.....Ch.337 - 1069
Dept, approp, Medical Assistance Payments.....Ch.337 - 1069
Dept, approp, Medical Assistance Payments, add'lFY94...Ch. 81 - 182
Dept, approp, Physical Health Services.....Ch.337 - 1069
Dept, approp, Social Services, additional, FY94.....Ch. 81 - 182
Dept, approp, State Hospital North.....Ch.439 - 1404
Dept, approp, State Hospital South.....Ch.439 - 1404
Dept, approp, State School and Hospital.....Ch.439 - 1404
Dept, approp, State Youth Services Center.....Ch.439 - 1404
Dept, approp, Veterans Services.....Ch.258 - 803
Dept, approp, Welfare, Div.....Ch.337 - 1069
Dept, aquaculture facility, waste treatment, plan.....Ch.290 - 910
Dept, child support, guidelines, sunset date, extend...Ch.236 - 745
Dept, child support, health insurance, medical care....Ch.308 - 963
Dept, child support, income withhold order, 2/more.....Ch.308 - 963
Dept, DNR, do not resuscitate, terminally ill person...Ch.298 - 941
Dept, environmental mandates, state/local agreements...Ch.162 - 369
Dept, food establishment, further defined.....Ch.138 - 310
Dept, medical assistance, recovery, age/55/older.....Ch.329 - 1059
Dept, PCBs, waste disposal, fee, per gate ton.....Ch.419 - 1310
Dept, Solid Waste Facilities Act, federal regulations..Ch. 75 - 156
Dept, water quality standards, rule amended.....HCR 50 - 1534
HEALTH CARE FACILITIES
Cooperative agreements, duplication prevented.....Ch.283 - 883
Health care, primary, rural/medically underserved.....SCR121 - 1518
Health Planning Act, created.....Ch.283 - 883
Terminally ill, DNR, do not resuscitate orders.....Ch.298 - 941
HELMETS
Motorcycle, law/federal, noncompliance sanctions.....SJM115 - 1507
HIGHER EDUCATION
See EDUCATION, COLLEGES AND UNIVERSITIES
HIGHWAYS
Construction, recycled material use, encouraged.....Ch.409 - 1280

HIGHWAYS (Continued) Chapter - Page
Dist, authority extended, within jurisdiction.....Ch.324 - 1039
Dist, detachment procedure, new dist organized.....Ch.331 - 1060
Dist, election, procedures.....Ch.123 - 274
Dist, roads/bridges, approp, line item VETO.....Ch.231 - 721
Fees, use, multijurisdictional agreements.....Ch.311 - 977
Local, jurisdiction needs, coordination.....Ch.280 - 867
Local, Technical Assistance Council, created.....Ch.280 - 867
Motorcycle helmet law/federal, noncompliance sanction..SJM115 - 1507
Public, agency, jurisdiction, public rights-of-way.....Ch.321 - 1025
Public, agency, right-of-way plats, exemptions.....Ch.364 - 1139
Public, maintenance, ad valorem tax credits.....Ch.319 - 1020
Right-of-way plats, fees/copying, county recorder.....Ch.364 - 1139
State, Acct, MV license fees, distribution.....Ch.246 - 766
HISPANICS
Com, approp.....Ch.156 - 353
HISTORICAL SITES
Albion Normal School, funds, use, field institute.....Ch.222 - 708
State, approp, maintenance/interpretation.....Ch.202 - 634
HISTORICAL SOCIETIES
Heritage Trust Foundation, sunset extended.....Ch.125 - 284
Library/Archives Bldg, planning/design, approp.....Ch. 47 - 77
State, approp.....Ch.202 - 634
HOMES
HOME Program, Commerce, Dept, approp, add'l FY94.....Ch. 32 - 49
Low-cost housing, uniform building code, exemption.....Ch.245 - 764
Manufactured, single-family residential areas.....Ch.212 - 668
McGruff House, safe house program for children.....SCR138 - 1522
Property tax, homeowner exempt, revocable trust.....Ch.373 - 1200
Residential property, seller, disclose defects.....Ch.366 - 1172
HORSES
See LIVESTOCK
HOSPITALS
Certificate of public advantage, provided.....Ch.283 - 883
Cooperative agreements, duplication prevented.....Ch.283 - 883
Mutualization, professional service corporations.....Ch. 78 - 173
HOUSING
HOME Program, Commerce, Dept, approp, add'l FY94.....Ch. 32 - 49
Low-cost, uniform building code, variance, exemption...Ch.245 - 764
HUMAN RIGHTS
Com, approp.....Ch.254 - 799
Com, real estate, discrimination, disabled person.....Ch.268 - 825
HUNTING
See FISH AND GAME
IDAHO CODE
State government, performance plans, reference.....Ch.109 - 242
IDAHO STATE UNIVERSITY
See COLLEGES AND UNIVERSITIES
INCOME TAX
See TAX AND TAXATION, INCOME
INDIANS
Compact, State-Tribes, lottery revenues, negotiations..SCR146 - 1528
Students, college tuition, residency status.....Ch.140 - 312

INDUSTRIAL COMMISSION Chapter - Page
Approp.....Ch.336 - 1068
Approp.....Ch.442 - 1414
Approp, additional, FY94.....Ch. 31 - 48
Approp, Crime Victims Compensation.....Ch.336 - 1068
INITIATIVES
Attorney General, review, time period, increased.....Ch.400 - 1263
County, signatures required, time limits.....Ch.372 - 1197
Educational Technology, 1994, Council, established.....Ch.229 - 716
INSECTS
Agricultural pest, prey upon livestock, control.....Ch. 80 - 182
INSPECTORS AND INSPECTIONS
Farms/cervidae (elk), disease prevention.....Ch. 73 - 151
Farms/ratite (ostrich), disease prevention.....Ch. 72 - 149
Feed stuffs, commercial, fees, increased.....Ch. 30 - 47
Food, fees, Public Health Dists, rules.....SCR126 - 1519
INSURANCE
Casualty, underwriters, reinsurance.....Ch. 93 - 209
Company, capital, surplus requirements, solvency.....Ch.240 - 751
Dept, approp.....Ch.303 - 954
Dept, approp.....Ch.442 - 1414
Dept, approp, additional, FY94.....Ch.203 - 635
Dept, legislative study comm.....HCR 57 - 1538
Dept, rules, APA compliance.....Ch.310 - 976
Disability, policy transfer, converted, when.....Ch.404 - 1268
Fraud, arson, claims, report.....Ch.219 - 696
Fund, State, approp.....Ch.189 - 616
Fund, State, approp, Petroleum Storage Tank Program....Ch.189 - 616
Health, child support, orders, sunset repealed.....Ch.308 - 963
Health, child, adopted, restrictions prohibited.....Ch.365 - 1144
Health, child, court order.....Ch.365 - 1144
Health, child, enrollment/direct.....Ch.365 - 1144
Health, contracts, grievance procedure.....Ch.275 - 853
Health, employees/noncertificated, School Dists.....Ch.282 - 883
Health, individual, persons not covered by employer....Ch.427 - 1337
Health, uniform claims, uniform billing, adopted.....Ch. 98 - 223
Insurers, compliance, National Assoc, Com, (NAIC).....Ch.322 - 1027
Insurers, premium tax, offset 20%, 5 years.....Ch.239 - 751
Insurers, premium tax, offset, exam fees, 5 years.....Ch.267 - 825
Medicare supplement, attained age rating, prohibit.....Ch.403 - 1268
Mortgage guaranty/% fair market value/real property....Ch.334 - 1065
Motor carriers, PUC, rule, amended.....HCR 60 - 1542
Mutualization, hospitals, service corporations.....Ch. 78 - 173
Premium tax, reduced.....Ch.383 - 1229
Records, National Assoc, Com, (NAIC), confidential.....Ch.309 - 976
Workers compensation, cancellation notice, served.....Ch.178 - 417
INTERNAL REVENUE
See TAX AND TAXATION, INCOME
INTERPRETERS
Court, payment, Dist Court Fund.....Ch.215 - 672
INVESTMENTS
Administration fee, treasurer/state.....Ch.402 - 1265
Endowment Fund, Bd, approp.....Ch.188 - 616

INVESTMENTS (Continued) Chapter - Page
Securities, registration, filed electronically.....Ch.265 - 820
IRRIGATION
See also WATER
Dists, tax deeds, delinquent assessments.....Ch.144 - 316
Dists, water useage, augment aquifer recharge.....Ch.274 - 851
Ditches, lateral, buried, conduit, landowner change....Ch.151 - 345
Electric/natural gas, consumption, pumping, report.....Ch.429 - 1381
Water rights, transfer, federal cropland set-aside.....HJM 14 - 1516
Water rights, transfer, federal cropland set-aside.....HCR 67 - 1545
JAILS
See also CORRECTIONAL INSTITUTIONS
County, Commissary, Self-Perpetuating Fund.....Ch. 29 - 46
DUI, prisoner, work detail program, when.....Ch.148 - 336
Inmates, confinement cost, nonemployment days.....Ch. 28 - 45
Inmates, medical expenses, medicaid rate.....Ch.362 - 1135
Inmates, medical service fee, doctor/pharmaceuticals...Ch.213 - 671
Probationers, breath, bodily fluid testing, payment....Ch.248 - 792
Time, credit, $35/day, criminal fine nonpayment.....Ch.142 - 316
JUDGES
Dist Magistrates Com, members, vacancy, attorney.....Ch.396 - 1253
Federal, may solemnize marriage.....Ch. 7 - 11
JUDICIAL
Confirmation, political subdivision, public hearing....Ch.173 - 399
Review, County Com, Bd, decisions, appeals, time.....Ch.241 - 760
JUVENILES
Alcohol, tobacco, possession, penalties increased.....Ch.133 - 305
Drivers license, UNDER 21, boldly printed.....Ch. 85 - 200
Felony, adjudicated, name disclosure, crime charged....Ch.326 - 1046
H&W, Dept, approp, offender releases, intent.....Ch.106 - 238
Identification card, UNDER 21, boldly printed.....Ch. 85 - 200
Justice System, approp, Legislative Council, study.....Ch.390 - 1241
Justice System, legislative study comm.....HCR 56 - 1538
Marijuana/drug paraphernalia, possession, penalty.....Ch.414 - 1302
Sexual assault charge, tests, HIV/hepatitus B virus....Ch.408 - 1278
Tort claims, minors, filing, time.....Ch.349 - 1109
Weapons/concealed, school property, Youth Rehab Act....Ch.150 - 344
Weapons, possession, parental permission/written.....Ch.369 - 1186
Weapons, sale to, unlawful.....Ch.369 - 1186
Wine, handle/possess, allowed, when.....Ch. 60 - 119
LABOR AND INDUSTRIAL SERVICES
Dept, approp.....Ch.206 - 637
Dept, approp.....Ch.442 - 1414
Dept, underground miners, 10 hr day/40 hr week/1 yr....Ch.367 - 1179
LAKES
Bear, minimum lake level.....SCR129 - 1520
LAND
Abandoned Hardrock Mine Reclamation Act.....Ch.220 - 702
Acquisition/future, map, public agency, time period....Ch. 90 - 206
Dept, approp.....Ch.168 - 378
Dept, approp.....Ch.442 - 1414
Dept, approp, Forest Management/Fire Protection.....Ch.168 - 378
Dept, approp, Pest Control Deficiency, add'l, FY94.....Ch. 12 - 19

LAND (Continued) Chapter - Page
Dept, approp, Soil/Water Conservation.....Ch.168 - 378
Dept, approp, Triumph Mine Remediation Project.....Ch.168 - 378
Forest, tax, deferred/yield amounts, collection.....Ch.370 - 1188
Public Lands Week, May 9, 1994, designated.....HCR 49 - 1533
Rangeland Resources Com, created.....Ch.374 - 1203
LANDLORDS
Smoke detectors, each rental unit, required.....Ch.418 - 1308
LAVA HOT SPRINGS
Foundation, approp, additional, FY94.....Ch. 87 - 204
LAW ENFORCEMENT
Brady Bill, handgun sale, background check.....Ch.377 - 1210
Dept, approp.....Ch.257 - 800
Dept, approp.....Ch.442 - 1414
Dept, approp, additional, FY94.....Ch. 10 - 16
Dept, approp, Alcohol Beverage Control.....Ch.257 - 800
Dept, approp, Brand Inspection.....Ch.257 - 800
Dept, approp, POST Academy.....Ch.257 - 800
Dept, approp, Racing Com.....Ch.257 - 800
Dept, Controlled Substances Act, property, forfeit.....Ch.395 - 1250
Dept, restaurant, defined, liquor control, rule.....SCR141 - 1526
Domestic disturbance, parties subject to arrest.....Ch.318 - 1019
Police dogs/horses, injuring/tormenting, penalties.....Ch.157 - 356
Police officer, dependents, scholarships.....Ch.417 - 1307
Police officer, MV/driver, fleeing, penalties.....Ch.165 - 373
POST account, self-sponsored students, training.....Ch.191 - 620
POST, fee, increase, persons guilty, violations.....Ch.193 - 623
LEASES
Property, county, time period, use, Industrial Park....Ch.158 - 358
LEGISLATIVE COUNCIL
Approp.....Ch.442 - 1414
Approp, additional, FY94.....Ch. 55 - 96
Approp, Juvenile Justice System, study comm.....Ch.390 - 1241
Approp, Legislative Services Office.....Ch.250 - 796
Insurance, Dept, study comm.....HCR 57 - 1538
Juvenile Justice System, study comm.....HCR 56 - 1538
Rules, administrative, federal statute, citation.....Ch.271 - 834
Snake River Basin Adjudication, study comm.....HCR 70 - 1546
Workers compensation, agricultural workers, study.....HCR 59 - 1541
LEGISLATIVE DISTRICTS
Fremont County, precinct boundary, visible feature.....Ch.397 - 1255
LEGISLATORS
See LEGISLATURE
LEGISLATURE
AFDC, child support, June Reid case, Post Falls.....SJM109 - 1502
Andrus, Cecil D., contributions to Idaho, recognized...HCR 71 - 1548
Approps, one-time, General Fund, limit, exempt.....Ch.338 - 1074
Aquifer recharge, beneficial nature, recognized.....SJM116 - 1508
Aquifer recharge, beneficial use, policy recommended...SCR140 - 1524
Auditor, State, title change to State Controller.....SJR109 - 1493
Budget Address, Governor.....HCR 42 - 1530
Canadian barley/wheat shipments, tariffs imposed.....SJM110 - 1503
Children, commitment to, obligation to.....SCR139 - 1523

LEGISLATURE (Continued) Chapter - Page
County government, optional forms, electors approve....HJR 17 - 1499
Crapo, Mike, Congressman, commended, reform measures...SJM108 - 1502
Crime victims, rights, constitutional, 10, provided....HJR 16 - 1498
Employees/state, cost of living, 5.38% increase, FY95..HCR 58 - 1539
Evans, Jerry L. contributions/education, recognized....HCR 66 - 1544
Executive officers, Ada County/residency, term/office..HJR 24 - 1500
Family, Year of, 1994, designated.....HCR 45 - 1531
Federal cropland set-aside, water rights, transfer.....HJM 14 - 1516
Health care, access, rural/medically underserved.....SCR121 - 1518
Henry's Fork Watershed Council/Charter, recognized.....HCR 52 - 1535
Indian Tribes-State, compact negotiations, lottery.....SCR146 - 1528
Insurance, Dept, legislative study comm.....HCR 57 - 1538
Juvenile Justice System, legislative study comm.....HCR 56 - 1538
Lake level, minimum, Bear Lake.....SCR129 - 1520
Literacy Week, 9/4-10/94, Workplace Productivity Year..HCR 46 - 1532
Mail-order business, sales tax allowed.....HJM 13 - 1514
McGruff House, safe house program for children.....SCR138 - 1522
Motor carriers, insurance, PUC rule, amended.....HCR 60 - 1542
Motorcycle helmet law/federal, mandate, noncompliance..SJM115 - 1507
Public Health Dist, rules, fees, food inspection.....SCR126 - 1519
Public Lands Week, May 9, 1994, designated.....HCR 49 - 1533
Railroad retirement system, federal commitment.....HJM 10 - 1511
Restaurant, defined, Law Enforcement, rule, amended....SCR141 - 1526
Safe Drinking Water Act, federal amendments supported..SJM112 - 1504
Salmon, critical habitat designation, moratorium.....HJM 9 - 1510
Schools, nonpublic, federal intervention, resist.....SJM114 - 1506
Snake River Basin Adjudication, legislative study.....HCR 70 - 1546
State of Budget Address.....HCR 42 - 1530
State of State Address.....HCR 41 - 1530
Streamflow, minimum, Pack River, Bonner County.....SCR127 - 1520
Taiwan, full participation United Nations.....SCR135 - 1521
Vietnam, trade embargo, lifted, rescind action.....HJM 11 - 1513
Water quality standards, H&W, Dept, rule amended.....HCR 50 - 1534
Water rights, Musser v. Higginson, rehearing petition..HCR 61 - 1543
Water rights, transfer, federal cropland set-aside.....HCR 67 - 1545
Workers compensation, agricultural workers/inclusion...HCR 59 - 1541
LEVIES
See TAX AND TAXATION, PROPERTY
LEWIS-CLARK STATE COLLEGE
See COLLEGES AND UNIVERSITIES
LIABILITY
Limited, companies/partnerships, name, fees.....Ch.405 - 1272
Limited, companies, merger, corporations, procedure....Ch.293 - 916
LIBRARIES
Law, approp.....Ch.335 - 1066
State, Bd, approp.....Ch.261 - 810
LICENSES
Architects, exam, fee, amount.....Ch. 17 - 32
Beer, keg, fee, increased.....Ch. 13 - 20
Concealed weapon, background check, exempt, when.....Ch.431 - 1392
Cosmetology, issuance refusal, student loan default....Ch.351 - 1111
Dietitians, requirements.....Ch.217 - 674

LICENSES (Continued) Chapter - Page
Drivers, minor, UNDER 21, boldly printed.....Ch. 85 - 200
Drivers, motorcycle endorsement.....Ch.234 - 728
Drivers, suspension, DUI, hearings, reinstatement.....Ch.357 - 1117
Electrologist/esthetician instructor, requirements.....Ch.312 - 988
Engineers, corporate, internal use only, exemption.....Ch.356 - 1115
F&G, fishing, hunting, resident, definition clarified..Ch. 26 - 41
F&G, hunting, 8th class, archery education.....Ch. 84 - 198
Farm produce, dealers, fees, increased.....Ch. 97 - 222
Funeral establishment, crematory, required.....Ch.105 - 234
Furbuyer, nonresident, fees.....Ch.341 - 1077
Gas, distributor, fee, deleted.....Ch. 41 - 69
Liquor, issuance, eligibility criteria, revised.....Ch. 14 - 20
Liquor, split ownership facility.....Ch.432 - 1396
Livestock market/public, redefined.....Ch.314 - 998
Money transmission business, required.....Ch.410 - 1282
MV, fees, distribution, State Highway Acct.....Ch.246 - 766
MV, plates, disabled person, unauthorized use.....Ch.264 - 813
MV, plates, old timer/classic, renewal/fees/no.....Ch.313 - 996
MV, plates, radio amateur, fees, revised.....Ch.278 - 865
Occupational Licenses, Bureau of, grace period.....Ch. 15 - 28
Photographers, makeover/glamour, requirements.....Ch.312 - 988
Potato Com, agreements, violations, attorney fees.....Ch. 48 - 78
Psychologists, exam, fee, amount.....Ch. 16 - 31
Real estate appraiser, Transportation/employee/exempt..Ch. 71 - 148
Seed dealers, sales, licensure, each separate.....Ch. 50 - 88
Social worker, renewal, continuing education.....Ch.139 - 311
Taxidermists, nonresident, fee.....Ch.399 - 1262
Winery, importers, required.....Ch.244 - 763
LIENS
MV, title, cancelled, notice, Transportation Dept.....Ch.297 - 941
Tax, notarization, signature/seal, fax, permitted.....Ch. 42 - 70
Tax, property, perpetual, continuous.....Ch. 74 - 155
LIEUTENANT GOVERNOR
Approp.....Ch.204 - 636
Approp.....Ch.442 - 1414
Salary, adjusted, SB1602, approp.....Ch.392 - 1242
Salary, adjusted, term/1995.....Ch.435 - 1398
LIFE INSURANCE
See INSURANCE
LIQUOR
See also BEER, WINE
Beer, keg, fee, increased.....Ch. 13 - 20
Beer, wine, retailers, aid/certain, dealers.....Ch.361 - 1131
Dispensary, State, approp.....Ch.197 - 629
DUI, blood alcohol content, .02-.10, person/21.....Ch.422 - 1322
DUI, blood alcohol content, .20/more, penalties.....Ch.421 - 1316
DUI, license suspension, hearings, reinstatement fee...Ch.357 - 1117
DUI, prisoner, work detail program, when.....Ch.148 - 336
Fund, moneys transferred to Budget Reserve Fund.....Ch.388 - 1240
Intoxication, public place, repealed.....Ch.143 - 316
License, issuance, eligibility criteria, revised.....Ch. 14 - 20
License, split ownership facility.....Ch.432 - 1396

LIQUOR (Continued) Chapter - Page
Low proof spirit beverages, alcohol content 14%.....Ch.266 - 823
Wine, minors, handle/possess, allowed, when.....Ch. 60 - 119
Winery, licensed, importer's license required.....Ch.244 - 763
LITERACY
Week, 9/4-10/94, Workplace Productivity Year.....HCR 46 - 1532
LITTER
Property, public/private, public service, clean up.....Ch.119 - 269
LIVESTOCK
Brands, recording period/5 year, renewal required.....Ch.101 - 229
Cruelty to animals, laws, recodification.....Ch.346 - 1089
Farms/cervidae (elk), disease prevention/inspection....Ch. 73 - 151
Farms/ratite (emu), disease prevention/inspection.....Ch. 72 - 149
Horses/police, injure/kill, penalties.....Ch.157 - 356
Market, public, redefined, licensure.....Ch.314 - 998
Pests/agricultural, animals/insects classify/control...Ch. 80 - 182
Rangeland Resources Com, created.....Ch.374 - 1203
Taylor Grazing Act, Range Improvement Fund, moneys.....Ch.249 - 793
LOANS
Student, defaulter, cosmetology license, nonissuance...Ch.351 - 1111
LOBBYISTS AND LOBBYING
Campaign expenditures statement, filed, when.....Ch. 54 - 93
Sunshine law, reporting, nonbusiness entity, defined...Ch. 5 - 6
LOGGING
Tree harvest, solicitation, to halt/impede, felony.....Ch.214 - 672
LOTTERIES
Com, approp.....Ch.226 - 714
Com, approp, additional, FY94.....Ch. 3 - 5
Com, bingo, raffles, duck races, regulate.....Ch.281 - 874
Moneys, School Dist Building Acct, ADA, distribution...Ch.345 - 1088
Revenues, Indian Tribes-State Compact, negotiations....SCR146 - 1528
MAGISTRATES
See COURTS, JUDGES
MAIL AND MAILING
Letters, packages, sealed, unlawful to open.....Ch.167 - 374
List, telephone, distribute, utility company.....Ch.398 - 1261
Mail-order business, sales tax allowed.....HJM 13 - 1514
Pharmacies, out-of-state, license requirements.....Ch.348 - 1104
MAIL ORDER
Businesses, sales tax allowed.....HJM 13 - 1514
Pharmacies, out-of-state, license requirements.....Ch.348 - 1104
MANDATES
Environmental, state/local agreements.....Ch.162 - 369
Motorcycle helmet law/federal, noncompliance sanction..SJM115 - 1507
MANUFACTURED HOMES
See MOBILE HOMES
MAPS
Future acquisitions, designated, time period extended..Ch. 90 - 206
MARIJUANA
Possession, minor, penalty, jurisdiction.....Ch.414 - 1302
MARRIAGE
Solemnization of, federal judge.....Ch. 7 - 11

MEDICAID ASSISTANCE Chapter - Page
See PUBLIC ASSISTANCE, MEDICAL
MEDICAL
Assistance, adoption, children/special needs, compact..Ch. 69 - 141
Assistance, H&W, Dept, recovery, age/55/over, when.....Ch.329 - 1059
Care Savings Acct, income tax deduction.....Ch.186 - 606
Emergency, technicians, DNR, do not resusitate order...Ch.298 - 941
Health care, access, rural/medically underserved.....SCR121 - 1518
Health care, providers, cooperative agreements.....Ch.283 - 883
Medicaid, inmate, jail, medical expenses, rate.....Ch.362 - 1135
Terminally ill, care, do not resuscitate orders.....Ch.298 - 941
MEDICAL ASSISTANCE
See PUBLIC ASSISTANCE, MEDICAL
MEDICARE
Supplement insurance, attained age rating.....Ch.403 - 1268
MEDICINE
Bd, approp.....Ch.156 - 353
Terminally ill, do not resuscitate orders, DNR.....Ch.298 - 941
MEMORIALS
AFDC, child support, June Reid case, Post Falls.....SJM109 - 1502
Aquifer recharge, beneficial nature, recognized.....SJM116 - 1508
Canadian barley/wheat shipments, tariffs imposed.....SJM110 - 1503
Crapo, Mike, Congressman, commended, reform measures...SJM108 - 1502
Federal cropland set-aside, water rights, transfer.....HJM 14 - 1516
Mail-order business, sales tax allowed.....HJM 13 - 1514
Motorcycle helmet law/federal, mandate, noncompliance..SJM115 - 1507
Railroad retirement system, federal commitment.....HJM 10 - 1511
Safe Drinking Water Act, federal amendments supported..SJM112 - 1504
Salmon, critical habitat designation, moratorium.....HJM 9 - 1510
Schools, nonpublic, federal intervention, resist.....SJM114 - 1506
Vietnam, trade embargo, lifted, rescind action.....HJM 11 - 1513
MENTAL ILLNESS
Retardation, sterilization, involuntary, petitions.....Ch.177 - 415
MILITARY AND MILITIA
Absentee voting, uniformed overseas citizens.....Ch.122 - 271
Div, approp.....Ch.196 - 628
National Guard, women, combat positions.....Ch.343 - 1079
U.S.A.F. Training Range, wildlife biologist, effect....Ch.378 - 1215
MINES AND MINING
Abandoned Hardrock, Reclamation Act.....Ch.220 - 702
Miners/underground, 10 hours day/40 hour week/1 year...Ch.367 - 1179
Triumph, Remediation Project, approp, Lands, Dept.....Ch.168 - 378
MINORS
See CHILDREN, JUVENILES
MOBILE HOMES
Manufactured homes, real property, reversal, recorded..Ch. 76 - 171
Park, uniform building code, exemption, variance.....Ch.245 - 764
Siting, single-family residential areas, allowed.....Ch.212 - 668
Trailer house, rental, smoke detector, required.....Ch.418 - 1308
MONUMENTS
Right-of-way, setting, procedures.....Ch.364 - 1139

MORTGAGES Chapter - Page
Guaranty insurance, 97% fair market value.....Ch.334 - 1065
MORTICIANS
Advertising, name/nonemployee, use prohibited.....Ch. 95 - 218
Director, death certificate, failure to sign.....Ch.323 - 1027
Funeral requirements, code references included.....Ch.105 - 234
MOTOR CARRIERS
Insurance, PUC, rule, amended.....HCR 60 - 1542
MOTOR FUELS
See FUELS
MOTOR VEHICLES
See also DRIVERS
All terrain vehicles, registration stickers, fees.....Ch.288 - 907
Commercial, fees/operating, failure/pay, penalty.....Ch.291 - 911
Commercial, fees/use, accrued, quarterly report.....Ch.320 - 1021
Driver training courses, standards, temporary permit...Ch.347 - 1098
Driver training school/commercial, exclusions.....Ch.163 - 371
Driver training school/commercial, instructors.....Ch.347 - 1098
Driver training school, public school, MV, use tax.....Ch.376 - 1209
Driver, fleeing, police officer, penalties.....Ch.165 - 373
Drivers license, minor, UNDER 21, boldly printed.....Ch. 85 - 200
Drivers license, motorcycle endorsement.....Ch.234 - 728
DUI, blood alcohol content, .02-.10, person/21.....Ch.422 - 1322
DUI, blood alcohol content, .20/more, penalties.....Ch.421 - 1316
DUI, license suspension, hearings, reinstatement fee...Ch.357 - 1117
DUI, prisoner, work detail program, sheriff, when.....Ch.148 - 336
Highway use fees, multijurisdictional agreements.....Ch.311 - 977
License plates, old timer/classic, renewal/fees/no.....Ch.313 - 996
License plates, radio amateur, fees, revised.....Ch.278 - 865
License, fees, distribution, State Highway Acct.....Ch.246 - 766
Manufacturers, coerce dealers, ad campaigns.....Ch.317 - 1015
Motor carriers, insurance, PUC rule, amended.....HCR 60 - 1542
Off-highway vehicle, registration stickers, fees.....Ch.288 - 907
Old timer/classic, inspection certificate, deleted.....Ch.313 - 996
Parking, space, disabled person, unauthorized use.....Ch.264 - 813
Parking, space, handicapped person, redefined.....Ch.264 - 813
Public transportation service, regional authority.....Ch.327 - 1052
Salvage-certified vehicle, rebuilt, title/branded.....Ch.296 - 933
Title, certificate, ownership transfer, inheritance....Ch. 70 - 147
Title, lien, cancelled, notice, Transportation Dept....Ch.297 - 941
Trucks/tow, wreckers, PUC regulations, exempt.....Ch.238 - 748
Trucks, refuse/sanitation, axle gross load, weights....Ch.321 - 1025
Vehicular manslaughter, death/parent, child support....Ch.413 - 1301
MOTORBIKES
Fees, registration sticker/transfer, increased.....Ch.288 - 907
MOTORCYCLES
Endorsement, MV drivers license.....Ch.234 - 728
Helmet law/federal, noncompliance sanctions, repeal....SJM115 - 1507
MULES
See ANIMALS
MUSEUMS
Nonprofit, contributions, income tax credit.....Ch.211 - 667

NATIONAL GUARD Chapter - Page
Women, combatant positions, restriction removed.....Ch.343 - 1079
NATIVE AMERICANS
College, tuition, residency status.....Ch.140 - 312
Compact, State-Tribes, lottery revenues, negotiations..SCR146 - 1528
NEWSPAPERS
Notices, legal, publication, qualifications.....Ch.192 - 621
NORTH IDAHO COLLEGE
See COLLEGES AND UNIVERSITIES
NOTARIES
Public, employee/state, state post bond, when.....Ch.145 - 324
NOTICES
Legal, publication, newspaper, further defined.....Ch.192 - 621
NURSES AND NURSING
Anesthetist, definition included.....Ch.232 - 723
Bd, approp.....Ch.156 - 353
NURSING HOMES
Operator, bequest/devise, undue influence assumed.....Ch.350 - 1110
OCCUPATIONAL LICENSES BUREAU
Agencies, list, services provided, updated.....Ch. 15 - 28
Approp.....Ch.156 - 353
Architects, licensure, exam, fee, amount.....Ch. 17 - 32
Psychologists, licensure, exam, fee, amount.....Ch. 16 - 31
OFFICERS
Elective/state, salaries, adjusted, SB1602, approp.....Ch.392 - 1242
Elective/state, salaries, adjusted, term/1995.....Ch.435 - 1398
Executive, Ada County/residency, term/office, delete...HJR 24 - 1500
OFFICIALS
Public, conflict/interest, contracts, interest in.....Ch.332 - 1063
OIL
Recycled, lubricants, container label, requirements....Ch.425 - 1333
OPTOMETRY AND OPTOMETRISTS
Bd, approp.....Ch.156 - 353
ORDINANCES
Nuisance, agricultural operation, right to farm.....Ch.107 - 238
ORGANIZATIONS
Charitable, bingo, duck races, raffles, regulations....Ch.281 - 874
Charitable, fraternal, not food establishments.....Ch.138 - 310
OUTFITTERS AND GUIDES
Licensing Bd, approp.....Ch.156 - 353
PACIFIC NORTHWEST
Economic Region Organization, members, how chosen.....Ch.416 - 1305
PARDONS AND PAROLE
Com, approp.....Ch.387 - 1237
Com, approp, Correction, Dept, intent.....Ch.389 - 1240
Com, meetings, reports, procedures, revised.....Ch.171 - 382
PARENTS
Family, Year of, 1994, designated.....HCR 45 - 1531
PARI-MUTUEL WAGERING
Dog racing, deposits, distribution.....Ch.325 - 1044
PARKING
Handicapped, space, unathorized use, penalties.....Ch.264 - 813

PARKS AND RECREATION Chapter - Page
Dept, approp.....Ch.195 - 625
Dept, approp.....Ch.391 - 1241
Dept, approp.....Ch.442 - 1414
Dept, approp, additional, FY94.....Ch. 8 - 11
Dept, approp, Ashton to Tetonia "Rails to Trails".....Ch.195 - 625
Dept, office building/construction, refinancing.....Ch.339 - 1075
Dept, Waterways Improvement Fund Advisory Comm.....Ch. 68 - 140
Trust Fund, balance, Oregon Trail reenactment/intent...Ch.103 - 232
PARTNERSHIPS
Limited liability companies, name, fees.....Ch.405 - 1272
PATERNITY
Fathers/putative, adoption, parental rights.....Ch.393 - 1243
Voluntary acknowledgment, blood test, child support....Ch.237 - 746
PEACE OFFICERS
See POLICEMEN
PERMANENT BUILDING ACCOUNT
Approp.....Ch. 47 - 77
Approp.....Ch.200 - 630
Asbestos Abatement Projects, approp.....Ch.200 - 630
BSU, Multi-purpose Classroom Bldg, approp.....Ch. 47 - 77
CSI, Library/Academic Center, approp.....Ch. 47 - 77
EITC, Classroom/Lab Bldg, approp.....Ch. 47 - 77
EPA Green Lights Program, approp.....Ch.200 - 630
F&G, Dept, construction projects, approp.....Ch.200 - 630
Historical Society Library/Archives, planning, approp..Ch. 47 - 77
Historical Society Library/Archives, planning, approp..Ch. 47 - 77
ISU/Physical Science Bldg, approp.....Ch. 47 - 77
LCSC, Centennial Mall, approp.....Ch.200 - 630
LCSC, Classroom/Lab facility, approp.....Ch. 47 - 77
NIC/Library/Lee Hall, renovation, approp.....Ch. 47 - 77
NICI-Cottonwood, approp.....Ch.200 - 630
Public Works, Div, Correction, Dept, approp.....Ch.385 - 1234
SICI-Boise, approp.....Ch.200 - 630
Transportation Dept, construction projects, approp.....Ch.200 - 630
Underground Storage Tank Programs, approp.....Ch.200 - 630
UofI, Engineering/Physics space renovation, approp.....Ch. 47 - 77
PERMITS
Bird of prey capture/nonresident.....Ch.118 - 267
Controlled hunts, credit card/telephone order.....Ch. 82 - 190
Drivers, temporary, driver training courses.....Ch.347 - 1098
Water rights, application fee to approp, increased.....Ch. 64 - 121
PERSONNEL COMMISSION
Approp.....Ch.256 - 800
PESTICIDES
Regulation, state, uniformity.....Ch.102 - 231
PESTS
Agricultural, prey upon livestock, classify/control....Ch. 80 - 182
Control Deficiency Fund, approp, FY94, Lands, Dept.....Ch. 12 - 19
Control Fund, Agriculture, Dept, approp, add'l/FY94....Ch. 24 - 38
PETROLEUM
Underground Storage Tank Technician Bd, membership.....Ch.412 - 1301
Underground Storage Tanks Program, approp.....Ch.200 - 630

PHARMACIES AND PHARMACISTS Chapter - Page
Bd, approp.....Ch.156 - 353
Out-of-state, mail service, license requirements.....Ch.348 - 1104
PHOTOGRAPHERS
Makeover, glamour, business, licensure.....Ch.312 - 988
PHYSICIANS AND SURGEONS
Certificates, birth/death, failure to sign.....Ch.323 - 1027
Terminally ill person, DNR/do not resuscitate order....Ch.298 - 941
PLANNING AND ZONING
Low-cost housing, uniform building code, exemption.....Ch.245 - 764
Manufactured homes, single-family residential area.....Ch.212 - 668
Map, future acquisition, land designated, time period..Ch. 90 - 206
PLATS AND VACATIONS
Highway right-of-way, fees/copying, county recorder....Ch.364 - 1139
Recorded, county treasurer, certify, taxes paid.....Ch. 79 - 181
POLICEMEN
See also LAW ENFORCEMENT
Domestic disturbance, parties subject to arrest.....Ch.318 - 1019
MV, driver, fleeing, attempt/elude, penalties.....Ch.165 - 373
Police dogs/horses, injuring/tormenting, penalties.....Ch.157 - 356
POST Account, self-sponsored students, training.....Ch.191 - 620
POST, fee, increase, persons guilty, violations.....Ch.193 - 623
Scholarships, dependents, restriction deleted.....Ch.417 - 1307
POLITICAL PARTIES
Campaign expenditures statement, filed, when.....Ch. 54 - 93
Contributions, reports, timing requirements, revised...Ch.379 - 1218
Sunshine law, reporting, nonbusiness entity, defined...Ch. 5 - 6
POLLUTION
See ENVIRONMENT
PORT DISTRICTS
Public park/recreation areas, construct/operate.....Ch.114 - 261
POSTAL SYSTEM
Mail, sealed, letters/packages, unlawful to open.....Ch.167 - 374
POTATOES
See AGRICULTURE
PRECINCTS
Boundaries, Fremont County, "visible feature".....Ch.397 - 1255
PRINTING
State, Administration, Dept, oversight removed.....Ch. 1 - 3
PRISONERS
DUI, work detail program, sheriff/county, when.....Ch.148 - 336
Female, care of, laws, certain, repealed.....Ch. 37 - 56
Jail, county, confinement cost, nonemployment days.....Ch. 28 - 45
Jail, county, medical expenses, medicaid rate.....Ch.362 - 1135
Jail, county, medical service fee, doctor/pharmacy.....Ch.213 - 671
Parole, revocation hearing, procedures revised.....Ch.171 - 382
Sexual assault charge, hepatitus B virus tests.....Ch.408 - 1278
Sexual assault charge, HIV tests, results, released....Ch.408 - 1278
PRISONS
See CORRECTIONAL INSTITUTIONS
PROPERTY
See also TAX AND TAXATION, PROPERTY
County, lease, time period, use, Industrial Park.....Ch.158 - 358

PROPERTY (Continued) Chapter - Page
Forfeiture, Controlled Substances Act, sale, manner....Ch.395 - 1250
Littering, public/private, public service, clean up....Ch.119 - 269
Personal, tax, delinquent, distraint warrant, fee.....Ch. 57 - 98
Private, regulatory takings, guidelines.....Ch.116 - 265
Real, manufactured home, reversal declaration.....Ch. 76 - 171
Real, mortgage guaranty insurance, 97% market value....Ch.334 - 1065
Residential, seller, disclose defects, required.....Ch.366 - 1172
Subdivision lots, 6 or more, valuation, time, sale.....Ch.401 - 1264
Tax, ad valorem, circuit breaker, amount clarified.....Ch.221 - 705
Tax, ad valorem, credit, highway/public, maintenance...Ch.319 - 1020
Tax, ad valorem, exempt, revocable trust beneficiary...Ch.373 - 1200
Tax, ad valorem, levy, error, deadline, payment.....Ch. 59 - 117
Tax, ad valorem, reduction, spouse file claim, when....Ch.120 - 270
Tax, FHA inventory property.....Ch.117 - 266
Tax, liens, perpetual, continuous.....Ch. 74 - 155
Unclaimed, general principles of application.....Ch.124 - 282
PROPERTY TAX
See TAX AND TAXATION, PROPERTY
PROSECUTING ATTORNEYS
See ATTORNEYS
PROSTITUTION
Trafficking in, laws, certain, penalties increased.....Ch.130 - 291
PSYCHOLOGISTS
Licensure, exam, fee, amount.....Ch. 16 - 31
PUBLIC ASSISTANCE
AFDC, child support, June Reid case, Post Falls.....SJM109 - 1502
AFDC, debt, collection, not from recipient parent.....Ch.289 - 909
AFDC, payments, amount, conditions removed.....Ch.287 - 906
Medicaid, inmate, jail, medical expenses, rate.....Ch.362 - 1135
Medical, H&W, Dept, recovery, age/55/over, when.....Ch.329 - 1059
PUBLIC BROADCASTING
Approp, Education, Bd.....Ch.260 - 810
PUBLIC EMPLOYEES RETIREMENT SYSTEM
See RETIREMENT
PUBLIC UTILITIES
See UTILITIES
PUBLIC UTILITIES COMMISSION
See UTILITIES
PUBLIC WORKS
Contractors License Bd, approp.....Ch.156 - 353
Div, approp, Correction, Dept, projects.....Ch.385 - 1234
Div, Parks & Recreation, Dept, office building.....Ch.339 - 1075
PUBLICATIONS
State, printing, Administration, Dept, oversight.....Ch. 1 - 3
PUPILS
See STUDENTS
PURCHASING
Div, bids, significant Idaho economic presence.....Ch.242 - 760
RACING
Com, approp.....Ch.257 - 800
Dog, pari-mutuel, deposits, distribution.....Ch.325 - 1044

RADIO Chapter - Page
Amateur, MV license plates/special, fees, revised.....Ch.278 - 865
RAFFLES
Bingo, duck races, Lottery Com, regulate.....Ch.281 - 874
RAILROADS
Crossing Protection Acct, moneys to, increased.....Ch.315 - 1001
Crossing, stop sign/no, engineering study required.....Ch.315 - 1001
Property, malicious injury to, car parts/theft of.....Ch.263 - 812
Retirement system, federal commitment requested.....HJM 10 - 1511
RANGE
Forest, Wildlife Policy Analysis Group, duties.....Ch.194 - 623
Improvement Fund, Taylor Grazing Act, moneys, use.....Ch.249 - 793
Rangeland Resources Com, created.....Ch.374 - 1203
RAPE
Female, further defined.....Ch. 83 - 197
Obsolete references, "lunacy", deleted.....Ch.135 - 307
REAL ESTATE
Appraiser, licensure, Transportation Dept employees....Ch. 71 - 148
Broker, fees split, professional service corporation...Ch.330 - 1060
Com, approp.....Ch.156 - 353
Residential, property condition disclosure/defects.....Ch.366 - 1172
Transactions, disabled person, discrimination/no.....Ch.268 - 825
REAL PROPERTY
See PROPERTY
RECORDERS
County, fees, highway right-of-way plats, copying.....Ch.364 - 1139
RECORDS
Electric/natural gas suppliers, pumping data, PUC.....Ch.429 - 1381
Financial, utilities, drug cases, subpoena.....Ch.358 - 1125
Public, firearms sale, background check, open.....Ch.368 - 1180
Public, juvenile, guilty/felony, name disclosure.....Ch.326 - 1046
Public, mailing/telephone lists, utility company.....Ch.398 - 1261
Student, transferred, disciplinary action recorded.....Ch.174 - 401
RECREATION
Areas, Port Dists, construct, operate, purchase.....Ch.114 - 261
Dists, claims against, procedures revised.....Ch. 53 - 92
Dists, directors, election, when not held.....Ch.328 - 1058
Dists, directors, election, write-in candidate.....Ch.328 - 1058
Outdoor, property, city annexation, conditions.....Ch.375 - 1208
RECREATIONAL VEHICLES
All terrain, motorbikes, fees, registration sticker....Ch.288 - 907
RECYCLING PROGRAMS
Highway construction, recycled material, encourage.....Ch.409 - 1280
Oil, recycled, lubricants, container/label.....Ch.425 - 1333
Waste/postconsumer, equipment utilizing, tax credit....Ch.342 - 1077
REFERENDUMS
Attorney General, review, time period, increased.....Ch.400 - 1263
County, signatures required, time limits.....Ch.372 - 1197
RENTERS
Smoke detectors, landlord provide, each unit.....Ch.418 - 1308
RESIDENTIAL CARE FACILITY
Adult foster care home, certification, inspections.....Ch.284 - 887
Operator, bequest/devise, undue influence assumed.....Ch.350 - 1110

RESOLUTIONS, CONCURRENT Chapter - Page
Andrus, Cecil D., contributions to Idaho, recognized...HCR 71 - 1548
Aquifer recharge, beneficial use, policy recommended...SCR140 - 1524
Children, commitment to, obligations to.....SCR139 - 1523
Employees/state, cost of living, 5.38% increase/FY95...HCR 58 - 1539
Evans, Jerry L., contributions/education, recognized...HCR 66 - 1544
Family, Year of, 1994, designated.....HCR 45 - 1531
Health care, access, rural/medically underserved.....SCR121 - 1518
Henry's Fork Watershed Council/Charter, recognized.....HCR 52 - 1535
Indian Tribes-State, compact negotiations, lottery.....SCR146 - 1528
Insurance, Dept, legislative study comm.....HCR 57 - 1538
Juvenile Justice System, legilative study comm.....HCR 56 - 1538
Lake level, minimum, Bear Lake.....SCR129 - 1520
Literacy Week, 9/4-10/94, Workplace Productivity Year..HCR 46 - 1532
McGruff House, safe house program for children.....SCR138 - 1522
Motor carriers, insurance, PUC rule, amended.....HCR 60 - 1542
Public Health Dist, rules, fees, food inspection.....SCR126 - 1519
Public Lands Week, May 9, 1994, designated.....HCR 49 - 1533
Restaurant, defined, Law Enforcement, rule, amended....SCR141 - 1526
Snake River Basin Adjudication, legislative study.....HCR 70 - 1546
State of Budget Address.....HCR 42 - 1530
State of State Address.....HCR 41 - 1530
Streamflow, minimum, Pack River, Bonner County.....SCR127 - 1520
Taiwan, full participation, United Nations.....SCR135 - 1521
Water quality standards, H&W, Dept, rule amended.....HCR 50 - 1534
Water rights, Musser v. Higginson, rehearing petition..HCR 61 - 1543
Water rights, transfer, federal cropland set-aside.....HCR 67 - 1545
Workers compensation, agricultural workers/inclusion...HCR 59 - 1541
RESOLUTIONS, JOINT
Auditor, State, title change to State Controller.....SJR109 - 1493
County government, optional forms, electors approve....HJR 17 - 1499
Crime victims, rights, constitutional, 10, provided....HJR 16 - 1498
Executive officers, Ada County/residency, term/office..HJR 24 - 1500
RESTAURANTS
Definition, Law Enforcement, Dept, rule, amended.....SCR141 - 1526
RETIREMENT
Employment, Dept, plan, roll over, IRA acct.....Ch.210 - 665
PERSI, approp.....Ch.253 - 798
PERSI, approp, Phase III.....Ch.442 - 1414
PERSI, benefits, estimate, clarification.....Ch.209 - 658
PERSI, disabled, term, further defined.....Ch.411 - 1296
PERSI, phase IV, eliminate.....Ch.276 - 856
PERSI, state institution enrollee, not eligible.....Ch.209 - 658
Railroad, system, federal commitment requested.....HJM 10 - 1511
REVENUE
Revenue & Taxation, Dept, approp.....Ch.307 - 961
Taxation, Dept, approp.....Ch.442 - 1414
Taxation, Dept, approp, additional, FY94.....Ch. 23 - 37
REVENUE AND TAXATION
See REVENUE, TAX AND TAXATION
RIVERS
Boise/Lower, Water Quality Plan, approp, FY94, intent..Ch. 92 - 208
Henry's Fork Watershed Council/Charter, recognized.....HCR 52 - 1535

RIVERS (Continued) Chapter - Page
Pack, minimum streamflow, Bonner County.....SCR127 - 1520
Payette, Basin, water rights transfer, see H989.....Ch.452 - 1441
Snake, Basin adjudication, AG/office, approp, addl/94..Ch. 62 - 120
Snake, Basin adjudication, claims, filing, deadline....Ch. 63 - 121
Snake, Basin adjudication, legislative study comm.....HCR 70 - 1546
Snake, Basin adjudication, Musser v. Higginson/rehear..HCR 61 - 1543
Snake, Basin adjudication, provisions revised.....Ch.454 - 1443
Snake, Basin Adjudication, provisions revised/HB969....Ch.455 - 1478
Snake, Basin adjudication, Water Resources, approp.....Ch.169 - 380
Snake, Basin, water rights application, moratorium.....Ch.449 - 1433
Snake, salmon migration, rental/augment river flows....Ch.452 - 1441
Snake, salmon, critical habitat, moratorium.....HJM 9 - 1510
Snake, stream reaches, protected designation.....Ch.108 - 239
Stream channel alteration, violations, penalty.....Ch.292 - 912
ROADS
Maintenance, Highway Dists, approp, line item VETO.....Ch.231 - 721
RULES
Administrative, certain, continue July 1, 1995.....Ch.394 - 1249
Administrative, proposed, federal statute, citation....Ch.271 - 834
Administrative, requirements/costly/certain, revised...Ch.371 - 1194
Education, Bd, public schools, sunset/rewrite.....Ch.448 - 1432
Education, Bd, rewrite, thorough education.....Ch.448 - 1432
H&W, Dept, water quality standards, amended.....HCR 50 - 1534
Insurance, Dept, APA compliance.....Ch.310 - 976
Law Enforcement, Dept, restaurant, defined, amended....SCR141 - 1526
Public Health Dist, fees, food inspection.....SCR126 - 1519
PUC, motor carriers, insurance requirements, amended...HCR 60 - 1542
SALARIES
Elective officers/state, adjusted, SB1602, approp.....Ch.392 - 1242
Elective officers/state, adjusted, term/1995.....Ch.435 - 1398
Employees/state, compensation ranges/benchmark.....Ch.272 - 836
Employees/state, cost of living, 5.38% increase, FY95..HCR 58 - 1539
Tax Com, increased.....Ch.434 - 1398
Tax Com, increased, SB1601, approp.....Ch.392 - 1242
Teachers, salary-based apportionment, calculation.....Ch.428 - 1368
SALES
Firearms, background check, public records, open.....Ch.368 - 1180
Handgun, background check/toll-free call, Brady Bill...Ch.377 - 1210
SALES TAX
See TAX AND TAXATION, SALES
SCHOLARSHIPS
See STUDENTS
SCHOOL DISTRICTS
Building Acct, lottery moneys, ADA, distribution.....Ch.345 - 1088
Elections, absentee ballot, 28 days prior.....Ch.161 - 368
Elections, Trustees, Bd, candidate withdrawal/ballot...Ch.164 - 372
Elections, Trustees, Bd, one nomination, no election...Ch.160 - 367
Employees, noncertificated, health insurance.....Ch.282 - 883
Levy, Plant Facilities Reserve Fund, % votes needed....Ch.299 - 946
Performance measurements, uniform reporting.....Ch.175 - 402
Superintendent of Public Instruction, qualifications...Ch.277 - 864

SCHOOL DISTRICTS (Continued) Chapter - Page
Support Program, adjusted market value, determine.....Ch.316 - 1008
Support Program, exceptional child tuition.....Ch.440 - 1409
Support Program, funding formula, revised.....Ch.428 - 1368
Teachers, salary-based apportionment, calculation.....Ch.428 - 1368
Thorough system of public schools, defined.....Ch. 25 - 38
Trustee zones, redefine, when, membership.....Ch.182 - 599
Trustees, contracts, award, direct/indirect interest...Ch.300 - 947
SCHOOLS
Bd, Trustees, contracts/award, interest in.....Ch.300 - 947
Children, commitment/obligations to.....SCR139 - 1523
Education, Bd, rules, rewrite, thorough education.....Ch.448 - 1432
Education, Bd, rules, sunset/rewrite/intent.....Ch.448 - 1432
Elementary, counselors, social workers, requirement....Ch.443 - 1424
Evans, Jerry L., contributions/education, recognized...HCR 66 - 1544
Nonpublic, federal intervention, resist.....SJM114 - 1506
Performance measurements, uniform reporting.....Ch.175 - 402
Private, courses/study, Education/Bd, prescribe/not....Ch.333 - 1064
Public, Income Fund, approp.....Ch.456 - 1491
Public, Substance Abuse Prog, tobacco tax/10¢/pack.....Ch.447 - 1431
Student records/transfer, discipline action recorded...Ch.174 - 401
Superintendent of Public Instruction, qualifications...Ch.277 - 864
Support Program, adjusted market value/determination...Ch.316 - 1008
Support Program, exceptional child tuition.....Ch.440 - 1409
Support Program, funding formula, revised.....Ch.428 - 1368
Teachers, salary-based apportionment, calculation.....Ch.428 - 1368
Technology Initiative, 1994, Council, established.....Ch.229 - 716
Thorough system of public schools, defined.....Ch. 25 - 38
Weapons/concealed, juvenile, Youth Rehab Act.....Ch.150 - 344
SEALS
State, Great, authorship, Emma Edwards Green.....Ch.444 - 1425
SEARCH AND RESCUE OPERATIONS
Dogs, search/rescue, injuring/tormenting, penalties....Ch.157 - 356
SECRETARY OF STATE
Approp.....Ch.205 - 636
Approp.....Ch.442 - 1414
Office of, Ada County/residency, term/office, delete...HJR 24 - 1500
Salary, adjusted, SB1602, approp.....Ch.392 - 1242
Salary, adjusted, term/1995.....Ch.435 - 1398
SECURITIES
Registration, filed electronically, fees.....Ch.265 - 820
SEEDS
Pure, Law, dealers, sales, licensure, each separate....Ch. 50 - 88
SELF-GOVERNING AGENCIES
Approp.....Ch.156 - 353
Approp.....Ch.442 - 1414
Approp, additional, FY94.....Ch.156 - 353
Dept, agency list, updated.....Ch. 15 - 28
Lottery Com, approp.....Ch.226 - 714
SENIOR CITIZENS
Aging, Office on, approp.....Ch.235 - 744
SENTENCING
See COURTS

SEWERS Chapter - Page
Dist, elections, consolidation law.....Ch. 51 - 89
SEX
Assault, victim, person charged, hepatitus B, tests....Ch.408 - 1278
Assault, victim, person charged, HIV test, results.....Ch.408 - 1278
Rape, female, further defined.....Ch. 83 - 197
Rape, obsolete references, "lunacy", deleted.....Ch.135 - 307
Sexual disorders, cures, advertising, repealed.....Ch.137 - 310
SHERIFFS
County, garnishments, personal service, by mail.....Ch. 27 - 44
SHORTHAND REPORTERS
Bd, approp.....Ch.156 - 353
SMALL CLAIMS COURT
See COURTS
SMOKING
Substance Abuse Program/School, cigarette tax.....Ch.447 - 1431
SNAKE RIVER
See RIVERS
SOCIAL WORK
Bd, Examiners, continuing education, license renew.....Ch.139 - 311
Worker, elementary school counselor, requirement.....Ch.443 - 1424
SOLID WASTES
See WASTES
SPEED LIMITS
See HIGHWAYS, MOTOR VEHICLES
STAMPS
Cigarette tax, returned, when.....Ch. 43 - 71
STATE AFFAIRS
State Seal, authorship, Emma Edwards Green.....Ch.444 - 1425
STATE AGENCIES
Approp.....Ch.442 - 1414
Performance accountability, annual reporting.....Ch.420 - 1312
Printing, Administration, Dept, oversight removed.....Ch. 1 - 3
Regulatory takings/proposed, evaluate, AG guidelines...Ch.116 - 265
Strategic planning, Executive Budget, code reference...Ch.109 - 242
STATE HOSPITAL NORTH
See HOSPITALS
STATE HOSPITAL SOUTH
See HOSPITALS
STATE SCHOOL AND HOSPITAL
See HOSPITALS
STERILIZATION
Involuntary, evaluation comm, petitions, assessed.....Ch.177 - 415
STREAMS
See RIVERS
STUDENTS
Loan, defaulter, cosmetology license, nonissuance.....Ch.351 - 1111
Records, transferred, disciplinary action, recorded....Ch.174 - 401
Scholarships, firefighter/police officer dependent.....Ch.417 - 1307
Tuition, college/community, resident, increased.....Ch.179 - 418
Tuition, college, Native American, residency status....Ch.140 - 312
STUDIES
Insurance, Dept, legislative, comm.....HCR 57 - 1538

STUDIES (Continued) Chapter - Page
Juvenile Justice System, legislative, comm.....HCR 56 - 1538
Juvenile Justice System, legislative, comm, approp.....Ch.390 - 1241
Railroad crossings, stop signs/no, engineering study...Ch.315 - 1001
Snake River Basin Adjudication, legislative, comm.....HCR 70 - 1546
Workers compensation, agricultural workers/inclusion...HCR 59 - 1541
SUBDIVISIONS
Lots, 6 or more, valuation, time period sold.....Ch.401 - 1264
SUBPOENAS
Agriculture, Dept, director, issuance, authorized.....Ch. 96 - 219
SUICIDE
Assisted, mercy killing, not condone.....Ch.298 - 941
SUNSHINE LAW
See LOBBYISTS AND LOBBYING
SUPERINTENDENT OF PUBLIC INSTRUCTION
Ada County, residency, term/office, deleted.....HJR 24 - 1500
Approp.....Ch.437 - 1400
Approp.....Ch.442 - 1414
Educational qualifications, revised.....Ch.277 - 864
Evans, Jerry L., contributions/education, recognized...HCR 66 - 1544
Salary, adjusted, SB1602, approp.....Ch.392 - 1242
Salary, adjusted, term/1995.....Ch.435 - 1398
SUPREME COURT
See COURTS
TAIWAN
Republic of China, United Nations, full participation..SCR135 - 1521
TAX AND TAXATION
Assessment, delinquent, Irrigation Dist, tax deeds.....Ch.144 - 316
Assessment, information, Tax Com, Commerce, Dept.....Ch. 91 - 207
Assessment, levied, corporations/nonprofit, members....Ch.295 - 932
Assessment, manufactured home, reversal declaration....Ch. 76 - 171
Assessment, property, circuit breaker, amount.....Ch.221 - 705
Assessment, subdivision lots, 6 or more, valuation.....Ch.401 - 1264
Assessment, Television Translator Dists, each unit.....Ch.279 - 866
Bill of Rights, Taxpayer, technical corrections.....Ch.172 - 387
Cigarette, distribution, limited, approp amount.....Ch. 45 - 73
Cigarette, increased, 10¢/pack, Substance Abuse Prog...Ch.447 - 1431
Cigarette, stamps, returned, when.....Ch. 43 - 71
Com, liens, notarization, signature/seal, fax.....Ch. 42 - 70
Com, motor fuels tax, reciprocal agreements.....Ch.344 - 1080
Com, salaries, increased.....Ch.434 - 1398
Com, salaries, increased, SB1601, approp.....Ch.392 - 1242
Dist, fees, increase, advertisement required.....Ch.445 - 1427
Excise, gasoline/aircraft engine fuel, distributor.....Ch.166 - 373
Motor Fuels, Act, technical amendments.....Ch.344 - 1080
Revenue & Taxation, Dept, approp.....Ch.307 - 961
Revenue & Taxation, Dept, approp, add'l, FY94.....Ch. 23 - 37
Wine, revenues, Grape Growers/Wine Producers Acct.....Ch.243 - 762
TAX AND TAXATION, INCOME
Act, technical changes.....Ch. 39 - 57
Bill of Rights, Taxpayer, technical corrections.....Ch.172 - 387
Corporations/multistate, electrical/telephone.....Ch.301 - 948
Corporations, water's-edge basis, combined returns.....Ch.247 - 777

TAX AND TAXATION, INCOME (Continued) Chapter - Page
Credit, contribution, museums/nonprofit.....Ch.211 - 667
Credit, developmentally disabled dependent.....Ch.104 - 232
Credit, equipment utilizing postconsumer waste.....Ch.342 - 1077
Credit, wood burning stove, definition revised.....Ch.355 - 1114
Deduction, adoption, legal/medical expenses.....Ch.354 - 1114
Deduction, developmentally disabled, file own return...Ch.104 - 232
Deduction, medical care savings acct.....Ch.186 - 606
Internal Revenue Code, 1994, adopted.....Ch. 38 - 56
Withholding, employers, reporting requirements.....Ch. 40 - 66
TAX AND TAXATION, PROPERTY
Ad valorem, circuit breaker, amount, clarified.....Ch.221 - 705
Ad valorem, credit, public highway maintenance, when...Ch.319 - 1020
Ad valorem, exmeption, revocable trust beneficiary.....Ch.373 - 1200
Ad valorem, levy, error, deadline, payment.....Ch. 59 - 117
Ad valorem, liens, perpetual, continuous.....Ch. 74 - 155
Ad valorem, reduction, spouse file claim, when.....Ch.120 - 270
Bill of Rights, Taxpayer, technical corrections.....Ch.172 - 387
FHA inventory property.....Ch.117 - 266
Land/forest, tax, deferred/yield amounts, collection...Ch.370 - 1188
Levy, Ambulance Dist, County Com, authorized.....Ch. 52 - 90
Levy, County Justice Fund, general reserve approp,.....Ch. 4 - 5
Levy, School Reserve Fund, % votes needed.....Ch.299 - 946
Personal, delinquent, distraint warrant, fee.....Ch. 57 - 98
Subdivision lots, assess value, time, sale.....Ch.401 - 1264
Unclaimed Property Act, Trust Acct, balance.....Ch.124 - 282
TAX AND TAXATION, SALES
Act, technical amendments.....Ch.111 - 244
Aircraft, sale, lease, purchase, exemption, when.....Ch. 44 - 72
Mail-order business, out-of-state.....HJM 13 - 1514
School driver education, MV, use tax, exempt.....Ch.376 - 1209
TAXIDERMISTS
Furbuyer, nonresident, license, fees.....Ch.341 - 1077
Nonresident, license, fee.....Ch.399 - 1262
TEACHERS
Salary-based apportionment, School Dist, schedule.....Ch.428 - 1368
TELEPHONES
Corporations/multistate, income tax, formula.....Ch.301 - 948
Emergency, 911, services, multicounty basis.....Ch. 86 - 202
Harassment, telephone, use of, defined.....Ch.167 - 374
Lists, distribution, utility companies, when.....Ch.398 - 1261
Toll-free number, handgun sale, background check.....Ch.377 - 1210
Warrants, affidavits, oral/telephonic, procedure.....Ch.415 - 1304
TELEVISION
Translator Dist, assessment, per service unit.....Ch.279 - 866
THEFT
Grand, jurisdictional amount, value, increased.....Ch.132 - 301
TIRES
See MOTOR VEHICLES
TOBACCO
Cigarette tax, distribution, limited, approp amount....Ch. 45 - 73
Cigarette tax, stamps, returned, when.....Ch. 43 - 71
Possession, by minor, misdemeanor penalties.....Ch.133 - 305

TOBACCO (Continued) Chapter - Page
Tax, increased, School Substance Abuse Program.....Ch.447 - 1431
TORTS
Claims, filing, by minor, time.....Ch.349 - 1109
TOURISM
Assessments, information, Tax Com, Commerce, Dept.....Ch. 91 - 207
TRADE
Embargo, Vietnam, lifted, rescind action.....HJM 11 - 1513
TRAILER HOUSES
See MOBILE HOMES
TRAINS
See RAILROADS
TRANSPORTATION
Bd, highway use fees, multijurisdictional agreements...Ch.311 - 977
Dept, approp.....Ch.231 - 721
Dept, approp.....Ch.442 - 1414
Dept, approp, construction projects.....Ch.200 - 630
Dept, approp, roads/bridges, line item VETO.....Ch.231 - 721
Dept, employees, real estate appraiser, licensure.....Ch. 71 - 148
Dept, MV, title, lien, cancelled, notice required.....Ch.297 - 941
Highways, authority extended, within jurisdiction.....Ch.324 - 1039
Highways, local, jurisdiction needs, coordination.....Ch.280 - 867
Highways, Local, Technical Assistance Council.....Ch.280 - 867
Public, services, counties, establish, operate.....Ch.121 - 271
Public, services, regional authority, procedure.....Ch.327 - 1052
TRAPPING
See FISH AND GAME
TREASURER AND TREASURIES
County, plats, vacations, recorded, taxes paid.....Ch. 79 - 181
State, Ada County/residency, term/office, deleted.....HJR 24 - 1500
State, approp.....Ch.227 - 715
State, approp.....Ch.442 - 1414
State, approp, additional, FY94.....Ch.126 - 284
State, investment administration fee.....Ch.402 - 1265
State, salary, adjusted, SB1602, approp.....Ch.392 - 1242
State, salary, adjusted, term/1995.....Ch.435 - 1398
TRUCKING
Commercial, fees/operating, failure to pay, penalty....Ch.291 - 911
Commercial, fees/use, accrued, quarterly report.....Ch.320 - 1021
Tow trucks, wreckers, PUC regulations, exempt.....Ch.238 - 748
TRUCKS
See MOTOR VEHICLES
TRUSTS
Heritage, Foundation, sunset extended.....Ch.125 - 284
Housing, Fund, approp, additional, FY94.....Ch. 32 - 49
Instrument, amendments, termination, status.....Ch.190 - 617
Revocable, beneficiary, property tax exempt/certain....Ch.373 - 1200
TUITION
College, native American students, residency status....Ch.140 - 312
Community college, resident, increased per annum.....Ch.179 - 418
Exceptional child/equivalency allowance, SB1560.....Ch.440 - 1409
UNDERGROUND STORAGE TANKS
See FUELS, PETROLEUM

UNIFORM COMMERCIAL CODE Chapter - Page
Centralized, approp.....Ch.205 - 636
UNIFORM CONTROLLED SUBSTANCES ACT
See CONTROLLED SUBSTANCES ACT
UNIFORM LAWS
Com on, approp.....Ch.205 - 636
UNITED NATIONS
Republic of China on Taiwan, full participation.....SCR135 - 1521
UNIVERSITIES
See COLLEGES AND UNIVERSITIES
UNIVERSITY OF IDAHO
See COLLEGES AND UNIVERSITIES
URBAN RENEWAL
Competitively disadvantaged border community.....Ch.381 - 1222
UTILITIES
Companies, mailing/telephone lists, distribution.....Ch.398 - 1261
Drivers, public, services, emergency, hours/service....Ch. 61 - 120
Electric/natural gas suppliers, pumping data, PUC.....Ch.429 - 1381
Electric/natural gas suppliers, pumping data.....Ch.429 - 1381
PUC, approp.....Ch.153 - 349
PUC, motor carriers, insurance, rule, amended.....HCR 60 - 1542
PUC, regulations, tow trucks, wreckers, exempt.....Ch.238 - 748
Record inspection, drug cases, subpoena standard.....Ch.358 - 1125
VEHICLES
See MOTOR VEHICLES, RECREATIONAL VEHICLES
VETERINARY MEDICINE
Bd, approp.....Ch.156 - 353
VETOES
Ethanol, tax/excise, rate, reduced, (veto override)....Ch.166 - 373
State Highway Fund, roads/bridges, (line item veto)....Ch.231 - 721
VICTIMS
Crime, rights, constitutional, 10, provided.....HJR 16 - 1498
Crime, sexual assault, person charged/hepatitis B.....Ch.408 - 1278
Crime, sexual assault, person charged, HIV tests.....Ch.408 - 1278
VIETNAM
Trade embargo, lifted, rescind action.....HJM 11 - 1513
VISUALLY IMPAIRED
See BLIND
VITAL STATISTICS
Certificate, birth/death/stillbirth, failure to sign...Ch.323 - 1027
VOCATIONAL EDUCATION
Approp.....Ch.438 - 1402
Approp, Displaced Homemaker Program.....Ch.438 - 1402
Approp, FY94, amended.....Ch. 2 - 3
Approp, Post-Secondary Programs.....Ch.438 - 1402
VOCATIONAL REHABILITATION
Act, references, corrections.....Ch. 46 - 74
Div, approp.....Ch.230 - 719
Div, approp, additional, FY94.....Ch. 56 - 97
Div, approp, Independent Living Council.....Ch.230 - 719
VOTERS
City, qualified elector, further defined.....Ch. 66 - 135
Registration, election day, by mail.....Ch. 67 - 137

VOTING Chapter - Page
Absentee, any qualified voter, may do so.....Ch.122 - 271
Absentee, polls, electioneering, prohibited.....Ch. 21 - 36
Absentee, procedures clarified.....Ch.122 - 271
Absentee, School Dist election.....Ch.161 - 368
Absentee, uniformed overseas citizens.....Ch.122 - 271
WAGES
See SALARIES
WARRANTS
Affidavits, oral/telephonic, procedure.....Ch.415 - 1304
Counties, signatures, required, payment, method.....Ch. 35 - 53
Distraint, issuance fee, increased.....Ch. 57 - 98
WASTES
Aquaculture facility, treatment/disposal, plan.....Ch.290 - 910
Hazardous, PCBs, disposal, fees, per gate ton.....Ch.419 - 1310
Hazardous, Training, Monitoring Fund, approp, FY94.....Ch. 2 - 3
Postconsumer, equipment utilizing, income tax credit...Ch.342 - 1077
Solid, Facilities Act, federal regulations.....Ch. 75 - 156
WATER
Aquaculture facility, commercial fishery, standards....Ch.363 - 1137
Aquaculture facility, waste treatment, plan/review.....Ch.290 - 910
Aquifer recharge, beneficial nature, recognized.....SJM116 - 1508
Aquifer recharge, beneficial use, policy recommended...SCR140 - 1524
Aquifer recharge, incidental, beneficial use.....Ch.433 - 1397
Aquifer recharge, projects, permit fee, waived.....Ch.273 - 849
Aquifer recharge, projects, Water Management, approp...Ch.451 - 1440
Aquifer recharge, useage, augment recharge.....Ch.274 - 851
Dists, distribution, by organized dists only.....Ch.450 - 1434
Dists, elections, consolidation law.....Ch. 51 - 89
Diversion, illegal, administrative enforcement.....Ch.450 - 1434
Diversion, measuring devices, installation, reports....Ch.430 - 1388
Drinking, Safe, Act, federal amendments supported.....SJM112 - 1504
Electric/natural gas, consumption, pumping, report.....Ch.429 - 1381
Ground, depletion, electric/gas, pumping data.....Ch.429 - 1381
Henry's Fork Watershed Council/Charter, recognized.....HCR 52 - 1535
Irrigation Dists, tax deeds, delinquent assessments....Ch.144 - 316
Irrigation ditches, lateral/buried, conduit, change....Ch.151 - 345
Lake level, minimum, Bear Lake.....SCR129 - 1520
Policy, state control, aquifer recharge, beneficial....SJM116 - 1508
Quality Plan, Lower Boise River, approp, FY94, intent..Ch. 92 - 208
Quality standards, H&W, Dept, rule amended.....HCR 50 - 1534
Rental, salmon migration, Snake River flows, sunset....Ch.452 - 1441
Rights, application, Snake River Basin, moratorium.....Ch.449 - 1433
Rights, Musser v. Higginson case, rehearing petition...HCR 61 - 1543
Rights, permit to approp, fees, increased.....Ch. 64 - 121
Rights, transfer, federal cropland set-aside.....HJM 14 - 1516
Rights, transfer, federal cropland set-aside.....HCR 67 - 1545
Rights, transfer, Payette River Basin, see H989.....Ch.452 - 1441
Snake River Basin Adjudication, approp, add'l/FY94.....Ch. 62 - 120
Snake River Basin Adjudication, legislative study.....HCR 70 - 1546
Snake River Basin Adjudication, provisions revised.....Ch.454 - 1443
Snake River Basin Adjudication, provisions, HB969.....Ch.455 - 1478
Snake River Basin Adjudication, rights/claim/deadline..Ch. 63 - 121

WATER (Continued) Chapter - Page
State, Plan, Snake River, Milner Dam, 12/10/93.....Ch.108 - 239
Stream channel alteration, violations, penalty.....Ch.292 - 912
Streamflow, minimum, Pack River, Bonner County.....SCR127 - 1520
Watermark, mean high, definition.....Ch.292 - 912
Waterways Improvement Fund Advisory Comm.....Ch. 68 - 140
WATER RESOURCES
Bd, approp, aquifer recharge, North Side Canal Co.....Ch.451 - 1440
Bd, approp, grantees, reporting requirements.....Ch.451 - 1440
Bd, approp, pumping alternatives, investigate.....Ch.451 - 1440
Bd, lake level, minimum, Bear Lake.....SCR129 - 1520
Bd, State Water Plan, Snake River, Milner Dam.....Ch.108 - 239
Bd, streamflow, minimum, Pack River, Bonner County.....SCR127 - 1520
Dept, approp.....Ch.169 - 380
Dept, approp.....Ch.442 - 1414
Dept, approp, additional, FY94.....Ch.386 - 1236
Dept, approp, additional, FY94.....Ch. 20 - 35
Dept, aquifer recharge, beneficial use, policy.....SCR140 - 1524
Dept, Snake Basin Adjudication, approp.....Ch.169 - 380
Dept, Snake Basin Adjudication, provisions revised.....Ch.454 - 1443
Dept, Snake Basin Adjudication, provisions, HB969.....Ch.455 - 1478
Dept, stream channel alteration act, enforcement.....Ch.292 - 912
Dept, water distribution, by organized dists only.....Ch.450 - 1434
Dept, water rights application/certain, moratorium.....Ch.449 - 1433
Dept, water rights, permit to approp, fee, increased...Ch. 64 - 121
Dept, water use, augment ground water recharge.....Ch.274 - 851
Dept, water/ground, recharge projects, fee waived.....Ch.273 - 849
Dept, water/public, diversions, measuring devices.....Ch.430 - 1388
Revolving Development Fund, approp, FY94, supp'l.....Ch. 20 - 35
WEAPONS
See also FIREARMS
Concealed, license, background check, exempt, when.....Ch.431 - 1392
Concealed, school property, Youth Rehab Act.....Ch.150 - 344
Controlled Substances Act, violation, forfeiture.....Ch.285 - 893
Possession of, sale to, minor, unlawful.....Ch.369 - 1186
Possession, minor, parental permission/written.....Ch.369 - 1186
Sale, background check, public records, open.....Ch.368 - 1180
Sale, background check, toll-free telephone number.....Ch.377 - 1210
WELFARE
See PUBLIC ASSISTANCE
WILDLIFE
Biologists, F&G, approp, A.F. Training Range/effects...Ch.378 - 1215
Bird of prey, capture permit/nonresident, allowed.....Ch.118 - 267
Deer, elk tags, set-aside, winter feeding program.....Ch.269 - 832
Depredation control/winter feeding, FG/Dept, approp....Ch.378 - 1215
Depredation hunt, permits, 50% to landowner.....Ch.218 - 679
Depredation, claims, eligibility procedure.....Ch.218 - 679
Dogs, attacking/harassing big game, penalties.....Ch. 94 - 213
Endangered Species Act, Wolf Management, F&G, plan.....Ch.382 - 1228
Forest, Range, Policy Analysis Group, duties.....Ch.194 - 623
Illegally taken, process fee/violator, feed needy.....Ch.149 - 342
Salmon, critical habitat designation, moratorium.....HJM 9 - 1510
Salmon, migration, Snake River flows, rental waters....Ch.452 - 1441

WILDLIFE (Continued) Chapter - Page
Simulated, unlawful taking, penalties.....Ch.115 - 262
Wasteful destruction, mutilation of, unlawful.....Ch. 88 - 205
Winter Feeding Advisory Comm, established.....Ch.183 - 601
Wolf Management Plan, Oversight Comm, F&G, plan.....Ch.382 - 1228
WILLS
Bequest, nursing home owner, undue influence assumed...Ch.350 - 1110
Devises/charitable, restrictions, death/prior to.....Ch.359 - 1127
WINE
Low proof spirit beverages, alcohol content 14%.....Ch.266 - 823
Minors, handle/possess, conditions, when.....Ch. 60 - 119
Retailer, aid/certain, by winery/dealer, permitted.....Ch.361 - 1131
Tax, revenues, Grape Growers/Wine Producers Acct.....Ch.243 - 762
Winery, licensed, importer's license, required.....Ch.244 - 763
WITNESSES
Fees, awarded, administrative/judicial proceedings.....Ch. 36 - 55
WOLF
See WILDLIFE
WOMEN
Convicts, care of, laws, certain, repealed.....Ch. 37 - 56
National Guard, combat, restriction removed.....Ch.343 - 1079
Programs, Com on, approp.....Ch.255 - 799
Rape, further defined.....Ch. 83 - 197
WOOD
Burning stove, definition revised, income tax credit...Ch.355 - 1114
WORKER'S COMPENSATION
Agricultural workers, inclusion, legislative study.....HCR 59 - 1541
Community service worker, further defined.....Ch.446 - 1427
Community service, penalty, per hour assessment.....Ch.233 - 724
Insurance, cancellation notice, deemed served, when....Ch.178 - 417
Psychological injuries, benefits paid, when.....Ch.112 - 255
YOUTH REHABILITATION ACT
Juvenile, community service penalty, 60¢ hour fee.....Ch.233 - 724
Juvenile, felony/guilty of, name disclosure.....Ch.326 - 1046
Juvenile, marijuana/drug parapheranlia, possession.....Ch.414 - 1302
Weapons/concealed, school property, application.....Ch.150 - 344
ZONING
See PLANNING AND ZONING

TABLE OF AMENDMENTS, REPEALS, ADDITIONS AND REFERENCES

SECOND REGULAR SESSION - FIFTY-SECOND LEGISLATURE

CODE INDEX

Code citation, action, bill number and session law chapter number is shown of bills which passed

		Chapter - Page
TITLE 1		
1-210	Amended	Ch.180 - 423
1-505	Amended	Ch.180 - 423
1-2004	Amended	Ch.180 - 424
1-2005	Amended	Ch.180 - 424
1-2008	Amended	Ch.180 - 425
1-2203	Amended	Ch.396 - 1254
1-2221	Amended	Ch.180 - 426
TITLE 4		
4-105	Amended	Ch.180 - 427
TITLE 6		
6-320	Amended	Ch.418 - 1308
Chapter 9	Referred to	Ch. 36 - 55
6-906A	Amended	Ch.349 - 1110
6-2101	New Section Added	Ch.100 - 227
6-2102	New Section Added	Ch.100 - 227
6-2103	New Section Added	Ch.100 - 227
6-2104	New Section Added	Ch.100 - 227
6-2105	New Section Added	Ch.100 - 228
6-2106	New Section Added	Ch.100 - 228
6-2107	New Section Added	Ch.100 - 229
6-2108	New Section Added	Ch.100 - 229
6-2109	New Section Added	Ch.100 - 229
TITLE 7		
Chapter 9	Referred to	Ch.275 - 854
7-1001	New Section Added	Ch.207 - 640
7-1002	New Section Added	Ch.207 - 642
7-1003	New Section Added	Ch.207 - 642
7-1004	New Section Added	Ch.207 - 642
7-1005	New Section Added	Ch.207 - 642
7-1006	New Section Added	Ch.207 - 642
7-1007	New Section Added	Ch.207 - 642

TITLE 7 (Continued)		Chapter	Page
7-1008	New Section Added	Ch.207	643
7-1009	New Section Added	Ch.207	644
7-1010	New Section Added	Ch.207	644
7-1011	New Section Added	Ch.207	644
7-1012	New Section Added	Ch.207	645
7-1013	New Section Added	Ch.207	645
7-1014	New Section Added	Ch.207	645
7-1015	New Section Added	Ch.207	645
7-1016	New Section Added	Ch.207	645
7-1017	New Section Added	Ch.207	646
7-1018	New Section Added	Ch.207	646
7-1019	New Section Added	Ch.207	647
7-1020	New Section Added	Ch.207	647
7-1021	New Section Added	Ch.207	647
7-1022	New Section Added	Ch.207	647
7-1023	New Section Added	Ch.207	648
7-1024	New Section Added	Ch.207	648
7-1025	New Section Added	Ch.207	648
7-1026	New Section Added	Ch.207	649
7-1027	New Section Added	Ch.207	649
7-1028	New Section Added	Ch.207	649
7-1029	New Section Added	Ch.207	650
7-1030	New Section Added	Ch.207	650
7-1031	New Section Added	Ch.207	650
7-1032	New Section Added	Ch.207	650
7-1033	New Section Added	Ch.207	650
7-1034	New Section Added	Ch.207	651
7-1035	New Section Added	Ch.207	651
7-1036	New Section Added	Ch.207	651
7-1037	New Section Added	Ch.207	652
7-1038	New Section Added	Ch.207	652
7-1039	New Section Added	Ch.207	652
7-1040	New Section Added	Ch.207	652
7-1041	New Section Added	Ch.207	653
7-1042	New Section Added	Ch.207	653
7-1043	New Section Added	Ch.207	653
7-1044	New Section Added	Ch.207	653
7-1045	New Section Added	Ch.207	654
7-1046	New Section Added	Ch.207	654
7-1047	New Section Added	Ch.207	654
7-1048	New Section Added	Ch.207	655
7-1049	New Section Added	Ch.207	655
7-1050	New Section Added	Ch.207	655
7-1051	New Section Added	Ch.207	656
7-1052	New Section Added	Ch.207	656
7-1106	Amended	Ch.237	746
7-1111	Referred to	Ch.393	1246
7-1116	Amended	Ch.237	747
7-1116	Referred to	Ch.393	1246
7-1124	New Section Added	Ch.237	748
7-1202	Amended	Ch.308	964
7-1202	Repealed	Ch.308	975

TITLE 7 (Continued)		Chapter - Page
7-1204	Amended	Ch.308 - 965
7-1204	Repealed	Ch.308 - 975
7-1206	New Section Added	Ch.308 - 967
7-1304	Amended	Ch.173 - 399
7-1306	Amended	Ch.173 - 399
7-1308	Amended	Ch.173 - 400
7-1313	New Section Added	Ch.173 - 401
TITLE 8		
8-507D	Amended	Ch. 27 - 45
TITLE 9		
9-205	Amended	Ch.215 - 673
Chapter 3	Referred to	Ch.377 - 1213
9-335	Amended	Ch.181 - 592
9-340	Referred to	Ch. 58 - 110
9-340	Amended	Ch.429 - 1381
9-340	Amended	Ch.181 - 593
9-340	Amended	Ch.326 - 1046
9-340	Amended	Ch.368 - 1180
9-348	Amended	Ch.398 - 1261
TITLE 10		
10-1301	Amended	Ch.237 - 748
10-1302	Amended	Ch.237 - 748
TITLE 11		
11-202	Amended	Ch.180 - 427
11-207	Referred to	Ch.365 - 1146
TITLE 12		
12-117	Amended	Ch. 36 - 55
12-118	Amended	Ch.180 - 428
12-120	Amended	Ch.353 - 1113
TITLE 14		
14-501A	New Section Added	Ch.124 - 282
14-523	Amended	Ch.124 - 283
TITLE 15		
15-2-615	Repealed	Ch.359 - 1127
15-2-616	Amended	Ch.350 - 1110
TITLE 16		
Title 16	Referred to	Ch.422 - 1325
16-1504	Amended	Ch.393 - 1243
16-1506	Amended	Ch.393 - 1244
16-1506	Amended	Ch.426 - 1334
16-1513	Referred to	Ch.207 - 642
16-1513	Amended	Ch.393 - 1245
16-1803	Amended	Ch.150 - 344
16-1803	Amended	Ch.414 - 1303
16-1807A	Amended	Ch.233 - 727
16-1814	Amended	Ch.233 - 725
16-1816	Amended	Ch.326 - 1052
16-2005	Amended	Ch.393 - 1248
16-2005	Amended	Ch.426 - 1336
TITLE 18		
18-108	Repealed	Ch.167 - 375
18-112	Amended	Ch.134 - 307

TITLE 18 (Continued)		Chapter - Page
18-112A	Amended	Ch.134 - 307
18-113	Amended	Ch.141 - 315
18-115	Amended	Ch.131 - 296
18-204	Amended	Ch.131 - 297
18-205	Amended	Ch.131 - 297
18-206	Amended	Ch.131 - 297
18-216	Amended	Ch.131 - 297
18-306	Amended	Ch.131 - 298
18-316	Repealed	Ch.131 - 298
18-702	Repealed	Ch.131 - 298
18-902	Referred to	Ch.318 - 1020
18-903	Referred to	Ch.318 - 1020
18-918	Referred to	Ch.318 - 1020
18-1105	Repealed	Ch.131 - 298
18-1361A	Referred to	Ch.300 - 948
Chapter 15	Amended (Heading)	Ch.136 - 309
18-1502	Amended	Ch.133 - 305
18-1502	Referred to	Ch.357 - 1125
18-1502A	Amended	Ch.133 - 306
18-1502C	New Section Added	Ch.414 - 1303
18-1505	Repealed	Ch.136 - 309
18-1505	New Section Added	Ch.136 - 309
18-1505A	Amended	Ch.136 - 309
18-1801	Amended	Ch.131 - 298
18-2005	New Section Added	Ch.214 - 672
Chapter 21	Amended (Heading)	Ch.346 - 1090
Chapter 21	Redesignated Ch.35 (Heading)	Ch.346 - 1090
18-2101	Amended	Ch.346 - 1091
18-2101	Redesignated 25-3503	Ch.346 - 1091
18-2102	Amended	Ch.346 - 1092
18-2102	Redesignated 25-3504	Ch.346 - 1092
18-2103	Amended	Ch.346 - 1092
18-2103	Redesignated 25-3505	Ch.346 - 1092
18-2104	Amended	Ch.346 - 1092
18-2104	Redesignated 25-3506	Ch.346 - 1092
18-2105	Amended	Ch.346 - 1093
18-2105	Redesignated 25-3507	Ch.346 - 1093
18-2106	Amended	Ch.346 - 1093
18-2106	Redesignated 25-3508	Ch.346 - 1093
18-2107	Amended	Ch.346 - 1093
18-2107	Redesignated 25-3509	Ch.346 - 1093
18-2108	Amended	Ch.346 - 1093
18-2108	Redesignated 25-3510	Ch.346 - 1093
18-2109	Amended	Ch.346 - 1093
18-2109	Redesignated 25-3511	Ch.346 - 1093
18-2109	Amended	Ch.131 - 299
18-2110	Amended	Ch.346 - 1094
18-2110	Redesignated 25-3512	Ch.346 - 1094
18-2111	Amended	Ch.131 - 299
18-2111	Amended	Ch.346 - 1095
18-2111	Redesignated 25-3513	Ch.346 - 1095
18-2112	Amended	Ch.131 - 300

TITLE 18 (Continued)		Chapter - Page
18-2112	Repealed	Ch.346 - 1095
18-2113	Amended	Ch.346 - 1096
18-2113	Redesignated 25-3515	Ch.346 - 1096
18-2114	Amended	Ch.346 - 1096
18-2114	Redesignated 25-3516	Ch.346 - 1096
18-2115	Amended	Ch.346 - 1096
18-2115	Redesignated 25-3517	Ch.346 - 1096
18-2115	Repealed	Ch.131 - 300
18-2116	Amended	Ch.346 - 1097
18-2116	Redesignated 25-3518	Ch.346 - 1097
18-2318	Referred to	Ch. 21 - 36
18-2402	Amended	Ch.132 - 301
18-2407	Amended	Ch.132 - 303
18-2407	Amended (As enacted by SB1369)	Ch.346 - 1097
18-3106	Amended	Ch.184 - 602
18-3127	Amended	Ch.132 - 304
18-3205	Amended	Ch.131 - 300
18-3302	Amended	Ch.431 - 1392
18-3302A	Amended	Ch.369 - 1186
18-3302D	Referred to	Ch.150 - 345
18-3302E	New Section Added	Ch.369 - 1187
18-3302F	New Section Added	Ch.369 - 1187
18-3302G	New Section Added	Ch.369 - 1188
18-3308	Amended	Ch.131 - 300
18-3402	Repealed	Ch.131 - 301
18-3601	Amended	Ch.180 - 428
18-3804	Repealed	Ch.167 - 375
18-3805	Repealed	Ch.167 - 375
18-3806	Repealed	Ch.167 - 375
18-3807	Repealed	Ch.167 - 375
18-3902	Repealed	Ch.167 - 375
18-4007	Amended	Ch.413 - 1302
18-4308	Amended	Ch.151 - 346
18-4511	Referred to	Ch.174 - 401
18-5412	New Section Added	Ch.167 - 375
18-5601	Amended	Ch.130 - 292
18-5602	Amended	Ch.130 - 292
18-5603	Amended	Ch.130 - 293
18-5604	Amended	Ch.130 - 293
18-5605	Amended	Ch.130 - 294
18-5606	Amended	Ch.130 - 294
18-5607	Repealed	Ch.130 - 294
18-5608	Amended	Ch.130 - 294
18-5609	Amended	Ch.130 - 295
18-5610	Repealed	Ch.130 - 295
18-5611	Amended	Ch.130 - 295
18-5612	Repealed	Ch.130 - 295
18-5614	Amended	Ch.130 - 295
18-5802	Repealed	Ch.167 - 375
18-5805	Repealed	Ch.167 - 375
18-5806	Repealed	Ch.167 - 375
18-5812B	Amended	Ch.159 - 360

TITLE 18 (Continued)		Chapter - Page
18-5813	Repealed	Ch.167 - 375
18-5815	Repealed	Ch.167 - 375
18-6003	Repealed	Ch.263 - 812
18-6004	Repealed	Ch.263 - 812
18-6005	Repealed	Ch.263 - 812
18-6006	Amended	Ch.263 - 812
18-6007	Amended	Ch.263 - 812
18-6008	Amended	Ch.263 - 813
18-6012	Amended	Ch.263 - 813
18-6013	Repealed	Ch.263 - 813
18-6014	Repealed	Ch.263 - 813
18-6101	Amended	Ch.135 - 307
18-6101	Amended	Ch. 83 - 197
18-6108	Amended	Ch.135 - 308
18-6201	Repealed	Ch.167 - 375
18-6202	Repealed	Ch.167 - 375
18-6204	Repealed	Ch.167 - 375
18-6405	Amended	Ch.167 - 375
18-6406	Repealed	Ch.167 - 375
18-6407	Repealed	Ch.167 - 375
18-6409	Amended	Ch.167 - 375
18-6604	Repealed	Ch.167 - 375
18-6710	Amended	Ch.167 - 376
18-6711	Amended	Ch.167 - 376
18-6718	Amended	Ch.167 - 377
18-6724	Repealed	Ch.167 - 375
18-7029	Amended	Ch.167 - 377
18-7030	Repealed	Ch.167 - 375
18-7031	Amended	Ch.119 - 269
18-7034	Amended	Ch.216 - 673
18-7039	New Section Added	Ch.157 - 357
18-7905	Referred to	Ch.318 - 1020
18-8001	Amended	Ch.148 - 336
18-8002A	Amended	Ch.357 - 1118
18-8004	Amended	Ch.422 - 1322
18-8004A	New Section Added	Ch.422 - 1324
18-8004C	New Section Added	Ch.421 - 1316
18-8005	Amended	Ch.148 - 338
18-8005	Amended	Ch.421 - 1318
18-8005	Amended	Ch.422 - 1325
TITLE 19		
19-603	Amended	Ch.318 - 1020
19-2517	Repealed	Ch.142 - 316
19-2601	Amended	Ch. 33 - 50
19-2608	New Section Added	Ch.248 - 792
19-2827	Amended	Ch.127 - 285
19-3502	Amended	Ch.270 - 833
19-3922	Repealed	Ch.142 - 316
19-4404	New Section Added	Ch.415 - 1304
19-4406	Amended	Ch.415 - 1304
19-5116	Amended	Ch.191 - 620
19-5401	New Section Added	Ch.377 - 1210

TITLE 19 (Continued)		Chapter - Page
19-5402	New Section Added	Ch.377 - 1211
19-5403	New Section Added	Ch.377 - 1211
19-5404	New Section Added	Ch.377 - 1211
19-5405	New Section Added	Ch.377 - 1211
19-5406	New Section Added	Ch.377 - 1212
19-5407	New Section Added	Ch.377 - 1212
19-5408	New Section Added	Ch.377 - 1212
19-5409	New Section Added	Ch.377 - 1212
19-5410	New Section Added	Ch.377 - 1212
19-5411	New Section Added	Ch.377 - 1213
19-5412	New Section Added	Ch.377 - 1213
19-5413	New Section Added	Ch.377 - 1213
19-5414	New Section Added	Ch.377 - 1213
19-5415	New Section Added	Ch.377 - 1214
19-5416	New Section Added	Ch.377 - 1214
19-5417	New Section Added	Ch.377 - 1214
19-5418	New Section Added	Ch.377 - 1214
19-5419	New Section Added	Ch.377 - 1214
TITLE 20		
20-102	Amended	Ch.180 - 429
20-210	Amended	Ch.171 - 383
20-213A	Amended	Ch.171 - 384
20-227	Amended	Ch.424 - 1332
20-228	Amended	Ch.171 - 384
20-229	Amended	Ch.171 - 385
20-229A	Amended	Ch.171 - 385
20-229B	Amended	Ch.171 - 386
20-235	Amended	Ch.180 - 429
20-501	Repealed	Ch. 37 - 56
20-502	Repealed	Ch. 37 - 56
20-504	Repealed	Ch. 37 - 56
20-505	Repealed	Ch. 37 - 56
20-605	Amended	Ch.362 - 1136
20-612	Amended	Ch.362 - 1136
20-614	Amended	Ch. 28 - 46
20-618	New Section Added	Ch. 29 - 47
20-619	New Section Added	Ch.213 - 672
TITLE 21		
21-134	Amended	Ch.128 - 286
TITLE 22		
22-103	Amended	Ch. 96 - 219
22-105	Amended	Ch.180 - 429
22-107	Amended	Ch.180 - 430
22-434	Amended	Ch. 50 - 88
22-1102	Amended	Ch. 99 - 224
22-1108	New Section Added	Ch. 99 - 224
22-1207	Amended	Ch.180 - 430
22-1207	Amended	Ch. 48 - 79
22-1209	Amended	Ch.180 - 432
22-1213	Amended	Ch. 48 - 79
22-1303	Amended	Ch. 97 - 222
22-2105	Amended	Ch.180 - 433

TITLE 22 (Continued)		Chapter - Page
22-2404	Amended	Ch.180 - 433
22-2518	Amended	Ch. 18 - 33
22-2520	Amended	Ch. 18 - 34
22-2714	Amended	Ch.180 - 434
22-2809	Amended	Ch.180 - 435
22-2917	Amended	Ch.180 - 435
22-2919	Amended	Ch.180 - 436
22-3005	Amended	Ch.180 - 437
22-3105	Amended	Ch.180 - 438
22-3309	Amended	Ch.180 - 439
22-3319	Amended	Ch.180 - 440
22-3426	New Section Added	Ch.102 - 231
22-3510	Amended	Ch.180 - 441
22-3605	Amended	Ch.180 - 442
22-3607	Amended	Ch.180 - 443
22-3705	Amended	Ch.180 - 444
22-3707	Amended	Ch.180 - 445
22-3805	Amended	Ch.180 - 446
22-4009	Amended	Ch.180 - 447
22-4010	Amended	Ch.180 - 449
22-4207	Amended	Ch.180 - 449
22-4504	Repealed	Ch.107 - 239
22-4504	New Section Added	Ch.107 - 239
22-4601	Referred to	Ch.290 - 911
22-4601	Amended	Ch.363 - 1138
22-4603	Amended	Ch.363 - 1138
22-4604	Amended	Ch.363 - 1138
22-4605	Amended	Ch.363 - 1139
TITLE 23		
23-217	Amended	Ch.180 - 450
23-404	Amended	Ch.180 - 451
23-604	Repealed	Ch.143 - 316
23-905	Amended	Ch. 14 - 22
23-910	Amended	Ch. 14 - 23
23-955	New Section Added	Ch.432 - 1396
23-1001	Amended	Ch. 14 - 23
23-1005	Amended	Ch. 14 - 27
23-1010	Amended	Ch. 14 - 25
23-1014	Amended	Ch. 13 - 20
23-1030	Amended	Ch. 14 - 21
23-1033	Amended	Ch.361 - 1131
23-1035	Amended	Ch. 14 - 28
23-1303	Amended	Ch.266 - 823
23-1306	Amended	Ch.244 - 763
23-1307	Amended	Ch. 14 - 27
23-1319	Amended	Ch.243 - 762
23-1325	Amended	Ch.361 - 1133
23-1334	Amended	Ch. 60 - 119
23-1336	Amended	Ch. 14 - 21
TITLE 25		
Chapter 2	Referred to	Ch. 72 - 150
Chapter 2	Referred to	Ch. 73 - 152

TITLE 25 (Continued)		Chapter - Page
Chapter 3	Referred to	Ch. 73 - 152
Chapter 4	Referred to	Ch. 73 - 152
Chapter 6	Referred to	Ch. 73 - 152
25-1144	Amended	Ch.101 - 229
25-1145	Amended	Ch.101 - 230
25-1145A	New Section Added	Ch.101 - 231
25-1149	Amended	Ch.180 - 452
25-1174	Amended	Ch.180 - 452
25-1721	Amended	Ch.314 - 999
25-1724	Amended	Ch.314 - 999
25-1725	Amended	Ch.314 - 1000
25-1727	Repealed	Ch.314 - 1000
25-1728	Amended	Ch.180 - 453
25-2601	Amended	Ch. 80 - 182
25-2720	Amended	Ch. 30 - 47
25-3111	Amended	Ch.180 - 453
25-3112	Amended	Ch.180 - 454
Chapter 35	Referred to	Ch. 73 - 153
Chapter 35	Redesignated from Ch.21 (Heading)	Ch.346 - 1090
25-3501	New Section Added	Ch.346 - 1090
25-3501	New Section Added	Ch. 72 - 149
25-3501	New Section Added	Ch. 73 - 151
25-3502	New Section Added	Ch. 72 - 150
25-3502	New Section Added	Ch. 73 - 152
25-3502	New Section Added	Ch.346 - 1091
25-3503	New Section Added	Ch. 72 - 150
25-3503	New Section Added	Ch. 73 - 152
25-3503	Redesignated from 18-2101	Ch.346 - 1091
25-3504	New Section Added	Ch. 72 - 150
25-3504	New Section Added	Ch. 73 - 152
25-3504	Redesignated from 18-2102	Ch.346 - 1092
25-3505	New Section Added	Ch. 72 - 150
25-3505	New Section Added	Ch. 73 - 152
25-3505	Redesignated from 18-2103	Ch.346 - 1092
25-3506	New Section Added	Ch. 72 - 150
25-3506	New Section Added	Ch. 73 - 152
25-3506	Redesignated from 18-2104	Ch.346 - 1092
25-3507	New Section Added	Ch. 72 - 150
25-3507	New Section Added	Ch. 73 - 152
25-3507	Redesignated from 18-2105	Ch.346 - 1093
25-3508	New Section Added	Ch. 73 - 153
25-3508	New Section Added	Ch. 72 - 151
25-3508	Redesignated from 18-2106	Ch.346 - 1093
25-3509	New Section Added	Ch. 73 - 153
25-3509	Redesignated from 18-2107	Ch.346 - 1093
25-3510	Redesignated from 18-2108	Ch.346 - 1093
25-3511	Redesignated from 18-2109	Ch.346 - 1093
25-3512	Redesignated from 18-2110	Ch.346 - 1094
25-3513	Redesignated from 18-2111	Ch.346 - 1095
25-3514	New Section Added	Ch.346 - 1095
25-3515	Redesignated from 18-2113	Ch.346 - 1096
25-3516	Redesignated from 18-2114	Ch.346 - 1096

TITLE 25 (Continued)		Chapter - Page
25-3517	Redesignated from 18-2115	Ch.346 - 1096
25-3518	Redesignated from 18-2116	Ch.346 - 1097
25-3519	New Section Added	Ch.346 - 1097
25-3520	New Section Added	Ch.346 - 1097
25-3521	New Section Added	Ch.346 - 1097
TITLE 26		
26-1023	Amended	Ch.180 - 455
26-2901	New Section Added	Ch.410 - 1282
26-2902	New Section Added	Ch.410 - 1282
26-2903	New Section Added	Ch.410 - 1284
26-2904	New Section Added	Ch.410 - 1284
26-2905	New Section Added	Ch.410 - 1284
26-2906	New Section Added	Ch.410 - 1285
26-2907	New Section Added	Ch.410 - 1285
26-2908	New Section Added	Ch.410 - 1287
26-2909	New Section Added	Ch.410 - 1288
26-2910	New Section Added	Ch.410 - 1288
26-2911	New Section Added	Ch.410 - 1289
26-2912	New Section Added	Ch.410 - 1290
26-2913	New Section Added	Ch.410 - 1290
26-2914	New Section Added	Ch.410 - 1290
26-2915	New Section Added	Ch.410 - 1291
26-2916	New Section Added	Ch.410 - 1291
26-2917	New Section Added	Ch.410 - 1292
26-2918	New Section Added	Ch.410 - 1292
26-2919	New Section Added	Ch.410 - 1293
26-2920	New Section Added	Ch.410 - 1293
26-2921	New Section Added	Ch.410 - 1294
26-2922	New Section Added	Ch.410 - 1294
26-2923	New Section Added	Ch.410 - 1294
26-2924	New Section Added	Ch.410 - 1294
26-2925	New Section Added	Ch.410 - 1295
26-2926	New Section Added	Ch.410 - 1295
26-2927	New Section Added	Ch.410 - 1295
26-2928	New Section Added	Ch.410 - 1295
TITLE 27		
27-302	Amended	Ch.105 - 234
27-305	Amended	Ch.105 - 235
27-307	Amended	Ch.105 - 235
TITLE 28		
28-22-105	New Section Added	Ch.185 - 604
28-22-106	New Section Added	Ch.185 - 605
28-22-107	New Section Added	Ch.185 - 605
28-41-204	Amended	Ch.185 - 606
28-42-308	New Section Added	Ch.185 - 606
TITLE 30		
30-1-8	Amended	Ch.405 - 1272
30-1-10	Amended	Ch.405 - 1273
30-1-71	Amended	Ch.293 - 917
30-1-72	Amended	Ch.293 - 917
30-1-76	Amended	Ch.293 - 918
30-1-77	Amended	Ch.293 - 919

TITLE 30 (Continued)		Chapter - Page
30-1-129	Amended	Ch.405 - 1274
30-3-13	Amended	Ch.190 - 619
30-3-17	Amended	Ch.295 - 932
30-3-40	Amended	Ch.295 - 933
30-1427	Amended	Ch.265 - 820
30-1430	Amended	Ch.265 - 820
30-1436	Amended	Ch.265 - 821
30-1437	Amended	Ch.265 - 822
TITLE 31		
31-717	Amended	Ch.372 - 1198
31-718	New Section Added	Ch.372 - 1200
31-836	Amended	Ch.158 - 358
31-863	Repealed	Ch. 77 - 172
31-867	Amended	Ch.208 - 656
31-876	New Section Added	Ch.121 - 271
31-1402	Amended	Ch.360 - 1128
31-1411	Amended	Ch.360 - 1128
31-1412	Amended	Ch.360 - 1129
31-1509	Amended	Ch.241 - 760
31-1510	New Section Added	Ch. 35 - 54
31-1511	New Section Added	Ch. 35 - 54
31-1512	Repealed	Ch. 35 - 53
31-1512	New Section Added	Ch. 35 - 54
31-1512	Repealed	Ch.241 - 760
31-1513	Repealed	Ch.241 - 760
31-1514	Repealed	Ch. 35 - 53
31-1608	Referred to	Ch. 35 - 54
31-2105	Repealed	Ch. 35 - 53
31-2106	Repealed	Ch. 35 - 53
31-2107	Repealed	Ch. 35 - 53
31-2108	Repealed	Ch. 35 - 53
31-2109	Repealed	Ch. 35 - 53
31-2110	Repealed	Ch. 35 - 53
31-2111	Repealed	Ch. 35 - 53
31-2125	Amended	Ch. 35 - 54
31-2125	Referred to	Ch. 53 - 92
31-2307	Amended	Ch.180 - 455
31-2808	Amended	Ch.105 - 235
31-3201	Amended	Ch.208 - 657
31-3201B	Amended	Ch.193 - 623
31-3201C	New Section Added	Ch.233 - 725
31-3205	Amended	Ch.364 - 1139
31-3302	Amended	Ch.362 - 1137
31-3502	Referred to	Ch.362 - 1136
31-3908	Amended	Ch. 34 - 51
31-3908	Amended	Ch. 52 - 90
31-4112	Amended	Ch.279 - 867
31-4306	Amended	Ch.328 - 1058
31-4315	Amended	Ch. 53 - 92
31-4802	Amended	Ch. 86 - 203
31-4803	Amended	Ch. 86 - 203

		Chapter - Page
TITLE 32		
32-303	Amended	Ch. 7 - 11
32-704	Amended	Ch.352 - 1112
32-706A	Amended	Ch.236 - 745
32-717B	Amended	Ch.340 - 1076
32-719	New Section Added	Ch.407 - 1278
32-1008	Repealed	Ch.407 - 1278
32-1202	Amended	Ch.308 - 967
32-1202	Repealed	Ch.308 - 975
32-1205	Repealed	Ch.308 - 975
32-1206	Repealed	Ch.308 - 975
32-1207	Repealed	Ch.308 - 975
32-1208	Amended	Ch.308 - 968
32-1209	Amended	Ch.308 - 969
32-1209	Repealed	Ch.308 - 975
32-1216	Amended	Ch.365 - 1145
32-1216	Referred to	Ch.365 - 1150
32-1217	New Section Added	Ch.308 - 974
TITLE 33		
33-105	Referred to	Ch. 25 - 39
33-118	Amended	Ch.333 - 1064
33-120	Amended	Ch.175 - 402
33-209	New Section Added	Ch.174 - 401
33-313	Amended	Ch.182 - 599
33-406	Amended	Ch.161 - 368
33-502B	Amended	Ch.160 - 367
33-502C	New Section Added	Ch.164 - 372
33-502D	New Section Added	Ch.164 - 372
33-507	Amended	Ch.300 - 947
33-512	Amended	Ch. 25 - 39
33-517A	New Section Added	Ch.282 - 883
33-804	Amended	Ch.299 - 946
33-905	Amended	Ch.345 - 1088
33-905	Amended	Ch.180 - 457
33-1002	Amended	Ch.316 - 1008
33-1002	Amended	Ch.428 - 1369
33-1002	Amended (As enacted by SB1560)	Ch.440 - 1409
33-1002	Referred to	Ch.456 - 1496
33-1002B	New Section Added	Ch.428 - 1375
33-1002B	Amended (As enacted by SB1560)	Ch.440 - 1413
33-1002C	Referred to	Ch.316 - 1011
33-1002E	Referred to	Ch.316 - 1011
33-1002E	Repealed	Ch.428 - 1369
33-1002E	Redesignated from 33-1004	Ch.428 - 1375
33-1004	Amended	Ch.428 - 1375
33-1004	Redesignated 33-1002E	Ch.428 - 1375
33-1004	New Section Added	Ch.428 - 1375
33-1004A	New Section Added	Ch.428 - 1376
33-1004C	New Section Added	Ch.428 - 1377
33-1004D	New Section Added	Ch.428 - 1377
33-1004E	New Section Added	Ch.428 - 1377
33-1004F	New Section Added	Ch.428 - 1378
33-1006	Amended	Ch.428 - 1379

TITLE 33 (Continued)		Chapter - Page
33-1007	Amended	Ch.428 - 1379
33-1014	Repealed	Ch.316 - 1013
33-1015	New Section Added	Ch.428 - 1380
33-1103	Referred to	Ch.299 - 947
33-1212	New Section Added	Ch.443 - 1425
33-1403	Referred to	Ch.428 - 1370
33-1612	New Section Added	Ch. 25 - 39
33-1612	Referred to	Ch.448 - 1433
33-1702	Amended	Ch.347 - 1098
33-1707	Amended	Ch.180 - 458
33-2004	Referred to	Ch.316 - 1008
33-2004	Referred to	Ch.428 - 1370
33-2005	Repealed	Ch.428 - 1369
33-2005A	Repealed	Ch.428 - 1369
33-2006	Referred to	Ch.316 - 1009
33-2006	Referred to	Ch.428 - 1370
33-2110	Amended	Ch.179 - 418
33-2301	Amended	Ch. 46 - 75
33-2302	Amended	Ch. 46 - 75
33-2303	Amended	Ch. 46 - 75
33-2304	Amended	Ch. 46 - 76
33-2305	Amended	Ch. 46 - 76
33-2306	Amended	Ch. 46 - 76
33-2513	Amended	Ch.180 - 458
Chapter 26	Referred to	Ch.229 - 717
Chapter 27	Referred to	Ch.229 - 717
33-2909	Amended	Ch.180 - 459
33-2911	Amended	Ch.180 - 460
33-2913	Amended	Ch.180 - 460
33-3301	Amended	Ch.180 - 461
33-3301	Amended	Ch.222 - 708
33-3302	Amended	Ch.222 - 709
33-3303	Amended	Ch.222 - 709
33-3303	Redesignated 33-3304	Ch.222 - 709
33-3303	New Section Added	Ch.222 - 709
33-3304	Redesignated from 33-3303	Ch.222 - 709
33-3305	New Section Added	Ch.222 - 710
33-3710	Amended	Ch.180 - 461
33-3717	Amended	Ch.140 - 312
33-3719	Amended	Ch.180 - 461
33-4302A	Amended	Ch.417 - 1307
Chapter 48	Referred to	Ch.441 - 1414
33-4801	New Section Added	Ch.234 - 742
33-4801	New Section Added	Ch.229 - 716
33-4802	New Section Added	Ch.234 - 742
33-4802	New Section Added	Ch.229 - 716
33-4803	New Section Added	Ch.234 - 743
33-4803	New Section Added	Ch.229 - 717
33-4804	New Section Added	Ch.234 - 743
33-4804	New Section Added	Ch.229 - 717
33-4805	New Section Added	Ch.234 - 743
33-4805	New Section Added	Ch.229 - 717

TITLE 33 (Continued)		Chapter	Page
33-4806	New Section Added	Ch.234	744
33-4806	New Section Added	Ch.229	718
33-4806	Referred to	Ch.456	1496
33-4807	New Section Added	Ch.229	718
33-4808	New Section Added	Ch.229	719
TITLE 34			
34-106	Referred to	Ch. 54	96
34-106	Referred to	Ch.372	1199
34-406	Repealed	Ch. 67	138
34-406	New Section Added	Ch. 67	138
34-406	Referred to	Ch.123	277
34-408	Amended	Ch. 67	138
34-408A	New Section Added	Ch. 67	138
34-409	Amended	Ch. 67	139
34-410	Repealed	Ch. 67	138
34-410	New Section Added	Ch. 67	139
34-410A	Amended	Ch.122	272
34-610	Amended	Ch.181	576
34-613	Amended	Ch.277	864
34-622	Amended	Ch. 54	94
Chapter 10	Referred to	Ch.123	279
34-1002	Amended	Ch.122	272
34-1002A	Repealed	Ch.122	273
34-1003	Amended	Ch.122	273
34-1006	Amended	Ch. 21	36
Chapter 12	Referred to	Ch.123	280
34-1211	Amended	Ch.181	576
Chapter 14	Referred to	Ch. 51	89
Chapter 14	Referred to	Ch.328	1058
34-1701	Amended	Ch.181	577
34-1707	Amended	Ch. 54	95
34-1807	Referred to	Ch.372	1199
34-1809	Referred to	Ch.372	1199
34-1809	Amended	Ch.400	1263
34-2418	Amended	Ch. 54	94
34-2502	Amended	Ch.180	462
34-2504	Repealed	Ch. 54	93
34-2504	New Section Added	Ch. 54	93
34-2505	Amended	Ch.180	462
34-2505	Amended	Ch. 54	93
TITLE 36			
36-102	Amended	Ch.406	1276
36-104	Amended	Ch. 82	190
36-104	Amended	Ch.218	687
36-104	Referred to	Ch.363	1138
36-106	Referred to	Ch. 73	152
36-106	Amended	Ch. 82	194
36-106	Amended	Ch.218	684
36-107	Amended	Ch.180	463
36-110	Amended	Ch.180	464
36-111	Amended	Ch.149	343
36-111	Amended	Ch.269	832

TITLE 36 (Continued)		Chapter - Page
36-112	Amended	Ch.180 - 464
36-114	Amended	Ch.180 - 464
36-114	Amended	Ch.218 - 691
36-115	Amended	Ch.180 - 466
36-115	Amended	Ch.218 - 692
36-122	Amended	Ch.113 - 260
36-123	New Section Added	Ch.183 - 601
36-202	Amended	Ch. 26 - 42
36-301	Amended	Ch.180 - 469
36-304	Referred to	Ch. 84 - 200
36-308	Amended	Ch.180 - 469
36-309	Amended	Ch.180 - 469
36-406	Amended	Ch. 84 - 198
36-409	Amended	Ch.118 - 267
36-602	Amended	Ch.399 - 1262
36-602	Amended	Ch.341 - 1077
36-701	Amended	Ch. 73 - 153
36-709	Amended	Ch. 73 - 154
36-711	Amended	Ch. 73 - 154
36-715	Amended	Ch.382 - 1228
36-1101	Amended	Ch.115 - 262
36-1101	Amended	Ch. 94 - 214
36-1107	Referred to	Ch. 88 - 205
36-1108	Amended	Ch.218 - 680
36-1109	Amended	Ch.218 - 682
36-1110	Amended	Ch.218 - 683
36-1202	Amended	Ch. 88 - 205
36-1401	Amended	Ch. 94 - 216
36-1402	Referred to	Ch.115 - 265
36-1407	New Section Added	Ch.149 - 342
TITLE 37		
37-2515	Amended	Ch.425 - 1333
37-2516	Amended	Ch.425 - 1333
37-2701	Referred to	Ch.414 - 1303
37-2741A	Amended	Ch.358 - 1126
37-2744	Amended	Ch.286 - 900
37-2744	Amended	Ch.285 - 894
37-2744A	Amended	Ch.395 - 1251
TITLE 38		
38-114	Amended	Ch.180 - 470
38-122	Amended	Ch.152 - 348
38-131	Amended	Ch.180 - 470
38-131A	Amended	Ch.180 - 470
38-408	Amended	Ch.180 - 471
38-714	Amended	Ch.194 - 623
38-1209	Amended	Ch.180 - 471
38-1301	Referred to	Ch.152 - 349
38-1508	Amended	Ch.180 - 472
38-1517	Amended	Ch.180 - 473
TITLE 39		
39-105	Amended	Ch. 75 - 156
39-118	Amended	Ch.290 - 910

TITLE 39 (Continued)		Chapter - Page
39-129	New Section Added	Ch.162 - 370
39-150	New Section Added	Ch.298 - 942
39-151	New Section Added	Ch.298 - 942
39-152	New Section Added	Ch.298 - 943
39-153	New Section Added	Ch.298 - 943
39-154	New Section Added	Ch.298 - 943
39-155	New Section Added	Ch.298 - 943
39-156	New Section Added	Ch.298 - 943
39-157	New Section Added	Ch.298 - 943
39-158	New Section Added	Ch.298 - 944
39-159	New Section Added	Ch.298 - 944
39-160	New Section Added	Ch.298 - 944
39-161	New Section Added	Ch.298 - 944
39-162	New Section Added	Ch.298 - 945
39-163	New Section Added	Ch.298 - 945
39-164	New Section Added	Ch.298 - 945
39-165	New Section Added	Ch.298 - 945
39-253	Amended	Ch.180 - 474
39-269	Amended	Ch.105 - 236
39-273	Amended	Ch.323 - 1037
39-414	Amended	Ch.180 - 474
39-422	Amended	Ch.180 - 475
39-604	Amended	Ch.408 - 1278
39-701	Repealed	Ch.137 - 310
39-702	Repealed	Ch.137 - 310
39-703	Repealed	Ch.137 - 310
39-704	Repealed	Ch.137 - 310
39-1105	Amended	Ch.453 - 1443
39-1110	Amended	Ch.147 - 335
39-1602	Amended	Ch.138 - 311
39-3003	Referred to	Ch.342 - 1079
39-3502	Amended	Ch.284 - 890
39-3503	Amended	Ch.284 - 892
39-3560	New Section Added	Ch.284 - 887
39-3561	New Section Added	Ch.284 - 887
39-3562	New Section Added	Ch.284 - 888
39-3563	New Section Added	Ch.284 - 888
39-3564	New Section Added	Ch.284 - 888
39-3565	New Section Added	Ch.284 - 889
39-3566	New Section Added	Ch.284 - 889
39-3567	New Section Added	Ch.284 - 889
39-3568	New Section Added	Ch.284 - 889
39-3569	New Section Added	Ch.284 - 889
39-3570	New Section Added	Ch.284 - 889
39-3571	New Section Added	Ch.284 - 889
39-3572	New Section Added	Ch.284 - 889
39-3573	New Section Added	Ch.284 - 890
39-3574	New Section Added	Ch.284 - 890
39-3575	New Section Added	Ch.284 - 890
39-3576	New Section Added	Ch.284 - 890
39-3577	New Section Added	Ch.284 - 890
39-3578	New Section Added	Ch.284 - 890

TITLE 39 (Continued)		Chapter - Page
39-3579	New Section Added	Ch.284 - 890
39-3901	Amended	Ch.177 - 415
39-3903	Amended	Ch.177 - 416
39-4105	Referred to	Ch.212 - 670
Chapter 44	Referred to	Ch.342 - 1078
39-4403	Amended	Ch.419 - 1310
39-4417	Amended	Ch.180 - 476
39-4427	Amended	Ch.419 - 1312
39-4501 thru 39-4509	Referred to	Ch.298 - 942
39-4901	Repealed	Ch.283 - 883
39-4901	New Section Added	Ch.283 - 884
39-4902	Repealed	Ch.283 - 883
39-4902	New Section Added	Ch.283 - 884
39-4903	Repealed	Ch.283 - 883
39-4903	New Section Added	Ch.283 - 884
39-4904	Repealed	Ch.283 - 883
39-4904	New Section Added	Ch.283 - 886
39-4905	Repealed	Ch.283 - 883
39-4906	Repealed	Ch.283 - 883
39-4907	Repealed	Ch.283 - 883
39-4908	Repealed	Ch.283 - 883
39-4909	Repealed	Ch.283 - 883
39-4910	Repealed	Ch.283 - 883
39-4911	Repealed	Ch.283 - 883
39-4912	Repealed	Ch.283 - 883
39-4913	Repealed	Ch.283 - 883
39-4914	Repealed	Ch.283 - 883
39-6303	Referred to	Ch.340 - 1076
39-6312	Referred to	Ch.318 - 1020
39-7110	Amended	Ch.180 - 476
39-7402	Amended	Ch. 75 - 160
39-7403	Amended	Ch. 75 - 161
39-7404	Amended	Ch. 75 - 166
39-7406	Amended	Ch. 75 - 166
39-7410	Amended	Ch. 75 - 167
39-7413	Amended	Ch. 75 - 169
39-7415	Amended	Ch. 75 - 169
39-7416	Amended	Ch. 75 - 170
39-7417	Amended	Ch. 75 - 170
39-7501	New Section Added	Ch. 69 - 141
39-7502	New Section Added	Ch. 69 - 146
39-7503	New Section Added	Ch. 69 - 146
39-7504	New Section Added	Ch. 69 - 146
39-7505	New Section Added	Ch. 69 - 147
TITLE 40		
40-104	Amended	Ch.324 - 1039
40-109	Referred to	Ch.231 - 722
40-109	Amended	Ch.324 - 1040
40-113	Amended	Ch.280 - 868
40-206	Amended	Ch.123 - 275
40-206	Referred to	Ch.327 - 1055

TITLE 40 (Continued)		Chapter - Page
40-206	Referred to	Ch.331 - 1061
40-209	New Section Added	Ch.364 - 1140
40-317	Amended	Ch.280 - 868
40-615	Amended	Ch.180 - 477
40-701	Amended	Ch.180 - 477
40-701	Amended	Ch.409 - 1280
40-702	Referred to	Ch.111 - 255
40-707	Amended	Ch.180 - 478
40-707	Amended	Ch.409 - 1281
40-708	Amended	Ch.180 - 478
40-709	Amended	Ch.180 - 479
40-709	Amended	Ch.280 - 869
40-709	Referred to	Ch.331 - 1063
40-709	Referred to	Ch.364 - 1142
40-715	Amended	Ch.180 - 481
40-716	Repealed	Ch.280 - 874
40-717	New Section Added	Ch.280 - 870
40-801	Referred to	Ch.319 - 1021
Chapter 13	Referred to	Ch.331 - 1062
40-1304	Amended	Ch.123 - 276
40-1305	Amended	Ch.123 - 276
40-1305	Referred to	Ch.331 - 1062
40-1305A	New Section Added	Ch.123 - 277
40-1305B	New Section Added	Ch.123 - 277
40-1305C	New Section Added	Ch.123 - 277
40-1305D	New Section Added	Ch.123 - 278
40-1305E	New Section Added	Ch.123 - 278
40-1305F	New Section Added	Ch.123 - 279
40-1305G	New Section Added	Ch.123 - 279
40-1305H	New Section Added	Ch.123 - 279
40-1305I	New Section Added	Ch.123 - 280
40-1305J	New Section Added	Ch.123 - 280
40-1305K	New Section Added	Ch.123 - 280
40-1305L	New Section Added	Ch.123 - 281
40-1305M	New Section Added	Ch.123 - 281
40-1305N	New Section Added	Ch.123 - 281
40-1305O	New Section Added	Ch.123 - 281
40-1305P	New Section Added	Ch.123 - 282
40-1305Q	New Section Added	Ch.123 - 282
40-1309	Amended	Ch.324 - 1040
40-1310	Amended	Ch.324 - 1040
40-1323	Referred to	Ch.331 - 1062
40-1333	Referred to	Ch.331 - 1062
40-1334	Referred to	Ch.331 - 1062
40-1336	New Section Added	Ch.324 - 1043
40-1337	New Section Added	Ch.324 - 1043
Chapter 14	Referred to	Ch.331 - 1061
40-1609	Referred to	Ch.331 - 1062
40-2101	New Section Added	Ch.327 - 1053
40-2101	New Section Added	Ch.331 - 1061
40-2102	New Section Added	Ch.327 - 1053
40-2102	New Section Added	Ch.331 - 1061

TITLE 40 (Continued)		Chapter - Page
40-2103	New Section Added	Ch.327 - 1053
40-2103	New Section Added	Ch.331 - 1061
40-2104	New Section Added	Ch.327 - 1053
40-2104	New Section Added	Ch.331 - 1061
40-2105	New Section Added	Ch.327 - 1054
40-2105	New Section Added	Ch.331 - 1061
40-2106	New Section Added	Ch.327 - 1054
40-2106	New Section Added	Ch.331 - 1062
40-2107	New Section Added	Ch.327 - 1055
40-2107	New Section Added	Ch.331 - 1062
40-2108	New Section Added	Ch.327 - 1055
40-2108	New Section Added	Ch.331 - 1062
40-2109	New Section Added	Ch.327 - 1055
40-2109	New Section Added	Ch.331 - 1062
40-2110	New Section Added	Ch.327 - 1056
40-2110	New Section Added	Ch.331 - 1062
40-2111	New Section Added	Ch.327 - 1056
40-2111	New Section Added	Ch.331 - 1063
40-2112	New Section Added	Ch.327 - 1057
40-2112	New Section Added	Ch.331 - 1063
40-2113	New Section Added	Ch.327 - 1057
40-2113	New Section Added	Ch.331 - 1063
40-2114	New Section Added	Ch.327 - 1057
40-2301	Amended	Ch.364 - 1141
40-2324	New Section Added	Ch.319 - 1021
Chapter 24	Referred to	Ch.280 - 868
40-2401	New Section Added	Ch.280 - 871
40-2402	New Section Added	Ch.280 - 871
40-2403	New Section Added	Ch.280 - 871
40-2404	New Section Added	Ch.280 - 872
40-2405	New Section Added	Ch.280 - 872
TITLE 41		
41-211	Amended	Ch.310 - 977
41-228	Amended	Ch.267 - 825
41-249	New Section Added	Ch.309 - 976
41-250	Amended	Ch.219 - 696
41-250	Redesignated 41-290	Ch.219 - 696
41-252	Repealed	Ch.219 - 697
41-270	Amended	Ch.219 - 697
41-270	Redesignated 41-291	Ch.219 - 697
41-271	Amended	Ch.219 - 698
41-271	Redesignated 41-292	Ch.219 - 698
41-272	Amended	Ch.219 - 701
41-272	Redesignated 41-296	Ch.219 - 701
41-273	Amended	Ch.219 - 702
41-273	Redesignated 41-297	Ch.219 - 702
41-274	Amended	Ch.219 - 702
41-274	Redesignated 41-298	Ch.219 - 702
41-279	Amended	Ch.412 - 1301
41-286	New Section Added	Ch. 98 - 223
41-286	New Section Added	Ch.322 - 1037
41-290	Redesignated from 41-250	Ch.219 - 696

TITLE 41 (Continued)		Chapter - Page
41-291	Redesignated from 41-270	Ch.219 - 697
41-292	Redesignated from 41-271	Ch.219 - 698
41-293	Redesignated from 41-1325	Ch.219 - 699
41-294	Redesignated from 41-1326	Ch.219 - 700
41-295	New Section Added	Ch.219 - 700
41-296	Redesignated from 41-272	Ch.219 - 701
41-297	Redesignated from 41-273	Ch.219 - 702
41-298	Redesignated from 41-274	Ch.219 - 702
41-313	Amended	Ch.240 - 752
41-316	Amended	Ch.240 - 753
41-316A	New Section Added	Ch.240 - 754
41-318	Repealed	Ch.240 - 755
41-327	Referred to	Ch.219 - 696
41-402	Referred to	Ch. 78 - 176
41-402	Amended	Ch.383 - 1229
41-403	Amended	Ch.383 - 1231
41-406	Amended	Ch.180 - 481
41-510	Referred to	Ch.427 - 1341
41-511	Referred to	Ch.427 - 1341
41-514	Amended	Ch. 93 - 209
41-514	Referred to	Ch.427 - 1341
41-701	Amended	Ch.240 - 755
41-732	Repealed	Ch.240 - 755
41-802	Amended	Ch.240 - 756
41-803	Amended	Ch.240 - 756
41-810	Amended	Ch.240 - 757
41-1021	Referred to	Ch.427 - 1338
41-1024	Referred to	Ch.427 - 1338
41-1229	Amended	Ch.383 - 1232
41-1325	Amended	Ch.219 - 699
41-1325	Redesignated 41-293	Ch.219 - 699
41-1326	Amended	Ch.219 - 700
41-1326	Redesignated 41-294	Ch.219 - 700
41-2140	Amended	Ch.365 - 1147
41-2145	New Section Added	Ch.404 - 1269
41-2145	New Section Added	Ch.365 - 1148
41-2210	Amended	Ch.365 - 1151
41-2219	New Section Added	Ch.404 - 1270
41-2219	New Section Added	Ch.365 - 1153
41-2651	Amended	Ch.334 - 1065
41-2652	Amended	Ch.240 - 755
41-2703	Amended	Ch.240 - 758
41-2835	Amended	Ch. 78 - 177
41-2854A	New Section Added	Ch. 78 - 173
41-2872	New Section Added	Ch.275 - 853
41-3102A	Amended	Ch.240 - 755
Chapter 34	Referred to	Ch. 78 - 173
41-3406	Amended	Ch. 78 - 178
41-3408	Amended	Ch. 78 - 179
41-3408	Amended	Ch.275 - 854
41-3409	Amended	Ch. 78 - 180
41-3410	Amended	Ch. 78 - 180

TITLE 41 (Continued)		Chapter - Page
41-3434	Amended	Ch.404 - 1271
41-3437	Amended	Ch.365 - 1156
41-3442	New Section Added	Ch.365 - 1157
Chapter 39	Referred to	Ch.427 - 1341
41-3932	Amended	Ch.365 - 1160
41-3937	New Section Added	Ch.365 - 1162
41-3937	New Section Added	Ch.275 - 855
41-4023	Amended	Ch.365 - 1165
41-4026	New Section Added	Ch.365 - 1166
41-4313	Amended	Ch.239 - 751
41-4407	New Section Added	Ch.403 - 1268
Chapter 47	Referred to	Ch.404 - 1269
41-4703	Amended	Ch.427 - 1349
41-4704	Amended	Ch.427 - 1352
41-4706	Amended	Ch.427 - 1353
41-4707	Amended	Ch.427 - 1356
41-4708	Amended	Ch.427 - 1357
41-4711	Amended	Ch.427 - 1360
41-4712	Amended	Ch.427 - 1365
41-4713	Amended	Ch.427 - 1366
41-4714	Amended	Ch.427 - 1367
41-4716	Amended	Ch.427 - 1367
41-4717	New Section Added	Ch.365 - 1169
41-4904	Referred to	Ch.189 - 617
41-4914	Referred to	Ch.189 - 617
41-4933	Amended	Ch.240 - 759
41-5201	New Section Added	Ch.427 - 1338
41-5202	New Section Added	Ch.427 - 1338
41-5203	New Section Added	Ch.427 - 1338
41-5204	New Section Added	Ch.427 - 1340
41-5205	New Section Added	Ch.427 - 1341
41-5206	New Section Added	Ch.427 - 1341
41-5207	New Section Added	Ch.427 - 1344
41-5208	New Section Added	Ch.427 - 1344
41-5209	New Section Added	Ch.427 - 1346
41-5210	New Section Added	Ch.427 - 1347
41-5211	New Section Added	Ch.427 - 1347
41-5212	New Section Added	Ch.427 - 1347
41-5301	New Section Added	Ch.186 - 611
41-5302	New Section Added	Ch.186 - 611
41-5303	New Section Added	Ch.186 - 613
41-5304	New Section Added	Ch.186 - 613
41-5305	New Section Added	Ch.186 - 614
41-5306	New Section Added	Ch.186 - 615
TITLE 42		
Chapter 2	Referred to	Ch.454 - 1474
42-108	Referred to	Ch.454 - 1476
42-202	Amended	Ch.180 - 482
42-203A	Amended	Ch. 64 - 122
42-203A	Referred to	Ch.454 - 1478
42-203B	Referred to	Ch.274 - 852
42-221	Amended	Ch. 64 - 123

TITLE 42 (Continued)		Chapter - Page
42-221	Referred to	Ch.273 - 851
42-222	Amended	Ch. 64 - 125
42-222	Referred to	Ch.454 - 1475
42-224	Amended	Ch. 64 - 127
42-229	Referred to	Ch.454 - 1477
42-234	Amended	Ch.433 - 1397
42-237a	Amended	Ch.430 - 1390
42-237a	Amended	Ch.450 - 1436
42-237g	Amended	Ch.450 - 1438
42-245	Amended	Ch. 63 - 121
Chapter 3	Referred to	Ch.454 - 1472
42-311	Referred to	Ch.430 - 1389
42-350	Referred to	Ch.430 - 1389
42-351	Referred to	Ch.430 - 1389
42-351	Amended	Ch.450 - 1438
Chapter 6	Referred to	Ch.454 - 1473
42-602	Amended	Ch.450 - 1435
42-701	Amended	Ch.430 - 1388
42-1207	Amended	Ch.151 - 345
42-1401	Amended	Ch.454 - 1445
42-1401A	Referred to	Ch.430 - 1390
42-1401A	Amended	Ch.454 - 1445
42-1401B	New Section Added	Ch.454 - 1446
42-1401C	New Section Added	Ch.454 - 1447
42-1402	Amended	Ch.454 - 1447
42-1403	Amended	Ch.454 - 1447
42-1404	Amended	Ch.454 - 1448
42-1405	Amended	Ch.454 - 1449
42-1405	Redesignated 42-1424	Ch.454 - 1449
42-1405	Redesignated from 42-1406	Ch.454 - 1452
42-1405a	Repealed	Ch.454 - 1452
42-1406	Amended	Ch.454 - 1452
42-1406	Redesignated 42-1405	Ch.454 - 1452
42-1406	Redesignated from 42-1407	Ch.454 - 1453
42-1406A	Amended	Ch.454 - 1452
42-1407	Amended	Ch.454 - 1453
42-1407	Redesignated 42-1406	Ch.454 - 1453
42-1407	Redesignated from 42-1408	Ch.454 - 1454
42-1408	Amended	Ch.454 - 1454
42-1408	Redesignated 42-1407	Ch.454 - 1454
42-1408	Redesignated from 42-1408A	Ch.454 - 1455
42-1408A	Amended	Ch.454 - 1455
42-1408A	Redesignated 42-1408	Ch.454 - 1455
42-1409	Amended	Ch.454 - 1457
42-1409	Amended (As enacted by HB969)	Ch.455 - 1479
42-1409A	New Section Added	Ch.454 - 1460
42-1410	Amended	Ch.454 - 1461
42-1411	Amended	Ch.454 - 1461
42-1411	Amended (As enacted by HB969)	Ch.455 - 1481
42-1411A	New Section Added	Ch.454 - 1464
42-1411A	Amended (As enacted by HB969)	Ch.455 - 1483
42-1412	Amended	Ch.454 - 1466

TITLE 42 (Continued)		Chapter - Page
42-1412	Amended (As enacted by HB969)	Ch.455 - 1486
42-1413	Amended	Ch.454 - 1469
42-1414	Amended	Ch.454 - 1469
42-1414	Amended (As enacted by HB969)	Ch.455 - 1488
42-1415	Amended	Ch.454 - 1470
42-1416	Repealed	Ch.454 - 1471
42-1416A	Repealed	Ch.454 - 1471
42-1417	Amended	Ch.454 - 1471
42-1420	Amended	Ch.454 - 1472
42-1421	Amended	Ch.454 - 1472
42-1422	Amended	Ch.454 - 1473
42-1423	Amended	Ch.454 - 1473
42-1423	Redesignated 42-1428	Ch.454 - 1473
42-1423	New Section Added	Ch.454 - 1473
42-1424	Redesignated from 42-1405	Ch.454 - 1449
42-1425	New Section Added	Ch.454 - 1474
42-1426	New Section Added	Ch.454 - 1475
42-1427	New Section Added	Ch.454 - 1476
42-1427	Amended (As enacted by HB969)	Ch.455 - 1489
42-1428	Redesignated from 42-1428	Ch.454 - 1473
Chapter 15	Referred to	Ch.454 - 1474
42-1701A	Amended	Ch.450 - 1435
42-1734B	Referred to	Ch.108 - 239
42-1734F	Referred to	Ch.108 - 241
42-1763A	Referred to	Ch.452 - 1441
42-1806	New Section Added	Ch.449 - 1434
42-2018	Amended	Ch.180 - 484
42-2024	Amended	Ch.180 - 484
42-2807	Amended	Ch.180 - 485
Chapter 38	Referred to	Ch. 64 - 125
42-3802	Amended	Ch.292 - 912
42-3803	Amended	Ch.292 - 913
42-3809	Amended	Ch.292 - 914
42-3812	Amended	Ch.292 - 914
42-3813	New Section Added	Ch.292 - 915
42-4109	Amended	Ch. 51 - 89
42-4201	Amended	Ch.273 - 849
42-4201A	Amended	Ch.274 - 851
TITLE 43		
43-714A	New Section Added	Ch.144 - 317
43-715	Amended	Ch.144 - 317
43-716	Amended	Ch.144 - 319
43-717	Repealed	Ch.144 - 319
43-717	New Section Added	Ch.144 - 319
43-718	Repealed	Ch.144 - 319
43-718	New Section Added	Ch.144 - 321
43-719	Repealed	Ch.144 - 319
43-719	New Section Added	Ch.144 - 322
43-720	Amended	Ch.144 - 323
43-726	Amended	Ch.144 - 323
TITLE 44		
44-1104	Amended	Ch.367 - 1179

TITLE 44 (Continued)		Chapter - Page
44-2401	New Section Added	Ch.129 - 287
44-2402	New Section Added	Ch.129 - 287
44-2403	New Section Added	Ch.129 - 287
44-2404	New Section Added	Ch.129 - 288
44-2405	New Section Added	Ch.129 - 288
44-2406	New Section Added	Ch.129 - 290
44-2407	New Section Added	Ch.129 - 290
TITLE 46		
46-105	Amended	Ch.343 - 1079
46-719	Amended	Ch.180 - 485
46-1005A	Amended	Ch.180 - 486
TITLE 47		
47-1701	New Section Added	Ch.220 - 703
47-1702	New Section Added	Ch.220 - 703
47-1703	New Section Added	Ch.220 - 703
47-1704	New Section Added	Ch.220 - 703
47-1705	New Section Added	Ch.220 - 704
47-1706	New Section Added	Ch.220 - 704
47-1707	New Section Added	Ch.220 - 705
47-1708	New Section Added	Ch.220 - 705
TITLE 48		
Chapter 66	Referred to	Ch.217 - 679
TITLE 49		
Title 49	Referred to	Ch.324 - 1042
49-105	Amended	Ch.234 - 729
49-109	Amended	Ch.264 - 814
49-113	Amended	Ch.321 - 1025
49-114	Amended	Ch.234 - 732
49-117	Amended	Ch.264 - 815
49-117	Amended	Ch.321 - 1026
49-121	Amended	Ch.321 - 1028
49-123	Amended	Ch.296 - 934
49-201A	New Section Added	Ch.311 - 978
49-202	Amended	Ch.315 - 1001
49-213	Amended	Ch.264 - 817
49-301	Amended	Ch.234 - 733
49-302	Amended	Ch.234 - 734
49-304	New Section Added	Ch.234 - 735
49-305	Amended	Ch.347 - 1099
49-305	Amended	Ch.234 - 735
49-306	Amended	Ch.234 - 737
49-306	Amended	Ch.347 - 1100
49-307	Amended	Ch.347 - 1103
49-313	Amended	Ch.234 - 740
49-314	Amended	Ch.234 - 742
49-315	Amended	Ch. 85 - 200
49-326	Amended	Ch.357 - 1122
49-328	Amended	Ch.357 - 1125
49-405	Amended	Ch.278 - 866
49-406	Amended	Ch.313 - 996
49-406A	Amended	Ch.313 - 997
49-410	Amended	Ch.264 - 818

TITLE 49 (Continued)		Chapter - Page
49-411	Amended	Ch.246 - 767
49-412	Amended	Ch.246 - 767
49-434	Amended	Ch.311 - 979
49-434	Amended	Ch.246 - 767
49-434A	New Section Added	Ch.291 - 912
49-435	Amended	Ch.311 - 982
49-435	Amended	Ch.246 - 771
49-435A	New Section Added	Ch.311 - 984
49-436	Amended	Ch.311 - 985
49-436	Amended	Ch.246 - 773
49-436	Amended	Ch.320 - 1021
49-450A	Amended	Ch.180 - 487
49-511	Amended	Ch.297 - 941
49-514	Amended	Ch. 70 - 147
49-518	Amended	Ch.296 - 937
49-524	Amended	Ch.296 - 937
49-525	Amended	Ch.296 - 939
49-1013	Referred to	Ch.321 - 1036
49-1001	Amended	Ch.321 - 1030
49-1404	Amended	Ch.165 - 373
49-1613	Amended	Ch.317 - 1015
49-2103	Amended	Ch.347 - 1103
49-2106	Amended	Ch.163 - 371
49-2205	Amended	Ch.180 - 487
49-2444	Amended	Ch. 85 - 201
TITLE 50		
Chapter 2	Referred to	Ch. 66 - 136
50-222	Amended	Ch.375 - 1208
50-402	Amended	Ch. 66 - 136
Chapter 10	Referred to	Ch.327 - 1056
50-1002	Amended	Ch. 89 - 206
50-1012	Amended	Ch.180 - 487
50-1047	Amended	Ch.180 - 488
50-1049	Amended	Ch.180 - 488
50-1301	Amended	Ch.364 - 1141
50-1306A	Amended	Ch.364 - 1142
50-1324	Amended	Ch. 79 - 181
50-2611	Amended	Ch.180 - 489
50-2902	Amended	Ch.381 - 1223
50-2903	Amended	Ch.381 - 1223
50-2904	Amended	Ch.381 - 1226
50-2906	Amended	Ch.381 - 1227
TITLE 51		
51-105	Amended	Ch.145 - 324
51-112	Amended	Ch.145 - 325
51-113	Amended	Ch.145 - 326
51-114	Amended	Ch.145 - 326
TITLE 53		
53-202	Amended	Ch.405 - 1274
53-251A	New Section Added	Ch.405 - 1275
53-262	Amended	Ch.405 - 1275
53-267	Repealed	Ch.405 - 1275

TITLE 53 (Continued)		Chapter - Page
53-504	Amended	Ch.405 - 1276
53-601	Amended	Ch.293 - 920
53-608	Amended	Ch.293 - 921
53-613	Amended	Ch.293 - 921
53-615	Amended	Ch.293 - 922
53-628	Amended	Ch.293 - 924
53-630	Amended	Ch.293 - 924
53-651	Amended	Ch.293 - 925
53-655	Amended	Ch.293 - 925
53-665	Amended	Ch.293 - 926
TITLE 54		
Title 54	Referred to	Ch.186 - 612
54-204	Amended	Ch. 49 - 82
54-205	Amended	Ch. 49 - 84
54-207	Amended	Ch. 49 - 84
54-209	Amended	Ch. 49 - 84
54-210	Amended	Ch. 49 - 85
54-212	Amended	Ch. 49 - 86
54-217	Amended	Ch.180 - 489
54-219	Amended	Ch. 49 - 86
54-304	Amended	Ch. 17 - 32
54-802	Amended	Ch.312 - 989
54-805	Amended	Ch.312 - 990
54-805B	New Section Added	Ch.312 - 992
54-806	Amended	Ch.312 - 993
54-808	Amended	Ch.312 - 993
54-812	Amended	Ch.312 - 994
54-816	Amended	Ch.351 - 1111
54-818	Amended	Ch.312 - 995
54-901	Amended	Ch. 58 - 99
54-902	Amended	Ch. 58 - 100
54-903	Amended	Ch. 58 - 100
54-904	Amended	Ch. 58 - 101
54-905	Amended	Ch. 58 - 102
54-906	Amended	Ch. 58 - 102
54-907	Amended	Ch. 58 - 102
54-908	Amended	Ch. 58 - 103
54-909	Amended	Ch. 58 - 104
54-910	Amended	Ch. 58 - 105
54-910	Amended	Ch.180 - 489
54-911	Amended	Ch. 58 - 105
54-912	Amended	Ch. 58 - 105
54-913	Amended	Ch. 58 - 107
54-914	Amended	Ch. 58 - 107
54-915	Amended	Ch. 58 - 108
54-916	Amended	Ch. 58 - 108
54-917	Amended	Ch. 58 - 109
54-918	Amended	Ch. 58 - 109
54-919	Amended	Ch. 58 - 110
54-920	Amended	Ch. 58 - 110
54-921	Amended	Ch. 58 - 113
54-922	Amended	Ch. 58 - 114

TITLE 54 (Continued)		Chapter - Page
54-923	Amended	Ch. 58 - 114
54-924	Amended	Ch. 58 - 114
54-925	Amended	Ch. 58 - 116
54-926	Repealed	Ch. 58 - 116
54-934	Amended	Ch. 58 - 117
54-1111	Referred to	Ch.105 - 235
54-1116	Amended	Ch. 95 - 218
54-1118	Amended	Ch.423 - 1331
54-1131	Amended	Ch.105 - 236
54-1139	New Section Added	Ch.423 - 1329
54-1140	New Section Added	Ch.423 - 1330
54-1141	New Section Added	Ch.423 - 1330
54-1142	New Section Added	Ch.423 - 1330
54-1143	New Section Added	Ch.423 - 1331
54-1209	Amended	Ch.180 - 490
54-1223	Amended	Ch.356 - 1116
54-1402	Amended	Ch.232 - 723
54-1405	Amended	Ch.180 - 490
54-1506	Amended	Ch.180 - 491
54-1720	Amended	Ch.180 - 491
54-1720	Amended	Ch.348 - 1104
54-1741	Amended	Ch.348 - 1107
54-1743	Amended	Ch.348 - 1107
54-1744	Amended	Ch.348 - 1109
54-1748	Amended	Ch.348 - 1109
54-1809	Amended	Ch.180 - 494
54-1809	Referred to	Ch.217 - 677
54-2037	Amended	Ch.180 - 495
54-2039	Amended	Ch.330 - 1060
54-2120	Amended	Ch.180 - 495
54-2307	Amended	Ch. 16 - 31
54-2514	Repealed	Ch.325 - 1044
54-2514	New Section Added	Ch.325 - 1044
54-2809	Amended	Ch.180 - 495
Chapter 32	Referred to	Ch.443 - 1425
54-3204	Amended	Ch.139 - 311
Chapter 33	Referred to	Ch. 15 - 29
54-3501	New Section Added	Ch.217 - 674
54-3502	New Section Added	Ch.217 - 674
54-3503	New Section Added	Ch.217 - 674
54-3504	New Section Added	Ch.217 - 675
54-3505	New Section Added	Ch.217 - 676
54-3506	New Section Added	Ch.217 - 677
54-3507	New Section Added	Ch.217 - 677
54-3508	New Section Added	Ch.217 - 678
54-3509	New Section Added	Ch.217 - 678
54-3510	New Section Added	Ch.217 - 678
54-3511	New Section Added	Ch.217 - 679
54-3512	New Section Added	Ch.217 - 679
54-3605	Amended	Ch.180 - 496
Chapter 41	Referred to	Ch. 15 - 30
54-4105	Amended	Ch. 71 - 148

TITLE 54 (Continued)		Chapter - Page
Chapter 42	Referred to	Ch. 15 - 30
Chapter 42	Referred to	Ch.284 - 888
TITLE 55		
Title 55	Referred to	Ch. 42 - 70
55-1809	Amended	Ch.180 - 497
55-2501	New Section Added	Ch.366 - 1173
55-2502	New Section Added	Ch.366 - 1173
55-2503	New Section Added	Ch.366 - 1173
55-2504	New Section Added	Ch.366 - 1173
55-2505	New Section Added	Ch.366 - 1174
55-2506	New Section Added	Ch.366 - 1174
55-2507	New Section Added	Ch.366 - 1175
55-2508	New Section Added	Ch.366 - 1175
55-2509	New Section Added	Ch.366 - 1176
55-2510	New Section Added	Ch.366 - 1177
55-2511	New Section Added	Ch.366 - 1177
55-2512	New Section Added	Ch.366 - 1177
55-2513	New Section Added	Ch.366 - 1178
55-2514	New Section Added	Ch.366 - 1178
55-2515	New Section Added	Ch.366 - 1178
55-2516	New Section Added	Ch.366 - 1179
55-2517	New Section Added	Ch.366 - 1179
55-2518	New Section Added	Ch.366 - 1179
TITLE 56		
56-203B	Amended	Ch.289 - 909
56-203D	Amended	Ch.308 - 974
56-210	Amended	Ch.287 - 906
56-218	Amended	Ch.329 - 1059
56-233	Amended	Ch.180 - 498
56-404	Amended	Ch.180 - 498
56-406	Amended	Ch.180 - 499
56-701A	Amended	Ch.159 - 360
56-704A	Amended	Ch.159 - 361
TITLE 57		
57-302	Amended	Ch.180 - 499
57-304	Amended	Ch.180 - 499
57-305	Amended	Ch.180 - 499
57-726	Amended	Ch.180 - 500
57-812	Amended	Ch.180 - 500
57-813	Amended	Ch.180 - 500
57-818	Amended	Ch.180 - 501
57-1203	Amended	Ch.249 - 793
57-1204	New Section Added	Ch.249 - 793
57-1205	New Section Added	Ch.249 - 795
57-1307	Amended	Ch.180 - 501
57-1503	New Section Added	Ch. 68 - 140
57-1601	Referred to	Ch.252 - 798
57-1701	Amended	Ch. 45 - 73
TITLE 58		
58-101	Amended	Ch.180 - 501
58-116	Amended	Ch.180 - 502
58-123	Amended	Ch.180 - 502

TITLE 58 (Continued)		Chapter - Page
58-129	Amended	Ch.180 - 502
58-304A	Amended	Ch.180 - 503
58-308	Amended	Ch.180 - 503
58-323	Amended	Ch.180 - 503
58-1401	New Section Added	Ch.374 - 1203
58-1402	New Section Added	Ch.374 - 1203
58-1403	New Section Added	Ch.374 - 1204
58-1404	New Section Added	Ch.374 - 1204
58-1405	New Section Added	Ch.374 - 1205
58-1406	New Section Added	Ch.374 - 1205
58-1407	New Section Added	Ch.374 - 1205
58-1408	New Section Added	Ch.374 - 1205
58-1409	New Section Added	Ch.374 - 1206
58-1410	New Section Added	Ch.374 - 1206
58-1411	New Section Added	Ch.374 - 1206
58-1412	New Section Added	Ch.374 - 1206
58-1413	New Section Added	Ch.374 - 1207
58-1414	New Section Added	Ch.374 - 1207
58-1415	New Section Added	Ch.374 - 1207
58-1416	New Section Added	Ch.374 - 1207
TITLE 59		
59-103	Amended	Ch.180 - 504
59-201A	New Section Added	Ch.332 - 1064
59-204	Amended	Ch.180 - 504
59-307	Amended	Ch.180 - 504
59-501	Amended	Ch.180 - 505
59-501	Amended	Ch.435 - 1399
59-503	Amended	Ch.180 - 505
59-506	Amended	Ch.180 - 506
59-509	Referred to	Ch. 68 - 140
59-509	Referred to	Ch.217 - 676
59-509	Referred to	Ch.229 - 717
59-509	Referred to	Ch.249 - 795
59-509	Referred to	Ch.280 - 871
59-509	Referred to	Ch.374 - 1205
59-509	Referred to	Ch.412 - 1301
59-513	Amended	Ch.180 - 506
59-804	Amended	Ch.180 - 507
59-904	Amended	Ch.180 - 507
59-1005A	New Section Added	Ch.444 - 1425
59-1014	Referred to	Ch. 82 - 197
59-1105	Amended	Ch.180 - 509
59-1106A	Amended	Ch.180 - 509
59-1107	Amended	Ch.180 - 510
59-1107A	Amended	Ch.180 - 510
59-1108	Amended	Ch.180 - 511
59-1110	Amended	Ch.180 - 511
59-1115	Amended	Ch.428 - 1380
Chapter 13	Referred to	Ch.100 - 227
59-1302	Amended	Ch.209 - 658
59-1302	Amended	Ch.411 - 1296
59-1302	Amended	Ch.276 - 856

TITLE 59 (Continued)		Chapter - Page
59-1309	Repealed	Ch.276 - 861
59-1323	Repealed	Ch.428 - 1380
59-1325	Amended	Ch.180 - 511
59-1333	Amended	Ch.180 - 512
59-1334	Amended	Ch.180 - 512
59-1342	Amended	Ch.276 - 861
59-1345	Amended	Ch.209 - 663
59-1346	Amended	Ch.276 - 863
59-1348	Amended	Ch.209 - 663
59-1351	Amended	Ch.209 - 663
59-1404	Amended	Ch.180 - 512
59-1603	Amended	Ch.180 - 513
59-1603	Amended	Ch.272 - 847
59-1604	Amended	Ch.180 - 514
59-1604	Amended	Ch.272 - 848
59-1605	Amended	Ch.180 - 515
59-1606	Amended	Ch.180 - 515
TITLE 60		
60-106	Amended	Ch.192 - 621
60-105	Referred to	Ch.173 - 400
60-105	Referred to	Ch.371 - 1197
60-201	Amended	Ch. 1 - 3
TITLE 61		
61-117	Referred to	Ch. 61 - 120
61-119	Referred to	Ch. 61 - 120
61-119	Referred to	Ch.301 - 951
61-121	Referred to	Ch. 61 - 120
61-125	Referred to	Ch. 61 - 120
61-337	New Section Added	Ch. 61 - 120
61-801	Amended	Ch.238 - 749
61-1007	Amended	Ch.180 - 516
61-1008	Amended	Ch.180 - 516
TITLE 62		
62-304C	Amended	Ch.315 - 1005
62-603	Referred to	Ch.301 - 951
62-1301	New Section Added	Ch.429 - 1387
62-1302	New Section Added	Ch.429 - 1387
62-1303	New Section Added	Ch.429 - 1387
62-1304	New Section Added	Ch.429 - 1387
62-1305	New Section Added	Ch.429 - 1388
TITLE 63		
63-102	Amended	Ch. 74 - 155
63-105A	Amended	Ch.117 - 266
63-105P	Amended	Ch. 65 - 128
63-105DD	Amended	Ch.373 - 1200
63-118	Amended	Ch.120 - 270
63-119	Amended	Ch.373 - 1202
63-120	Amended	Ch.221 - 706
63-202	Amended	Ch.401 - 1264
63-222	New Section Added	Ch.316 - 1013
63-307C	Amended	Ch. 76 - 171
63-508	Amended	Ch.434 - 1398

TITLE 63 (Continued)		Chapter - Page
63-513	Amended	Ch.180 - 517
63-612	Amended	Ch.221 - 707
63-904	Amended	Ch. 4 - 5
63-911	Referred to	Ch. 35 - 54
63-916	Amended	Ch. 59 - 118
63-1102	Referred to	Ch. 59 - 118
63-1102	Referred to	Ch.370 - 1191
63-1123	Referred to	Ch.370 - 1191
63-1306	Amended	Ch. 57 - 98
63-1701	Amended	Ch.370 - 1189
63-1703	Amended	Ch.370 - 1190
63-1706	Amended	Ch.370 - 1192
63-2221	Referred to	Ch.344 - 1085
63-2222	Referred to	Ch.344 - 1085
63-2223	Referred to	Ch.344 - 1085
63-2224A	New Section Added	Ch.445 - 1427
63-2301	Amended	Ch.180 - 521
63-2302	Amended	Ch.180 - 521
63-2303	Amended	Ch.180 - 521
63-2306	Amended	Ch.180 - 521
63-2401	Amended	Ch.344 - 1080
63-2405	Amended	Ch.166 - 374
63-2409	Amended	Ch. 41 - 69
63-2409	Amended	Ch.344 - 1083
63-2412	Amended	Ch.315 - 1006
63-2412	Amended	Ch.280 - 872
63-2416	Amended	Ch.344 - 1083
63-2417	Repealed	Ch.344 - 1084
63-2419	Amended	Ch.344 - 1084
63-2434	Amended	Ch.344 - 1085
63-2439	Amended	Ch.344 - 1085
63-2440	Amended	Ch.344 - 1086
63-2442A	Amended	Ch.344 - 1087
63-2506	Referred to	Ch. 45 - 73
63-2506	Amended	Ch.447 - 1432
63-2510	Amended	Ch. 43 - 71
63-2520	Amended	Ch. 45 - 73
63-2520	Referred to	Ch. 45 - 73
63-2520	Amended	Ch.180 - 522
63-2552A	New Section Added	Ch.447 - 1432
63-3004	Amended	Ch. 38 - 56
63-3022	Amended	Ch. 39 - 57
63-3022	Amended	Ch.247 - 777
63-3022	Amended	Ch.186 - 607
63-3022C	Amended	Ch.355 - 1114
63-3022E	Amended	Ch.104 - 233
63-3022H	Amended	Ch. 39 - 62
63-3022I	New Section Added	Ch.354 - 1114
63-3025D	Amended	Ch.104 - 233
63-3027	Amended	Ch.247 - 782
63-3027	Amended	Ch.301 - 948
63-3027B	Amended	Ch.247 - 787

TITLE 63 (Continued)		Chapter - Page
63-3027C	Amended	Ch.247 - 788
63-3027E	Amended	Ch.247 - 789
63-3029A	Amended	Ch.211 - 667
63-3029B	Amended	Ch.247 - 790
63-3029D	New Section Added	Ch.342 - 1077
63-3030	Amended	Ch. 39 - 62
63-3035	Amended	Ch. 40 - 66
63-3036	Amended	Ch. 39 - 64
63-3044	Amended	Ch.172 - 388
63-3045	Amended	Ch.172 - 389
63-3045B	Amended	Ch.172 - 391
63-3046B	Amended	Ch. 39 - 65
63-3051	Amended	Ch. 42 - 70
63-3055	Amended	Ch.172 - 392
63-3065	Amended	Ch.172 - 393
63-3067	Amended	Ch.180 - 522
63-3202	Amended	Ch.180 - 523
63-3404	Amended	Ch.180 - 524
63-3503	Amended	Ch.316 - 1014
63-3613	Amended	Ch.111 - 244
63-3615	Amended	Ch.376 - 1209
63-3620	Amended	Ch.111 - 246
63-3621	Amended	Ch.111 - 249
63-3621	Referred to	Ch.327 - 1057
63-3622	Referred to	Ch.327 - 1057
63-3622GG	Amended	Ch. 44 - 72
63-3624	Amended	Ch.111 - 251
63-3638	Amended	Ch.111 - 253
63-3701	Referred to	Ch.301 - 950
63-4001	Amended	Ch.172 - 394
63-4002	Amended	Ch.172 - 394
63-4003	Amended	Ch.172 - 395
63-4004	Amended	Ch.172 - 396
63-4006	Amended	Ch.172 - 396
63-4007	Amended	Ch.172 - 397
63-4010	Amended	Ch.172 - 397
63-4011	Amended	Ch.172 - 397
63-4208	Referred to	Ch.172 - 391
TITLE 65		
65-102	Amended	Ch.180 - 524
65-205	Amended	Ch.180 - 525
TITLE 66		
66-118	Amended	Ch.180 - 525
66-402	Referred to	Ch.104 - 233
66-503	Amended	Ch.180 - 527
66-1101	Amended	Ch.180 - 527
66-1107	Amended	Ch.180 - 528
66-1108	Amended	Ch.180 - 528
TITLE 67		
67-202	Amended	Ch.397 - 1255
67-406b	Amended	Ch.180 - 529
67-429	Amended	Ch.180 - 529

TITLE 67 (Continued)		Chapter - Page
67-429	Amended	Ch.181 - 577
67-435	Amended	Ch.180 - 533
67-450B	Referred to	Ch.327 - 1056
67-451	Amended	Ch.180 - 533
67-461	Amended	Ch.180 - 534
67-463	Amended	Ch.180 - 535
67-801	Amended	Ch.180 - 535
67-808d	Referred to	Ch. 9 - 14
67-814	Amended	Ch.180 - 535
67-916	Amended	Ch.180 - 536
Chapter 10	Amended (Heading)	Ch.181 - 580
67-1001	Amended	Ch.181 - 581
67-1002	Repealed	Ch.181 - 580
67-1002	Redesignated from 67-1004	Ch.181 - 582
67-1003	Amended	Ch.181 - 585
67-1003	Redesignated 67-1025	Ch.181 - 585
67-1003	Redesignated from 67-1011	Ch.181 - 582
67-1004	Amended	Ch.181 - 582
67-1004	Redesignated 67-1002	Ch.181 - 582
67-1004	Redesignated from 67-1014	Ch.181 - 583
67-1005	Amended	Ch.181 - 584
67-1005	Redesignated 67-1022	Ch.181 - 584
67-1005	Redesignated from 67-1015	Ch.181 - 583
67-1006	Amended	Ch.181 - 584
67-1006	Redesignated 67-1022	Ch.181 - 584
67-1006	Redesignated from 67-1016	Ch.181 - 583
67-1007	Amended	Ch.181 - 586
67-1007	Redesignated 67-1051	Ch.181 - 586
67-1007	Redesignated from 67-1030	Ch.181 - 583
67-1008	Amended	Ch.181 - 584
67-1008	Redesignated 67-1023	Ch.181 - 584
67-1008	Redesignated from 67-1012	Ch.181 - 583
67-1009	Amended	Ch.181 - 585
67-1009	Redesignated 67-1024	Ch.181 - 585
67-1010	Amended	Ch.181 - 586
67-1010	Redesignated 67-1041	Ch.181 - 586
67-1011	Amended	Ch.181 - 582
67-1011	Redesignated 67-1003	Ch.181 - 582
67-1012	Amended	Ch.181 - 583
67-1012	Redesignated 67-1008	Ch.181 - 583
67-1013	Amended	Ch.181 - 586
67-1013	Redesignated 67-1042	Ch.181 - 586
67-1014	Amended	Ch.181 - 583
67-1014	Redesignated 67-1004	Ch.181 - 583
67-1015	Amended	Ch.181 - 583
67-1015	Redesignated 67-1005	Ch.181 - 583
67-1016	Amended	Ch.181 - 583
67-1016	Redesignated 67-1006	Ch.181 - 583
67-1017	Amended	Ch.181 - 586
67-1017	Redesignated 67-1031	Ch.181 - 586
67-1018	Amended	Ch.181 - 584
67-1018	Redesignated 67-1021	Ch.181 - 584

TITLE 67 (Continued)		Chapter - Page
67-1021	Amended	Ch.181 - 585
67-1021	Redesignated 67-1026	Ch.181 - 585
67-1021	Redesignated from 67-1018	Ch.181 - 584
67-1022	Amended	Ch.181 - 585
67-1022	Redesignated 67-1027	Ch.181 - 585
67-1022	Redesignated from 67-1005	Ch.181 - 584
67-1022	Redesignated from 67-1006	Ch.181 - 584
67-1023	Amended	Ch.181 - 588
67-1023	Redesignated 67-1081	Ch.181 - 588
67-1023	Redesignated from 67-1008	Ch.181 - 584
67-1024	Amended	Ch.181 - 589
67-1024	Redesignated 67-1082	Ch.181 - 589
67-1024	Redesignated from 67-1009	Ch.181 - 585
67-1025	Amended	Ch.181 - 590
67-1025	Redesignated 67-1083	Ch.181 - 590
67-1025	Redesignated from 67-1003	Ch.181 - 585
67-1026	Repealed	Ch.181 - 580
67-1026	Redesignated from 67-1021	Ch.181 - 585
67-1027	Amended	Ch.181 - 589
67-1027	Redesignated 67-1081	Ch.181 - 588
67-1027	Redesignated from 67-1022	Ch.181 - 585
67-1028	Amended	Ch.181 - 588
67-1028	Redesignated 67-1056	Ch.181 - 588
67-1029	Amended	Ch.181 - 590
67-1029	Redesignated 67-1084	Ch.181 - 590
67-1030	Amended	Ch.181 - 583
67-1030	Redesignated 67-1007	Ch.181 - 583
67-1031	Amended	Ch.181 - 587
67-1031	Redesignated 67-1052	Ch.181 - 587
67-1031	Redesignated from 67-1017	Ch.181 - 586
67-1032	Amended	Ch.181 - 587
67-1032	Redesignated 67-1053	Ch.181 - 587
67-1033	Repealed	Ch.181 - 580
67-1034	Amended	Ch.181 - 587
67-1034	Redesignated 67-1054	Ch.181 - 587
67-1035	Amended	Ch.181 - 588
67-1035	Redesignated 67-1055	Ch.181 - 588
67-1036	Repealed	Ch.181 - 580
67-1041	Redesignated from 67-1010	Ch.181 - 586
67-1042	Redesignated from 67-1013	Ch.181 - 586
67-1051	Redesignated from 67-1007	Ch.181 - 586
67-1052	Redesignated from 67-1031	Ch.181 - 587
67-1053	Redesignated from 67-1032	Ch.181 - 587
67-1054	Redesignated from 67-1034	Ch.181 - 587
67-1055	Redesignated from 67-1035	Ch.181 - 588
67-1056	Redesignated from 67-1028	Ch.181 - 588
67-1081	Redesignated from 67-1023	Ch.181 - 588
67-1081	Redesignated from 67-1027	Ch.181 - 589
67-1082	Redesignated from 67-1024	Ch.181 - 589
67-1083	Redesignated from 67-1025	Ch.181 - 590
67-1084	Redesignated from 67-1029	Ch.181 - 590
67-1101	Amended	Ch.181 - 590

TITLE 67 (Continued)		Chapter - Page
67-1102	Amended	Ch.181 - 590
67-1103	Amended	Ch.181 - 591
67-1104	Amended	Ch.181 - 591
67-1201	Amended	Ch.180 - 536
67-1206	Amended	Ch.180 - 537
67-1209	Amended	Ch.180 - 538
67-1210	Amended	Ch.402 - 1265
67-1212	Amended	Ch.180 - 538
67-1213	Amended	Ch.180 - 538
67-1216	Amended	Ch.180 - 539
67-1401	Amended	Ch.180 - 539
67-1501	Amended	Ch.277 - 865
67-1505	Amended	Ch.180 - 540
67-1901	Amended	Ch.420 - 1313
67-1902	Amended	Ch.420 - 1313
67-1903	Referred to	Ch.109 - 243
67-1903	Amended	Ch.420 - 1314
67-1918	Amended	Ch.180 - 541
67-2001	Amended	Ch.180 - 541
67-2003	Amended	Ch.180 - 541
67-2005	Amended	Ch.180 - 542
67-2007	Referred to	Ch.374 - 1207
67-2008	Referred to	Ch.171 - 383
67-2008	Referred to	Ch.374 - 1207
67-2012	Amended	Ch.180 - 542
67-2013	Amended	Ch.180 - 542
67-2014	Amended	Ch.180 - 542
67-2016	Amended	Ch.180 - 543
67-2018	Amended	Ch.180 - 543
67-2020	Amended	Ch.180 - 543
67-2021	Amended	Ch.180 - 544
67-2022	Amended	Ch.180 - 544
67-2023	Amended	Ch.180 - 544
67-2027	New Section Added	Ch.181 - 591
Chapter 23	Referred to	Ch. 86 - 204
67-2328	Referred to	Ch.327 - 1056
67-2328	Referred to	Ch.331 - 1063
67-2402	Amended	Ch.180 - 544
67-2511	Amended	Ch.180 - 545
67-2601	Amended	Ch. 15 - 29
67-2602	Amended	Ch. 15 - 30
67-2606	Amended	Ch.180 - 545
67-2614	Amended	Ch. 15 - 30
67-2702	Amended	Ch.180 - 546
67-2702	Referred to	Ch.410 - 1288
67-2724	Amended	Ch.180 - 547
67-2726	Amended	Ch.180 - 547
67-2744	Amended	Ch.180 - 547
67-3507	Amended	Ch.109 - 242
67-3508	Amended	Ch.180 - 548
67-3510	Amended	Ch.180 - 549
67-3512A	Amended	Ch.180 - 549

TITLE 67 (Continued)		Chapter - Page
67-3516	Amended	Ch.180 - 549
67-3517	Amended	Ch.180 - 551
67-3518	Amended	Ch.180 - 551
67-3520	Amended	Ch.180 - 551
67-3524	Amended	Ch.180 - 552
67-3524	Referred to	Ch.402 - 1267
67-3603	Amended	Ch.180 - 552
67-3604	Amended	Ch.180 - 552
67-3608	Amended	Ch.180 - 553
67-3610	Amended	Ch.180 - 553
67-3611	Amended	Ch.180 - 554
67-3801	Amended	Ch.180 - 554
67-4221	Referred to	Ch. 68 - 140
67-4718	Amended	Ch. 91 - 207
67-4917C	Amended	Ch.180 - 555
Chapter 52	Referred to	Ch. 25 - 39
Chapter 52	Referred to	Ch. 98 - 224
Chapter 52	Referred to	Ch. 99 - 224
Chapter 52	Referred to	Ch.176 - 403
Chapter 52	Referred to	Ch.217 - 676
Chapter 52	Referred to	Ch.218 - 682
Chapter 52	Referred to	Ch.220 - 705
Chapter 52	Referred to	Ch.283 - 884
Chapter 52	Referred to	Ch.308 - 967
Chapter 52	Referred to	Ch.310 - 977
Chapter 52	Referred to	Ch.322 - 1037
Chapter 52	Referred to	Ch.394 - 1250
Chapter 52	Referred to	Ch.410 - 1294
Chapter 52	Referred to	Ch.427 - 1347
67-5201	Referred to	Ch.394 - 1249
67-5202	Amended	Ch.180 - 555
67-5203	Amended	Ch.371 - 1194
67-5205	Amended	Ch.371 - 1195
67-5220	Amended	Ch.271 - 834
67-5221	Amended	Ch.271 - 834
67-5221	Amended	Ch.371 - 1196
67-5223	Amended	Ch.271 - 835
67-5291	Referred to	Ch.394 - 1250
67-5292	Referred to	Ch.394 - 1250
Chapter 53	Referred to	Ch.304 - 957
67-5301	Amended	Ch.272 - 837
67-5303	Amended	Ch.180 - 556
67-5309	Amended	Ch.294 - 928
67-5309	Amended	Ch.159 - 361
67-5309	Amended	Ch.272 - 837
67-5309A	Amended	Ch.272 - 841
67-5309B	Amended	Ch.272 - 842
67-5309C	Amended	Ch.272 - 843
67-5314	Amended	Ch.180 - 557
Chapter 54	Amended (Heading)	Ch.159 - 367
67-5402	Amended	Ch.159 - 365
67-5403	Amended	Ch.159 - 365

TITLE 67 (Continued)		Chapter - Page
67-5413	Amended	Ch.159 - 366
67-5708	Amended	Ch.176 - 403
67-5716	Amended	Ch.180 - 558
67-5717	Amended	Ch.176 - 404
67-5718	Amended	Ch.242 - 760
67-5720	Amended	Ch.176 - 405
67-5726	Amended	Ch.110 - 243
67-5729	Amended	Ch.176 - 405
67-5730	Amended	Ch.176 - 406
67-5732	Amended	Ch.176 - 407
67-5733	Amended	Ch.176 - 407
67-5735	Amended	Ch.180 - 559
67-5740	Amended	Ch.176 - 410
67-5744	Amended	Ch.176 - 412
67-5747	Amended	Ch.176 - 413
67-5750	Amended	Ch.180 - 559
67-5751	Amended	Ch.176 - 414
67-5772	Amended	Ch.180 - 560
67-5776	Amended	Ch.180 - 560
67-5778	Amended	Ch.180 - 561
67-5901	Amended	Ch.268 - 826
67-5902	Amended	Ch.268 - 826
67-5909	Amended	Ch.268 - 828
67-5910	Amended	Ch.268 - 830
67-6203	Amended	Ch.180 - 561
67-6305	Amended	Ch.180 - 562
67-6404	Referred to	Ch.339 - 1075
67-6410	Referred to	Ch.339 - 1075
67-6502	Amended	Ch.245 - 764
67-6508	Amended	Ch.212 - 669
67-6508	Amended	Ch.245 - 765
67-6509A	New Section Added	Ch.212 - 670
67-6517	Amended	Ch. 90 - 206
Chapter 66	Referred to	Ch. 54 - 93
67-6602	Amended	Ch. 5 - 6
67-6602	Amended (As Enacted by SB1295)	Ch.379 - 1218
67-6606	New Section Added	Ch.379 - 1221
67-6607	Amended	Ch.379 - 1220
67-6610	Amended	Ch.180 - 562
67-6803	Amended	Ch.338 - 1074
67-6902	Amended	Ch.159 - 366
67-6903	Amended	Ch.159 - 366
67-7003	Amended	Ch. 65 - 129
67-7008	Amended	Ch. 65 - 130
67-7011	Repealed	Ch. 65 - 132
67-7013	Amended	Ch. 65 - 132
67-7013	Amended	Ch.180 - 563
67-7014	Amended	Ch. 65 - 135
67-7029	Amended	Ch. 65 - 135
67-7122	Amended	Ch.288 - 907
67-7123	Amended	Ch.288 - 908
67-7126	Amended	Ch.288 - 908

TITLE 67 (Continued)		Chapter - Page
67-7409	Amended	Ch.180 - 565
67-7434	Referred to	Ch.345 - 1089
67-7450	Amended	Ch.180 - 567
67-7702	Amended	Ch.281 - 875
67-7703	Amended	Ch.281 - 876
67-7705	Amended	Ch.281 - 876
67-7706	Amended	Ch.281 - 878
67-7707	Amended	Ch.281 - 879
67-7708	Amended	Ch.281 - 880
67-7709	Repealed	Ch.281 - 882
67-7802	Amended	Ch.416 - 1305
67-8001	New Section Added	Ch.116 - 265
67-8002	New Section Added	Ch.116 - 265
67-8003	New Section Added	Ch.116 - 265
67-8004	New Section Added	Ch.116 - 266
TITLE 68		
68-1201	Amended	Ch.190 - 617
68-1202	Amended	Ch.190 - 617
68-1203	Amended	Ch.190 - 618
68-1204	Repealed	Ch.190 - 618
68-1204	New Section Added	Ch.190 - 618
68-1206	Amended	Ch.190 - 619
68-1207	Amended	Ch.190 - 619
TITLE 70		
70-208	Amended	Ch.180 - 567
70-1501	Amended	Ch.114 - 261
TITLE 72		
72-102	Amended	Ch.112 - 256
72-102	Amended	Ch.446 - 1427
72-212	Amended	Ch.293 - 926
72-327	Amended	Ch.180 - 567
72-311	Amended	Ch.178 - 417
72-328	Amended	Ch.180 - 569
72-451	New Section Added	Ch.112 - 259
72-910	Amended	Ch.180 - 569
72-912	Amended	Ch.180 - 569
72-1335	Amended	Ch.210 - 665
72-1346	Amended	Ch.180 - 571
72-1349D	New Section Added	Ch.129 - 290
TITLE 73		
73-218	Amended	Ch.180 - 574
73-219	Amended	Ch.180 - 574

MISCELLANEOUS

Idaho Rules of Civil Procedure	Referred to	Ch.455 - 1489
Idaho Rules of Evidence	Referred to	Ch.455 - 1487

IDAHO CONSTITUTION

Art.I. Sec.13	Referred to	Ch.116 - 265
Art.I, Sec.22	Amendment Proposed	HJR 16 - 1498

IDAHO CONSTITUTION (Continued)

		Chapter - Page
Art.III, Sec.23	Amendment Proposed	SJR109 - 1493
Art.IV, Sec.1	Amendment Proposed	SJR109 - 1494
Art.IV, Sec.1	Amendment Proposed	HJR 24 - 1501
Art.IV, Sec.3	Amendment Proposed	SJR109 - 1494
Art.IV, Sec.6	Amendment Proposed	SJR109 - 1494
Art.IV, Sec.19	Amendment Proposed	SJR109 - 1495
Art.IV, Sec.20	Amendment Proposed	SJR109 - 1496
Art.V, Sec.27	Amendment Proposed	SJR109 - 1496
Art.IX, Sec.1	Referred to	Ch. 25 - 39
Art.IX, Sec.7	Amendment Proposed	SJR109 - 1496
Art.XVIII, Sec.12	New Section Proposed	HJR 17 - 1500
	LAWS OF 1989	
Ch.206, Sec.2	Repealed	Ch.194 - 625
	LAWS OF 1992	
Ch. 59, Sec.2	Referred to	Ch.221 - 706
Ch.101, Sec.4	Amended	Ch.452 - 1442
Ch.256, Sec.5	Amended	Ch.125 - 284
	LAWS OF 1993	
Ch. 55, Sec.3	Amended	Ch.375 - 1208
Ch.115, Sec.3	Repealed	Ch. 19 - 35
Ch.132, Sec.1	Referred to	Ch. 3 - 5
Ch.144, Sec.2	Referred to	Ch.302 - 954
Ch.149, Sec.1	Referred to	Ch. 11 - 18
Ch.175, Sec.2	Referred to	Ch. 62 - 120
Ch.228, Sec.1	Referred to	Ch.156 - 353
Ch.241, Sec.2	Amended	Ch. 10 - 16
Ch.277, Sec.1	Referred to	Ch. 31 - 48
Ch.322, Sec.1	Referred to	Ch.203 - 635
Ch.323	Amended	Ch. 2 - 3
Ch.324, Sec.1	Referred to	Ch. 22 - 36
Ch.325, Sec.2	Amended	Ch. 6 - 9
Ch.328	Amended	Ch. 9 - 14
Ch.335, Sec.1	Amended	Ch.308 - 967
Ch.335, Sec.5	Amended	Ch.308 - 969
Ch.335, Sec.6	Amended	Ch.308 - 964
Ch.335, Sec.7	Amended	Ch.308 - 965
Ch.335, Sec.8	Repealed	Ch.308 - 975
Ch.335, Sec.9	Repealed	Ch.308 - 975
Ch.335, Sec.10	Repealed	Ch.308 - 975
Ch.335, Sec.11	Repealed	Ch.308 - 975
Ch.335, Sec.12	Repealed	Ch.308 - 975
Ch.335, Sec.13	Repealed	Ch.308 - 975
Ch.335, Sec.14	Repealed	Ch.308 - 975
Ch.335, Sec.15	Amended	Ch.308 - 975
Ch.354, Sec.1	Amended	Ch. 8 - 11
Ch.354, Sec.1	Referred to	Ch. 87 - 204
Ch.355, Sec.1	Referred to	Ch. 20 - 35

LAWS OF 1993 (Continued)

		Chapter - Page
Ch.355, Sec.1	Referred to	Ch.386 - 1236
Ch.357, Sec.1	Referred to	Ch. 55 - 97
Ch.359, Sec.1	Referred to	Ch. 12 - 19
Ch.360, Sec.3	Referred to	Ch.103 - 232
Ch.361, Sec.2	Referred to	Ch. 56 - 97
Ch.366, Sec.2	Referred to	Ch. 23 - 37
Ch.368, Sec.1	Amended	Ch. 19 - 34
Ch.368, Sec.1	Referred to	Ch. 19 - 34
Ch.369, Sec.1	Referred to	Ch.203 - 635
Ch.381, Sec.1	Referred to	Ch.126 - 285
Ch.383, Sec.2	Referred to	Ch. 24 - 38
Ch.384, Sec.2	Referred to	Ch. 92 - 209
Ch.384, Sec.2	Amended	Ch. 81 - 182
Ch.384, Sec.2	Referred to	Ch.106 - 238
Ch.384, Sec.2	Amended	Ch.146 - 327
Ch.388, Sec.2	Amended	Ch.429 - 1381
Ch.388, Sec.4	Amended	Ch.181 - 598
Ch.391, Sec.3	Amended	Ch.281 - 882
Ch.410, Sec.2	Referred to	Ch. 32 - 49
Ch.413, Sec.2	Amended	Ch.357 - 1117

LAWS OF 1994

HB969	Amended	Ch.455 - 1478
SB1295	Amended	Ch.379 - 1218
SB1369	Amended	Ch.346 - 1097
SB1560	Amended	Ch.440 - 1409
SB1601	Referred to	Ch.392 - 1242
SB1602	Referred to	Ch.392 - 1242

FEDERAL LAWS

Americans with Disabilities Act of 1990	Referred to	Ch.264 - 817
Brady Handgun Violence Prevention Act	Referred to	Ch.377 - 1210
Employer Retirement Income Security Act of 1974	Referred to	Ch.186 - 612
Intermodal Surface Transportation Efficiency Act	Referred to	Ch.327 - 1054
Intermodal Surface Transportation Efficiency Act	Referred to	Ch.344 - 1087
Internal Revenue Code		
Section 47	Referred to	Ch.342 - 1079
Section 61	Referred to	Ch. 39 - 63
Section 213	Referred to	Ch.186 - 612
Section 501	Referred to	Ch.190 - 618
Section 507	Referred to	Ch.190 - 618
Section 922	Referred to	Ch.247 - 789
Section 936	Referred to	Ch.247 - 788

FEDERAL LAWS (Continued)

		Chapter - Page
National Voter Registration Act of 1993	Referred to	Ch. 67 - 139
Social Security Act Title XIX	Referred to	Ch. 69 - 144
Social Security Act Section 1902	Referred to	Ch.365 - 1151
Taylor Grazing Act	Referred to	Ch.249 - 794
Uniformed Overseas Citizens Absentee Voting Act	Referred to	Ch.122 - 272
40 CFR 257	Referred to	Ch. 75 - 166
40 CFR 258	Referred to	Ch. 75 - 160
11 USC 101--1330	Referred to	Ch.186 - 614
23 USC App 1001--9511	Referred to	Ch.327 - 1054
26 USC 402	Referred to	Ch.210 - 667
30 USC 181	Referred to	Ch.220 - 704
30 USC 351	Referred to	Ch.220 - 704
30 USC 601	Referred to	Ch.220 - 704
30 USC 1001	Referred to	Ch.220 - 704
42 USC 415	Referred to	Ch. 40 - 67
42 USC 1396	Referred to	Ch.365 - 1151
42 USC 1973	Referred to	Ch.122 - 272
43 USC 666	Referred to	Ch.455 - 1487

IDAHO ACTS

Abandoned Hardrock Mine Reclamation	Enacted	Ch.220 - 703
Health Planning	Enacted	Ch.283 - 884
Individual Health Insurance Availability	Enacted	Ch.427 - 1338
Medical Care Savings Account	Enacted	Ch.186 - 611
Money Transmitters	Enacted	Ch.410 - 1282
Professional Employer Recognition	Enacted	Ch.129 - 287
Property Condition Disclosure	Enacted	Ch.366 - 1173
Protection of Public Employees	Enacted	Ch.100 - 227
Regional Public Transportation Authority	Enacted	Ch.327 - 1053
Regulatory Takings	Enacted	Ch.116 - 265
Uniform Interstate Family Support	Enacted	Ch.207 - 640

NUMERICAL LIST OF SENATE BILLS

that became law with a brief synopsis and the chapter number of the bill

		Chapter	Page
S1288	Judges, federal, solemnize marriages ...	Ch. 7	11
S1290aa	School dist, report requirements	Ch.175	402
S1291	Pub schools/thorough system define	Ch. 25	38
S1295	Campaign finance, nonbusiness entities .	Ch. 5	6
S1300	Approp, add'l, Lottery Comm	Ch. 3	5
S1301aaH	Father/putative, right/responsibility ..	Ch.393	1243
S1302	Death sentence, Supreme Court	Ch.127	285
S1305	Approp, add'l, Correction Dept	Ch. 6	8
S1309	State agency rules, effective date	Ch.394	1249
S1311aa	Administration Dept, APA, law updated ..	Ch.176	402
S1315	Attorney fees, awarded, when	Ch. 36	55
S1319	Approp, add'l, Lands Dept	Ch. 12	19
S1320	Approp, add'l, Parks & Recreation	Ch. 8	11
S1321	Approp, Governors office, FY94 amended .	Ch. 9	14
S1322	Sterilization, involuntary, petition ...	Ch.177	415
S1324	Aeronautic Advisory Bd, compensation ...	Ch.128	286
S1325aa	Radio amateur license plate, fee	Ch.278	865
S1328	Ratites, livestock animals	Ch. 72	149
S1329	Day care centers, health standards	Ch.147	335
S1330aaH	Day care centers, crime history check ..	Ch.453	1442
S1331	POST acct, self-sponsored students	Ch.191	620
S1332	Property, certain, forfeited, sale	Ch.395	1250
S1334	Dist magistrate comm, atty members	Ch.396	1253
S1335	Fremont county, precinct boundaries	Ch.397	1255
S1336	Newspaper, defined, legal notices	Ch.192	621
S1337	Mailing lists, distribution	Ch.398	1261
S1338	Campaign expenditure statement	Ch. 54	93
S1339	State seal, authorship	Ch.444	1425
S1340	Property tax, personal, delinquent	Ch. 57	98
S1341	Plats/vacation record, taxes paid	Ch. 79	181
S1343aaH	Workers comp insurance, cancellation ...	Ch.178	417
S1344	Professional employer services	Ch.129	287
S1347	Insurance, casualty, underwriters	Ch. 93	209
S1350	Community college, tuition, increase ...	Ch.179	418
S1351	Prisoner, certain, work detail	Ch.148	336
S1352	Fee increase, certain violations, POST .	Ch.193	623

		Chapter - Page
S1354aaH	Taxidermist license, nonresident	Ch.399 - 1262
S1355aa	Worker comp, community service penalty .	Ch.233 - 724
S1356	Forest/range/wildlife policy group	Ch.194 - 623
S1357	Approp, add'l, Revenue & Tax Dept	Ch. 23 - 37
S1359aaH	Public school, counselor/social work ...	Ch.443 - 1424
S1360	Approp, add'l, Agriculture Dept	Ch. 24 - 38
S1361	Initiative/referendum, review, time	Ch.400 - 1263
S1364	Subdivision lots, assessment	Ch.401 - 1264
S1365aaH	Railroads, offense against, penalties ..	Ch.263 - 812
S1366	Prostitution, penalties	Ch.130 - 291
S1367aa	Criminal code, telephone harassment	Ch.167 - 374
S1368	Criminal code, misc amendments	Ch.131 - 296
S1369	Theft, grand, dollar amount	Ch.132 - 301
S1370	Alcohol/tobacco violations, minors	Ch.133 - 305
S1371	Felonies, maximum fine	Ch.134 - 307
S1373	Rape, obsolete references deleted	Ch.135 - 307
S1374aa	Vulnerable adult, abuse, neglect	Ch.136 - 308
S1375	Sexual disorders, cures, advertising ...	Ch.137 - 310
S1376	Food establishment, defined	Ch.138 - 310
S1378aa,aaH,aaH	Parking, person with disability	Ch.264 - 813
S1379	Drivers license/ID cards, "under 21" ...	Ch. 85 - 200
S1380aa	Domestic cervidae farming	Ch. 73 - 151
S1382	Social worker, continuing education	Ch.139 - 311
S1385	TV translator dist, assessment	Ch.279 - 866
S1387	State Auditor change to Controller	Ch.180 - 420
S1388	Treasurer, state, investment admin fee .	Ch.402 - 1265
S1389	St Auditor to Controller, post audit ...	Ch.181 - 575
S1390	College/univ, Indians, resident status .	Ch.140 - 312
S1396	School dist trustee zone, boundary	Ch.182 - 599
S1397	Securities, registration, fee	Ch.265 - 820
S1398aaH	Medicare supplement ins. premium	Ch.403 - 1268
S1399aaH	Insurance, coverage converted, when	Ch.404 - 1268
S1402	Limited liability co/Sec of State fees .	Ch.405 - 1272
S1405	Embalmers, references deleted	Ch.105 - 234
S1406aa	Winter feeding advisory comm created ...	Ch.183 - 601
S1409	Misdemeanors, fine	Ch.141 - 315
S1410	Imprisonment, failure to pay fine	Ch.142 - 316
S1411	Checks, insufficient funds, fines	Ch.184 - 601
S1412	Checks, dishonored, costs	Ch.185 - 603
S1413	Big game, dogs attack/harassing	Ch. 94 - 213
S1414	Intoxicated, public place	Ch.143 - 316
S1416	F&G, certain violations, fee	Ch.149 - 342
S1417	Juveniles, concealed weapons, school ...	Ch.150 - 344
S1421	F&G Comm, members, terms of office	Ch.406 - 1276
S1422aa	Police dog/horse/search/rescue dog	Ch.157 - 356
S1429	Predatory animal, wildcat/lynx	Ch. 80 - 182
S1430	Irrigation dist, delinquent assessmnt ..	Ch.144 - 316
S1431	State water plan, Snake River	Ch.108 - 239
S1432	Notary public, bond, state employee	Ch.145 - 324
S1433aa	Emergency communication serv, region ...	Ch. 86 - 202
S1437	Wine, definition	Ch.266 - 823

		Chapter - Page
S1438aa	Child visitation, great-grandparents ...	Ch.407 - 1278
S1440aa	Prisoners, HIV tests, results	Ch.408 - 1278
S1442	Approp, add'l, Legislative Council	Ch. 55 - 96
S1443	Hospital/professional service corp	Ch. 78 - 173
S1445	Funeral directors, advertisement	Ch. 95 - 218
S1448aa	Recycled materials, highway use	Ch.409 - 1280
S1450	Driver license, motorcycle endorsment ..	Ch.234 - 728
S1454aaH	Money transmission regulation	Ch.410 - 1282
S1455	PERSI, disabled redefined	Ch.411 - 1296
S1457	Insurance, prem tax liability, offset ..	Ch.267 - 825
S1458	Underground storage tank bd/member	Ch.412 - 1301
S1463aa	Local highway technical assistance	Ch.280 - 867
S1465aaH	Vehicular manslaughter, child support ..	Ch.413 - 1301
S1466	Marijuana, paraphernalia, possession ...	Ch.414 - 1302
S1468aa	Affidavit procedure, telephone	Ch.415 - 1304
S1474	Irrigation ditch, landowner may move ...	Ch.151 - 345
S1487aaH	Disabled persons, discrimination	Ch.268 - 825
S1488	Pacific Northwest Economic Region	Ch.416 - 1305
S1489aa	Bingo, regulation	Ch.281 - 874
S1490	Tax dist, fee increase, advertised	Ch.445 - 1427
S1491aa,aaH	Scholarships, firefighter/officer	Ch.417 - 1307
S1494	School employees, insurance coverage ...	Ch.282 - 883
S1497aa,aaH	Smoke detector, landlord provide	Ch.418 - 1308
S1499aa	Hazardous waste, PCB waste, disposal ...	Ch.419 - 1310
S1500aa	Idaho Health Care Planning Act	Ch.283 - 883
S1501aa	Adult foster care homes	Ch.284 - 887
S1504aa	F&G set-aside moneys, winter feeding ...	Ch.269 - 832
S1508aa	Forest Practices Act, admin, fund	Ch.152 - 347
S1509	State agencies, strategic planning	Ch.420 - 1312
S1517	Approp, add'l, Vocational Rehab	Ch. 56 - 97
S1523	Criminal cases, obsolete terms deleted .	Ch.270 - 833
S1531	State agency rules, federal law cited ..	Ch.271 - 834
S1532	DUI, .20+ alcohol concentration	Ch.421 - 1316
S1534	DUI, under age 21, penalties	Ch.422 - 1322
S1536	Approp, add'l, H&W Dept	Ch. 81 - 182
S1537	Approp, add'l, Lava Hot Springs	Ch. 87 - 204
S1538	Disposition of remains, instructions ...	Ch.423 - 1329
S1542	Probation officer, county, authority ...	Ch.424 - 1332
S1543	Workers comp, community service work ...	Ch.446 - 1427
S1544aa	State employees, compensation ranges ...	Ch.272 - 836
S1548	Medical care savings accounts	Ch.186 - 606
S1549	Recycled oil/lubricants, labels	Ch.425 - 1333
S1551	Adoption, grandparents	Ch.426 - 1334
S1552aaH	Health insurance, individual coverage ..	Ch.427 - 1337
S1557	Approp, amended, H&W, Environment Div ..	Ch.146 - 327
S1560aa	School funding, teacher salaries	Ch.428 - 1368
S1561	Electric/natural gas supply, report	Ch.429 - 1381
S1562aa	Water diversions, measurement	Ch.430 - 1388
S1563	Water recharge projects, fees, waiver ..	Ch.273 - 849
S1568	Weapons, concealed, license, check	Ch.431 - 1392
S1569aa	Liquor license, ownership split	Ch.432 - 1396

		Chapter - Page
S1570	Approp, Public Utilities Comm	Ch.153 - 349
S1571	Approp, Board of Education	Ch.154 - 351
S1572	Approp, Health Education Program	Ch.155 - 351
S1573	Approp, Self-Governing Agencies	Ch.156 - 353
S1574	Groundwater recharge encouraged	Ch.274 - 851
S1575	Water recharge projects, beneficial ...	Ch.433 - 1397
S1576	Approp, Lands Dept	Ch.168 - 378
S1577	Approp, Water Resources Dept	Ch.169 - 380
S1578	Approp, Commerce Dept	Ch.170 - 381
S1579	Approp, Public Health Dist	Ch.187 - 615
S1580	Approp, Endowment Fund Bd	Ch.188 - 616
S1581	Approp, Insurance Fund	Ch.189 - 616
S1582	Approp, Parks & Recreation Dept	Ch.195 - 625
S1583	Approp, Transportation Dept	Ch.231 - 721
S1584	Approp, Military Div	Ch.196 - 628
S1585	Approp, Liquor Dispensary	Ch.197 - 629
S1586	Approp, Financial Mgmt Division	Ch.198 - 629
S1587	Approp, Blind Comm	Ch.199 - 630
S1588	Approp, Permanent Bldg Fund	Ch.200 - 630
S1591	Approp, Community Colleges	Ch.201 - 633
S1594	Approp, Historical Society	Ch.202 - 634
S1595	Approp, add'l, Insurance Dept	Ch.203 - 635
S1596	Approp, Lieutenant Governor	Ch.204 - 636
S1597	Approp, Secretary of State	Ch.205 - 636
S1598	Approp, Labor & Industrial Serv	Ch.206 - 637
S1599	Approp, Vocational Rehabilitation	Ch.230 - 719
S1601	Tax comm, salaries	Ch.434 - 1398
S1602	Officials, state elective, salaries	Ch.435 - 1398
S1603	Approp, Admin Dept, Info Technology	Ch.436 - 1400
S1605	Approp, Education Dept	Ch.437 - 1400
S1606	Approp, Vocational Education	Ch.438 - 1402
S1608	Approp, H&W/Family Div/Community Rehab .	Ch.439 - 1404
S1614	Public school fund, exceptional child ..	Ch.440 - 1409
S1615	Approp, Educational Tech Initiatives ...	Ch.441 - 1413
S1616	Approp, various agencies, phase 3 PERS .	Ch.442 - 1414
S1617	Approp, public schools	Ch.456 - 1491

NUMERICAL LIST OF HOUSE BILLS

that became law with a brief synopsis and the chapter number of the bill

		Chapter	Page
H468aa	Child support, medical benefits	Ch.308	963
H469	State gov't, plan, code reference	Ch.109	242
H480	Beer, keg, fee increased	Ch. 13	20
H481	Alcoholic beverages, sale, licenses	Ch. 14	20
H483	Controlled substance violation, weapon	Ch.285	893
H484	Property, forfeited, prosecuting atty	Ch.286	900
H485aa	Child support guidelines, sunset	Ch.236	745
H488	Cigarette tax, distribution	Ch. 45	73
H489aa	Public assistance, ADC payment	Ch.287	906
H490	Rehabilitation Act, references	Ch. 46	74
H493	F&G license, resident defined	Ch. 26	41
H494	Female convicts, care	Ch. 37	56
H496	Printing, state, Admin Dept oversight	Ch. 1	3
H498	Self-governing agencies, law updated	Ch. 15	28
H499	Psychologists, examination fee	Ch. 16	31
H501	Architects, examination fee	Ch. 17	32
H502	Water rights, claims, deadline	Ch. 63	121
H503	Accountancy Act, technical amens	Ch. 49	81
H504aa	Insurance records, confidential	Ch.309	976
H506	Sentencing, judgment suspended, time	Ch. 33	50
H509aa	F&G, control hunt permit, purchase	Ch. 82	190
H510aa	Water, approp, fees	Ch. 64	121
H512	State bids, vendors, restrictions	Ch.110	243
H517	Vessel registration, fee increased	Ch. 65	128
H518aa	Dentistry, misc amendments	Ch. 58	98
H519	Paternity, establishment, procedures	Ch.237	746
H521	Child support enforcement, uniform act	Ch.207	639
H525	Ambulance dist, capital improvements	Ch. 34	51
H526aa	Property tax, levy, error, date	Ch. 59	117
H528	Electioneering, absentee voting	Ch. 21	36
H532	Warrants, county procedure	Ch. 35	53
H533	Garnishment, personal service by mail	Ch. 27	44
H534	Inmate, county costs reimbursed	Ch. 28	45
H536	Jail commissary fund established	Ch. 29	46
H537	County court facilities fund created	Ch.208	656

		Chapter - Page
H541	General reserve approp, counties	Ch. 4 - 5
H543	Insurance Dept rules, APA compliance ...	Ch.310 - 976
H548	Agriculture Director, subpoenas, oaths .	Ch. 96 - 219
H549	Seeds, sales, licensure	Ch. 50 - 88
H550	National Guard, women, combat	Ch.343 - 1079
H551	Bees, exotic strains, diseases	Ch. 18 - 33
H552	Farm produce, sale, application fee	Ch. 97 - 222
H553	Feed stuffs, commercial, inspection	Ch. 30 - 47
H555	Highway use fees, collection	Ch.311 - 977
H557aa	PERSI, student, certain, not member	Ch.209 - 658
H558	MV, ownership transfer, inheritance	Ch. 70 - 147
H562	Water/sewer dist, elections	Ch. 51 - 89
H567aa	PUC, tow truck regulation deleted	Ch.238 - 748
H568	Vocational Educ, FY94 approp, amended ..	Ch. 2 - 3
H569	Income tax, IRC adopted	Ch. 38 - 56
H570	Income tax, technical changes	Ch. 39 - 57
H571	Income tax, withholding, reporting	Ch. 40 - 66
H572	Gas distribution license, fee deleted ..	Ch. 41 - 69
H574	Taxation, liens, signature	Ch. 42 - 70
H577	Cigarette tax, stamps, returned	Ch. 43 - 71
H578	Motor fuels tax, technical amendments ..	Ch.344 - 1080
H580	Sales tax, technical amendments	Ch.111 - 244
H582	Health insurance, uniform form/code	Ch. 98 - 223
H583	School dist bldg acct, distribution	Ch.345 - 1088
H591	Ambulance dist, levy	Ch. 52 - 90
H594	Organic food product, appeal process ...	Ch. 99 - 224
H595	Elections, city, qualified elector	Ch. 66 - 135
H596	Approp, amended, Law Enforcement Dept .	Ch. 10 - 16
H597	Approp, add'l, Endowment Investment Bd .	Ch. 11 - 18
H598	Approp, add'l, State Auditor	Ch. 19 - 34
H601	Property tax, liens, perpetuating	Ch. 74 - 155
H602	Sales tax, aircraft exempt, when	Ch. 44 - 72
H603	Voter registration, procedures	Ch. 67 - 137
H604	Approp, supp'l, Water Resources Dept ...	Ch. 20 - 35
H605	Wine, possession, under 21, when	Ch. 60 - 119
H606	Retirement, Employment Dept	Ch.210 - 665
H607	Rape, redefined	Ch. 83 - 197
H611aa	Workers comp, psychological injury	Ch.112 - 255
H612	Income tax deduction/develop disabled ..	Ch.104 - 232
H613	Approp, add'l, public health dist	Ch. 22 - 36
H614	Public utility drivers, service hours ..	Ch. 61 - 120
H615	Nurse anesthetist, defined	Ch.232 - 723
H616	"Whistleblower" statute	Ch.100 - 226
H617	Solid waste facilities, federal regs ...	Ch. 75 - 156
H618aa,aaS	Animals, crimes against, recodified	Ch.346 - 1089
H621	Premium tax liability, 20% offset	Ch.239 - 751
H622aa	Insurance companies, requirements	Ch.240 - 751
H625	F&G advisory comm, term of office	Ch.113 - 260
H627aa	Gas, gasohol, special fuel, defined	Ch.166 - 373
H630aa	Driver training, standards, permits	Ch.347 - 1098
H633aa	Pharmacies, out-of-state, mail	Ch.348 - 1104

		Chapter - Page
H637	Appeals, Bd of County Comm, time	Ch.241 - 760
H638	Tort claims, certain, minors, time	Ch.349 - 1109
H643	Approp, add'l, Commerce Dept	Ch. 32 - 49
H644	Approp, add'l, Industrial Comm	Ch. 31 - 48
H647aa	Bequest, nursing homes, restrictions ...	Ch.350 - 1110
H649	Hunting license, archery, education	Ch. 84 - 198
H650aa	Game animals, waste carcass	Ch. 88 - 205
H652	Recreation dist, claim agnst, process ..	Ch. 53 - 92
H653	Port dist/public park, recreation area .	Ch.114 - 261
H654	Brands, livestock, renewal	Ch.101 - 229
H655	Off-highway vehicles, registration	Ch.288 - 907
H656	Waterways improvement advisory comm	Ch. 68 - 140
H657	Wildlife, simulated, taking, penalty ...	Ch.115 - 262
H659	Private property, regulatory taking	Ch.116 - 265
H662	Income tax credit, museum donations	Ch.211 - 667
H665	Property tax, Farm Home Admin property .	Ch.117 - 266
H667	Photography, makeover/glamour	Ch.312 - 988
H669	Manufactured homes, location, planning .	Ch.212 - 668
H670	Purchasing Div, bid requirements	Ch.242 - 760
H671	Inmate, doctor/nurse visit, fee	Ch.213 - 671
H674	Wine tax, revenues, distribution	Ch.243 - 762
H676aa	License plate, Old Timer/ID Classic	Ch.313 - 996
H679	Manufactured homes, personal property ..	Ch. 76 - 171
H680	Budget/city, expend/revenue, prev yrs ..	Ch. 89 - 205
H682aa	Cosmetology, license, loans	Ch.351 - 1111
H683	Pardons&Parole Comm, meeting/procedure .	Ch.171 - 382
H686	Domestic relation, separate decree	Ch.352 - 1112
H687	Post-judgment, attorney fees	Ch.353 - 1113
H688	Birds of prey, capture permits	Ch.118 - 267
H689	Littering, private property	Ch.119 - 269
H690aa	Income tax deduction, adoption expense .	Ch.354 - 1114
H691	Winery, importers license	Ch.244 - 763
H694	Approp, Permanent Bldg Fund, projects ..	Ch. 47 - 77
H695	Agricultural pursuits, not nuisance	Ch.107 - 238
H696aaS	Public livestock market, licensure	Ch.314 - 998
H697	School dist trustee election	Ch.160 - 367
H699	School dist election, absentee ballot ..	Ch.161 - 368
H702	Adoption & medical assist compact	Ch. 69 - 141
H705	Dist, special, incorporated, notice	Ch. 77 - 172
H706	Environment, state/local agreement	Ch.162 - 369
H707	Railroad crossings, stop signs	Ch.315 - 1001
H710aa,aa	Cigarette tax, increased	Ch.447 - 1431
H711	Property tax reduction/spouse deceased .	Ch.120 - 270
H712aa,aaS	Income tax credit, wood burning stove ..	Ch.355 - 1114
H715	Educational support program, clarified .	Ch.316 - 1008
H718	Commercial driver training schools	Ch.163 - 371
H719	School dist trustee candidate	Ch.164 - 372
H720aa,aa	Engineering license not required, when .	Ch.356 - 1115
H722	Fur buyers license, nonresident/fee	Ch.341 - 1077
H723	MV manufacturer/dealer, ad campaign	Ch.317 - 1015
H728	Forest practices, obstruct, penalty	Ch.214 - 672

		Chapter - Page
H729	Court actions, interpreters, costs	Ch.215 - 672
H731	Police officer, fleeing from, penalty ..	Ch.165 - 373
H732	Buildings, defined, unlawful entry	Ch.216 - 673
H733	Public assistance, debt, collection	Ch.289 - 909
H735aaS	Drivers license, suspension, hearings ..	Ch.357 - 1117
H736	Child custody, joint, violence	Ch.340 - 1075
H737	Domestic disturbance, arrests	Ch.318 - 1019
H738aa,aaS	Utility records, subpoena	Ch.358 - 1125
H742	Charitable devices, restrictions	Ch.359 - 1127
H743aa,aaS	Fire protection dist, noncontiguous	Ch.360 - 1127
H744	Local planning, acquisition map	Ch. 90 - 206
H745	Public transportation, counties	Ch.121 - 271
H746	County property, lease, time	Ch.158 - 358
H747aa	Wine/beer dealers, certain aid	Ch.361 - 1131
H748	Elections, absentee voting	Ch.122 - 271
H751aa	Dieticians, licensure	Ch.217 - 674
H752aa,aaS	Prisoners, early health care	Ch.362 - 1135
H753aaS	Commercial fisheries, aquaculture	Ch.363 - 1137
H754	Pesticides, regulation	Ch.102 - 231
H755	Potato Comm, violation, atty fee	Ch. 48 - 78
H756aa	Aquaculture facility plan, review	Ch.290 - 910
H759aa	Mobile homes/low cost, bldg code	Ch.245 - 764
H760	Highway dist, election law	Ch.123 - 274
H765aa	Commercial vehicles, operating fee	Ch.291 - 911
H767aa	Public hwys, maintenance, compensation .	Ch.319 - 1020
H768	Commercial vehicle, reports, fees	Ch.320 - 1021
H771	Real estate appraiser cert, ITD exempt .	Ch. 71 - 148
H772	MV license fees, certain	Ch.246 - 766
H773aa	Sanitation truck, weight	Ch.321 - 1025
H775	Wildlife depradation, compensation	Ch.218 - 679
H776	Tourism assessment, info, Tax Comm	Ch. 91 - 207
H777	Unclaimed property, trust account	Ch.124 - 282
H781aa,aaS	Right-of-way plats, copies, fees	Ch.364 - 1139
H783	Insurer, compliance, certain actions ...	Ch.322 - 1037
H789	Insurance fraud reporting	Ch.219 - 696
H793	Trust instruments, amendments, when	Ch.190 - 617
H794	Birth/death certificates, signature	Ch.323 - 1037
H796aa	Child, health insurance coverage	Ch.365 - 1144
H797	Approp, add'l, Attorney General	Ch. 62 - 120
H798	Hardrock Mine Reclamation Act	Ch.220 - 702
H799	Stream channel alteration, violations ..	Ch.292 - 912
H809aa	Highway dist, authority	Ch.324 - 1039
H814	Idaho Heritage Trust, sunset date	Ch.125 - 284
H820	Property tax, circuit breaker, amount ..	Ch.221 - 705
H821	Dog racing, parimutuel, proceeds	Ch.325 - 1044
H824	Limited liability company, amens	Ch.293 - 916
H825aaS	Property condition disclosure	Ch.366 - 1172
H826	Taxpayer's Bill of Rights, corrections .	Ch.172 - 387
H829	Political subdivisions, actions	Ch.173 - 399
H832	Income tax, corporations	Ch.247 - 777
H835aaS	Miner, underground, hours of work	Ch.367 - 1179

		Chapter - Page
H839	Employees, state, probation, hours	Ch.294 - 928
H841	Nonprofit corp, membership, assessment .	Ch.295 - 932
H843aaS	Public record, background checks	Ch.368 - 1180
H844	Student records, transfer, discipline ..	Ch.174 - 401
H849	Blood/breath tests, court ordered	Ch.248 - 792
H850aa	Weapons, possession, minors	Ch.369 - 1186
H851aa	Juvenile, certain crimes, name release .	Ch.326 - 1046
H852	Blind Comm, members, name changed	Ch.159 - 359
H853aa	Public transportation authority	Ch.327 - 1052
H854	Approp, add'l, H&W, Environment Div	Ch. 92 - 208
H859	Albion Normal School funds, use	Ch.222 - 708
H860	Recreation dist, election	Ch.328 - 1058
H861	Approp, add'l, H&W, youth, detention ...	Ch.106 - 238
H862	Approp, add'l, Budget Reserve Fund	Ch.103 - 232
H867aaS	Education Bd rules, public schools	Ch.448 - 1432
H870aa	Forest lands, taxation	Ch.370 - 1188
H871aa	Administrative rules, requirements	Ch.371 - 1194
H877aa	Superintendent/Public Inst, qualify	Ch.277 - 864
H878	Motor vehicle, branded title	Ch.296 - 933
H879	MV, lienholder, Transportation Dept	Ch.297 - 941
H880	Medical assistance, over 55	Ch.329 - 1059
H881	"Do not resuscitate" orders created	Ch.298 - 941
H883aa	Income tax credit, recycled products ...	Ch.342 - 1077
H884	School plant facilities reserve fund ...	Ch.299 - 946
H886	Health insurance contracts, grievance ..	Ch.275 - 853
H887	Approp, add'l, State Treasurer	Ch.126 - 284
H888	School dist, trustee, contracts	Ch.300 - 947
H891aa	Initiative/referendum, cnty, procedure .	Ch.372 - 1197
H892	Beneficiary/certain trust/property tax .	Ch.373 - 1200
H895	Grazing dists, Taylor Grazing Act	Ch.249 - 793
H896	PERSI, Phase IV, deleted	Ch.276 - 856
H897	Income tax, multistate corporations	Ch.301 - 948
H898aa	Real estate commission, service corp ...	Ch.330 - 1060
H901	Educational Technology Initiative	Ch.229 - 716
H903	Highway district, detached territory ...	Ch.331 - 1060
H907	Approp, Higher Education	Ch.223 - 710
H908	Public officer, conflict of interest ...	Ch.332 - 1063
H910aa,aaS	Rangeland Resources Commission	Ch.374 - 1203
H911	Recreation property not annexed, when ..	Ch.375 - 1208
H916	Approp, Special Programs	Ch.224 - 712
H917	Approp, Agricultural Research	Ch.225 - 713
H918	Approp, Lottery Comm	Ch.226 - 714
H919	Approp, Legislative Services	Ch.250 - 796
H920	Motor vehicle/driver training/use tax ..	Ch.376 - 1209
H921aa	Education Bd, courses of study/texts ...	Ch.333 - 1064
H922	Approp, State Treasurer	Ch.227 - 715
H926aa	Handgun, purchase, background check	Ch.377 - 1210
H928	Approp, Attorney General	Ch.251 - 796
H929	Approp, Finance Dept	Ch.228 - 716
H930	Mortgage guaranty insurance, debt	Ch.334 - 1065
H932	Approp, Office on Aging	Ch.235 - 744

		Chapter - Page
H933	Approp, Governor's Emergency Fund	Ch.252 - 798
H934aa	Approp, Fish & Game Dept	Ch.378 - 1215
H935	Approp, Retirement System	Ch.253 - 798
H936	Approp, Human Rights Comm	Ch.254 - 799
H937	Approp, Women's Programs Comm	Ch.255 - 799
H938	Approp, Personnel Comm	Ch.256 - 800
H939	Approp, Law Enforcement Dept	Ch.257 - 800
H940	Approp, add'l, Admin Dept, Public Wrks .	Ch.302 - 954
H941	Approp, H&W, Indirect Support, Comm	Ch.258 - 803
H942	Approp, H&W, Environment Quality Div ...	Ch.259 - 805
H943	Approp, Public Broadcasting	Ch.260 - 810
H944	Approp, State Library Bd	Ch.261 - 810
H945	Approp, Deaf & Blind School	Ch.262 - 811
H946	Campaign finance, report requirements ..	Ch.379 - 1218
H948	Approp, Insurance Dept	Ch.303 - 954
H949	Approp, Administration Dept	Ch.304 - 955
H950	Approp, State Auditor	Ch.305 - 957
H951	Approp, Agriculture Dept	Ch.306 - 958
H952	Approp, Revenue & Taxation Dept	Ch.307 - 961
H954	Approp, Supreme Court	Ch.335 - 1066
H956	Approp, UofI, Center Business Develop ..	Ch.380 - 1222
H959	Approp, Industrial Comm	Ch.336 - 1068
H962	Approp, H&W, Health Div/Welfare Div	Ch.337 - 1069
H963	General Fund approp, one time, limit ...	Ch.338 - 1074
H964	Park/Recreation Dept bldg, contract	Ch.339 - 1075
H966	Border community, disadvantaged	Ch.381 - 1222
H968	Wolf oversight committee, plan	Ch.382 - 1228
H969	Water adjudication, revision	Ch.454 - 1443
H973	Premium tax, insurance, reduced	Ch.383 - 1229
H975	Approp, Governor's Office	Ch.384 - 1232
H976	Approp/Permnt Bldg Fnd/Correction Dept .	Ch.385 - 1234
H977aaS	Approp, add'l, Water Resources	Ch.386 - 1236
H979	Approp, Correction Dept	Ch.387 - 1237
H980	Approp, Budget Reserve Fund	Ch.388 - 1240
H982	Snake River Basin, water approp	Ch.449 - 1433
H986aa	Water distribution, water dist	Ch.450 - 1434
H988	Approp, Water Management Fund	Ch.451 - 1440
H989aa	Water flow/Snake River Salmon/intent ...	Ch.452 - 1441
H990	Water, adjudication, amendments	Ch.455 - 1478
H991	Approp, Correction Dept, Parole Comm ...	Ch.389 - 1240
H992	Approp, Legis Council, Juv Justice	Ch.390 - 1241
H993	Approp, add'l, Parks & Recreation Dept .	Ch.391 - 1241
H994	Approp/salary increase/state officers ..	Ch.392 - 1242

NUMERICAL LIST OF SENATE AND HOUSE JOINT RESOLUTIONS, JOINT MEMORIALS, AND CONCURRENT RESOLUTIONS

SENATE JOINT RESOLUTIONS

		Page
SJR109	State auditor, state controller	1493

HOUSE JOINT RESOLUTIONS

HJR16	Crime victims, rights	1498
HJR17aaS	County gov't, optional forms	1499
HJR24	Executive officers, residence	1500

SENATE JOINT MEMORIALS

SJM108	Mike Crapo commended, Congress reform	1502
SJM109	Families/dependent children, latitude	1502
SJM110	Canadian barley/wheat, tariff requested	1503
SJM112	"Safe Drink Water" amended, support	1504
SJM114	School/nonpublic, federal intervention	1506
SJM115	Motorcycle helmet law mandate, federal	1507
SJM116	Idaho water, control	1508

HOUSE JOINT MEMORIALS

HJM 9	Critical Habitat, moratorium	1510
HJM10	RR retirement, federal commitment requested	1511
HJM11	Vietnam, trade embargo not lifted	1513
HJM13	Mail-order sales, sales tax	1514
HJM14	Water right, crop set-aside land	1516

SENATE CONCURRENT RESOLUTIONS

		Page
SCR121	Health care, primary, access	1518
SCR126	Public health dist rules, amended	1519
SCR127	Minimum streamflow, Pack River	1520
SCR129	Minimum lake level, Bear Lake	1520
SCR135	Taiwan, UN representation	1521
SCR138	Safehouse Program, child protection	1522
SCR139	Children, commitment to	1523
SCR140	Ground water recharge policy	1524
SCR141	Law Enforcement Dept rule, amended	1526
SCR146	Indian tribes, lottery moneys, compact	1528

HOUSE CONCURRENT RESOLUTIONS

HCR41	State of the State Address Legislature	1530
HCR42	Budget Address to Legislature	1530
HCR45	Year of the Family	1531
HCR46	Idaho Literacy Week	1532
HCR49	Public Lands Week	1533
HCR50	H&W Dept rule, water quality, amended	1534
HCR52	Henrys Fork Watershed Council	1535
HCR56	Juvenile justice system, study	1538
HCR57	Insurance Dept, study	1538
HCR58	State employee compensation	1539
HCR59	Workers comp, agric workers, study	1541
HCR60	PUC rule, motor carrier insurance, amended	1542
HCR61	Water rights, Supreme Court decision	1543
HCR66	Jerry L. Evans commended	1544
HCR67	Water rights transfer, crop set-aside	1545
HCR70	Snake River Adjudication, study	1546
HCR71	Governor Andrus honored	1548

APPENDIX

IDAHO STATE OFFICIAL DIRECTORY

ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS
Senator Larry E. Craig (R)
Senator Dirk Kempthorne (R)

REPRESENTATIVES IN CONGRESS
Larry LaRocco (D), First District
Mike Crapo (R), Second District

Mailing Address: 304 N. 8th
Boise, Idaho 83702

STATE ELECTED OFFICIALS

GOVERNOR Cecil D. Andrus (D)

LT.

GOVERNOR C. L. "Butch" Otter (R)

SECRETARY OF STATE Pete T. Cenarrusa (R)

STATE AUDITOR J. D. Williams (D)

STATE TREASURER Lydia Justice-Edwards (R)

ATTORNEY GENERAL Larry Echohawk (D)

SUPERINTENDENT OF PUBLIC INSTRUCTION Jerry L. Evans (R)

Mailing Address: State Capitol Mall
Boise, Idaho 83720

LEGISLATORS BY DISTRICT

1-BONNER & BOUNDARY COUNTIES

Tim Tucker (D), Senate . . . . . 3rd Term
(Served 3 1/2 terms House, 1983-89)
HCR 60, Box 227 Porthill 83853
Home 267-2977 Bus. 267-5198
Farmer Wife - Ellen
Agricultural Affairs, Education
Local Government/Taxation

Dean Stevens (D), House Seat A . . . . . 1st Term
P O Box 1527, Priest River 83856
Home 448-2342 Wife - Carla
Marina Owner/Retired Teacher/Frmr Co. Commissioner
Education, Environmental Affairs

Jim Stoicheff (D), House Seat B . . . . . 11th Term
615 Lakeview, Sandpoint 83864
Home 263-2375 Retired Teacher Wife - Jerry
MINORITY LEADER
Local Government, Resources/Conservation
State Affairs, Ways/Means

2-BONNER & KOOTENAI COUNTIES

Barbara Chamberlain (D), Senate . . . . . 1st Term
(Served 1 term House, 1990-92)
E. 4555 Ohio Match Ave., Post Falls 83854
Businesswoman Voice Mail/FAX 773-9304
Husband - Dean
Commerce, Human Resources
Health/Welfare, Judiciary/Rules

Hilde Kellogg (R), House Seat A . . . . . 1st Term
(Served 4 terms House, 1983-91)
P.O. Box 1479, Post Falls 83854-1479
Phone 773-5412 Businesswoman
Business, Revenue/Taxation
Transportation/Defense

Wally Wright (D), House Seat B . . . . . 2nd Term
P.O. Box 388, Bayview 83803
Home 683-2775 Bus 683-2243
Retired Navy Aviator
Human Resources, Revenue/Taxation
Transportation/Defense

3-KOOTENAI COUNTY

Dennis M. Davis (D), Senate . . . . . 3rd Term
816 Sherman Ave., Coeur d'Alene 83814
Home 667-1763 Bus. 667-4000
Attorney Wife - Kathy Canfield-Davis
ASSISTANT MINORITY LEADER
State Affairs, Education
Judiciary/Rules

Marvin G. Vandenberg (D), House Seat A . . 3rd Term
(Served 5 Terms House 1951-59)
6080 Sunrise Terrace, Coeur d'Alene 83814
Retired Home 772-2184 Wife - Irene
Human Resources, State Affairs
Transportation/Defense

Janet Jenkins (D), House Seat B . . . . . 2nd Term
1627 Boyd, Coeur d'Alene 83814
Home 667-7524 Bus. 667-5655
Attorney
Environmental Affairs
Revenue/Taxation, Judiciary, Rules & Admin.

4-BENEWAH, KOOTENAI & SHOSHONE COUNTIES

Mary Lou Reed (D), Senate . . . . . 5th Term
10 Giesa Road, Coeur d'Alene 83814
Phones 664-3564 & 664-1813
Husband-Scott
MINORITY LEADER
State Affairs, Resources/Environment

Louis J. Horvath, Jr. (D), House Seat A . . . . 9th Term
Box 888, Pinehurst 83850
Home 682-2587
Retired Educator/HS Wife - Joyce
Health/Welfare, Revenue/Taxation
Human Resources

Gino L. White (D), House Seat B . . . . . 4th Term
P.O. Box 237, Plummer 83851
Phone 686-0186 Wife - Sandra "Sam"
Appropriations, Resources/Conservation
Local Government

5-LATAH COUNTY

Gary J. Schroeder (R), Senate . . . . . 1st Term
1289 Highland, Moscow 83843
Bus 882-0601 Home 882-9092 FAX 882-5715
Business owner/Outdoor writer
VICE-CHAIRMAN--Resources/Environment
Transportation, Education

James R. "Doc" Lucas, DVM (R), House Seat A
. . . . . 7th Term
4231 Highway 95 South, Moscow 83843
Veterinarian - Retired Home 882-7374 Wife - Vi
Appropriations (JFAC), Environmental Affairs
Resources/Conservation

Maynard M. Miller (R), House Seat B . . . . . 1st Term
514 E. First Street, Moscow 83843
Bus 885-6192 Home 882-1237 Wife - Joan
University professor/administrator, U of Idaho
Education, Environmental Affairs

6-NEZ PERCE COUNTY

Bruce L. Sweeney (D), Senate . . . . . 6th Term
(Served 2 terms House, 1970-74)
Box 604, Lewiston 83501
Home 743-9148 FAX 746-8414 Bus. 743-2534
Land Development/Construction Wife - Marilyn
Health/Welfare, Transportation

Paul C. Keeton (D), House Seat A . . . . . 1st Term
(Served 3 terms House, 1980-1986)
902 Cedar, Lewiston 83501
Attorney Bus 743-2569 Home 743-7120
Judiciary, Rules/Administration
Local Government

Dan Mader (R), House Seat B . . . . . 1st Term
387 Reservoir Drive, Lewiston 83501
Bus 285-1294 Home 746-4029
Farmer Wife - Cindi
Resources/Conservation
Revenue/Taxation

LEGISLATORS BY DISTRICT (continued)

7-BENEWAH, CLEARWATER, IDAHO, LATAH LEWIS & NEZ PERCE COUNTIES

Marguerite McLaughlin (D), Senate ..... 6th Term
(Served 2 terms House, 1979-82)
704 Floyd Ave., Orofino 83544
Husband - G. Bruce Home 476-4136
Finance (JFAC), Resources/Environment
Commerce/Human Resources

Charles D. Cuddy (D), House Seat A ..... 2nd Term
12640 Hartford Ave., Orofino 83544
Home 476-3729 Bus. 476-4643 Wife-Judy
Surveying/Engineering Consultant
Revenue/Taxation, Transportation/Defense
Resources/Conservation

June E. Judd (D), House Seat B ..... 2nd Term
2105 College, St. Maries 83861
Retired Educator Home 245-2818
Agricultural Affairs, Business
State Affairs

8-ADAMS, BOISE, GEM IDAHO & VALLEY COUNTIES

Terry A. Haun (D), Senate ..... 2nd Term
619 Hazel Ave., Emmett 83617 Wife-Lyn
Teacher Bus. 365-2921 Home 365-6581
Education, Transportation
Local Government/Taxation

Gayle Ann Wilde (R), House Seat A ..... 4th Term
P.O. Box 984, McCall 83638 Home 634-5678
Former Petroleum Marketer/Teacher
Husband - Ralph
VICE-CHAIRMAN--Human Resources
Education, Environmental Affairs

Judi Danielson (R), House Seat B ..... 3rd Term
P.O. Box 724, Council 83612 Husband - John
Retired nurse/Former county commissioner 253-4850
VICE-CHAIRMAN--Local Government
Judiciary, Rules/Administration, State Affairs

9-GEM, PAYETTE, WASHINGTON COUNTIES

Mary Hartung (R), Senate ..... 3rd Term
(Served 3 years in House, 1987-89)
Box 147, Payette 83661
Home 642-3270 Bus. 452-3543
Insurance Husband - Morris
ASSISTANT MAJORITY LEADER
Finance (JFAC), State Affairs
Transportation

Gertrude Sutton (R), House Seat A ..... 2nd Term
Route 1, Box 42, Midvale 83645
Home 355-2442 Pres. Family Ranch Corp.
Resources/Conservation
Agricultural Affairs, State Affairs

Donna Jones (R), House Seat B ..... 4th Term
1911 1st Ave. S, Payette 83661
Home 642-9679 FAX 642-9476 Bus. 642-9433
Realtor Husband - Donald
CHAIRMAN--Ways/Means
Business, Revenue/Taxation
Transportation/Defense

10-CANYON COUNTY

David E. Kerrick (R), Senate ..... 2nd Term
P.O. Box 44, Caldwell 83606
Home 454-3373 FAX 459-4573 Bus. 459-4574
Attorney Wife - Juneal
MAJORITY CAUCUS CHAIRMAN
VICE-CHAIRMAN--Commerce/Human Resources
Judiciary/Rules, State Affairs

Ron Crane (R), House Seat A ..... 6th Term
1907 Alder, Caldwell 83605
Businessman 459-4990 Wife - Cheryl
CHAIRMAN--Business
State Affairs

Dorothy L. Reynolds (R), House Seat B .... 9th Term
(Served 3 terms House, 1974-80)
1920 Howard, Caldwell 83605
Farm Owner/substitute teacher Home 459-2553
CHAIRMAN--Health/Welfare
Education

11-CANYON COUNTY

Atwell J. Parry (R), Senate ..... 7th Term
6985 Baseline Road, Melba 83641 Home 495-2226
Grocer/Meat Cutter - Retired Wife - Elaine
CHAIRMAN--Finance, Co-Chairman--JFAC
Local Government/Taxation

Robert E. Schaefer (R), House Seat A ..... 5th Term
P.O. Box 55, Nampa 83653
Home/Bus 466-3636
Architect Wife - Betty
VICE-CHAIRMAN--Environmental Affairs
Human Resources
Chairman--Ad Hoc Committee on Privatization

W. O. "Bill" Taylor (R), House Seat B ..... 4th Term
8367 Track Road, Nampa 83686 Home 466-0970
Contractor/Real Estate Investments Wife - Shirley
VICE-CHAIRMAN--Business
Education, Local Government

12-CANYON COUNTY

J. L. "Jerry" Thorne (R), Senate ..... 5th Term
331 Winther Blvd., Nampa 83651
Home 467-2892 Bus. 466-3682
Printing Wife - Lois
CHAIRMAN--Local Government/Taxation
Finance (JFAC), Transportation

Dolores J. Crow (R), House Seat A ..... 6th Term
203 11th Ave. S. Extension, Nampa 83686
Home 467-1302 Husband - Wayne
CHAIRMAN--Environmental Affairs
Revenue/Taxation

William W. Deal (R), House Seat B ..... 2nd Term
312 3rd St. S., Nampa 83651
Home 466-3184 Bus. 466-2465/887-1077
Insurance Wife - Joan
VICE-CHAIRMAN--State Affairs
Local Government, Business

LEGISLATORS BY DISTRICT (continued)

13-ADA COUNTY

Sheila Sorensen (R), Senate . . . . . 1st Term
(Served 3 terms House, 1987-92)
P.O. Box 873, Boise 83701
Home 345-8688 Bus. 344-4900 Husband - Dean
Health Care Professional
CHAIRMAN--Health/Welfare
Judiciary/Rules

Pam Ahrens (R), House Seat A . . . . . 7th Term
2854 S. Swallowtail Lane, Boise 83706
Home 345-6168 Husband - Steve Ahrens
Bus. 338-5100 Director/Membership Services/IHA
CHAIRMAN--State Affairs
Judiciary, Rules/Administration

Jim Hansen (D), House Seat B . . . . . 3rd Term
2010 Coloma Way, Boise 83712
Home 385-9413 Bus 385-4005
Attorney/Mediation/Education
Wife - Joan Cartan Hansen
Education, Health/Welfare
Judiciary, Rules/Administration

14-ADA COUNTY

Harold R. "Hal" Bunderson (R), Senate . . . . 1st Term
582 River Heights Dr, Meridian 83642
Home 888-7156 FAX 888-7188
CPA, Retired Wife - Mary
Health/Welfare-Agricultural Affairs

Dave Bivens (R), House Seat A . . . . . 1st Term
(Served 8 years Senate, 1967-74)
2354 Star Lane, Meridian 83642
Home 888-3776 Retired Agri-Bus Wife - Helen
Revenue/Taxation
Transportation/Defense

Alan G. Lance (R), House Seat B . . . . . 2nd Term
1370 Eggers Place, Meridian 83642
Home 888-1319 Bus. 888-2575
Attorney Wife - Sheryl
MAJORITY CAUCUS CHAIRMAN
Judiciary, Rules/Administration
State Affairs, Ways/Means

15-ADA COUNTY

Phil Childers (R), Senate . . . . . 1st Term
(Served 4 terms House, 1985-91)
2552 Workland Lane #202, Boise 83704
Home 375-8904
Sales/Marketing Wife - Margaret
VICE-CHAIRMAN--Local Government/Taxation
Education, Judiciary, Rules/Administration

Dan Hawkley (R), House Seat A . . . . . 1st Term
10490 Treeline Street, Boise 83704
Home 378-0218 Bus 322-7427
Attorney Wife - Renee
Education, Local Government
Judiciary, Rules/Administration

Max C. Black (R), House Seat B . . . . . 1st Term
3731 Buckingham Drive, Boise 83704
Home 375-2635 Bus 334-7920
Insurance Wife - Clydene
Business, Health/Welfare

16-ADA COUNTY

Cecil D. Ingram (R), Senate . . . . . 1st Term
7025 El Caballo Dr., Boise 83704
Home 375-8876
Retired Accountant Wife - Ann
VICE-CHAIRMAN - Agricultural Affairs
Health/Welfare, Commerce/Human Resources

Sylvia McKeeth (R), House Seat A . . . . . 1st Term
4113 Catalpa Dr, Boise 83703
Retired Home 343-8150
Education, Health/Welfare

Horace B. "Hod" Pomeroy (R), House Seat B 3rd Term
6822 Kingsdale Dr., Boise 83704
Home 377-1293 Wife - Margarita
Business Consultant
Appropriations (JFAC)
Transportation/Defense

17-ADA COUNTY

Grant R. Ipsen (R), Senate . . . . . 1st Term
1010 Houston Road, Boise 83706
Home 342-4470 FAX 342-0261 Bus 345-1010
CPA-Insurance/investments Wife - Edna (Eddie)
Commerce/Human Resources
Health/Welfare, Agriculture

Jesse S. Berain (R), House Seat A . . . . . 1st Term
1725 Gourley St., Boise 83705
Home 344-6098 Wife - Maria Andrea
Retired US Gov employee Bus. 343-6405
Human Resources, State Affairs
Environmental Affairs

Ruby R. Stone (R), House Seat B . . . . . 5th Term
6604 Holiday Drive, Boise 83709
Property Management Home 375-7975
CHAIRMAN--Local Government
State Affairs

18-ADA COUNTY

Roger B. Madsen (R), Senate . . . . . 1st Term
(Served 1 term Senate, 1989-90)
7842 Desert Ave., Boise 83709
Home 362-0373 Bus 342-0313
Attorney Wife - Leslie
VICE-CHAIRMAN--Judiciary/Rules, Education
Commerce/Human Resources

William T. "Bill" Sali (R), House Seat A . . . 2nd Term
795 W Amity, Meridian 83642
Home 888-3165 Wife - Terry
Attorney
VICE-CHAIRMAN--Health/Welfare
Human Resources

Fred D. Tilman (R), House Seat B . . . . . 2nd Term
11457 Alejandro, Boise 83709
Business Consultant
Home 322-1133 Wife - Geri
VICE-CHAIRMAN--Education
Business, Local Government

LEGISLATORS BY DISTRICT (continued)

19-ADA COUNTY

Sue Reents (D), Senate . . . . . 3rd Term
908 N. 18th, Boise 83702
Home/Bus 343-7009
Financial consultant Husband - Henry
Education, Judiciary/Rules
Commerce/Human Resources

Kathleen W. (Kitty) Gurnsey (R), House Seat A
. . . . . 10th Term
1111 W. Highland View Dr., Boise 83702
Home 343-1780 Husband - Vern L.
CHAIRMAN--Appropriations, CO-CHAIRMAN--JFAC
Human Resources

Kenneth L. Robison (D), House Seat B . . . . 4th Term
(Served 1 Term Senate, 1979-80)
1119 N. 12th Street, Boise 83702
Journalist Home 345-3440
Appropriations, Resources/Conservation

20-ELMORE & OWYHEE COUNTIES

R. Claire Wetherell (D), Senate . . . . . 5th Term
360 East 15th North, Mountain Home 83647
Title Insurance
Home 587-3240 FAX 587-8370 Bus. 587-9091
Agricultural Affairs, Finance (JFAC)

Frances Field (R), House Seat A . . . . . 5th Term
HC-85, Box 221, Grand View 83624
Home 834-2488 Husband - Oscar
Homemaker/Retired school dist mgr/farm partner
CHAIRMAN--Agricultural Affairs
Education, Resources/Conservation

Robbi King (R), House Seat B . . . . . 1st Term
P.O. Box 28, Glenns Ferry 83623
Home 366-7715 Husband - Kevin
Judiciary, Rules/Administration
State Affairs

21-BLAINE, CAMAS, ELMORE GOODING & LINCOLN COUNTIES

John T. Peavey (D), Senate . . . . . 10th Term
P.O. Box 88, Carey 83320
Home 788-2850/summer 726-7568/winter
Rancher Wife - Diane Josephy
Agricultural Affairs, Resources/Environment
Local Government/Taxation

W. Clinton Stennett (D), House Seat A . . . . 2nd Term
P. O. Box 475, Ketchum 83340
Home 726-8106 Bus. 726-0113
TV and Radio Broadcasting, Station Owner
Business, State Affairs

Pattie Nafziger (D), House Seat B . . . . . 2nd Term
P.O. Box 44, Ketchum 83340
Farm Owner/Operator Husband - James
Winter/384-0667 Summer/726-8764
Agricultural Affairs, Education

22-GOODING & TWIN FALLS COUNTIES

B. Joyce McRoberts (R), Senate . . . . . 3rd Term
342 Monroe Place, Twin Falls 83301
Home 734-3329 Businesswoman Husband - Darrel
MAJORITY LEADER
Health/Welfare, Judiciary/Rules
State Affairs

Celia R. Gould (R), House Seat A . . . . . 4th Term
4406 N. 1400 E., Buhl 83316
Home/Bus. 543-6725
Rancher Husband - Bruce Newcomb
CHAIRMAN--Judiciary, Rules/Administration
Agricultural Affairs, Revenue/Taxation

Douglas R. Jones (R), House Seat B . . . . . 5th Term
Route 2, Filer 83328
Home 326-4181 Bus. 733-8458
Farmer Wife - Mary Liz
Education, Resources/Conservation
Agricultural Affairs

23-TWIN FALLS COUNTY

Laird Noh (R), Senate . . . . . 7th Term
3442 Addison Ave E., Kimberly 83341
Sheep Producer 733-3617 Wife - Kathleen
CHAIRMAN--Resources/Environment
VICE-CHAIRMAN--Education
Agricultural Affairs

Ronald L. Black (R), House Seat A . . . . . 4th Term
921 Trotter Dr., Twin Falls 83301 Home 734-9035
Director of Refugee Services
College of Southern Idaho Wife - Gael
Bus 736-2166 FAX 736-4711
CHAIRMAN--Education
Health/Welfare

Mark D. Stubbs (R), House Seat B . . . . . 2nd Term
1025 Sawtooth Blvd., Twin Falls 83301
Home 733-0049 Bus. 733-7180
Attorney Wife - Jan
VICE-CHAIRMAN--Judiciary Rules/Administration
Environmental Affairs, Revenue/Taxation

24-JEROME & MINIDOKA COUNTIES

Dean L. Cameron (R), Senate . . . . . 2nd Term
702 4th Street, Rupert 83350
Home 436-5624 Bus. 436-3584 Wife - Linda
Self-employed Insurance Agent
CHAIRMAN--Commerce/Human Resources
Finance, Resources/Environment

Steve Antone (R), House Seat A . . . . . 13th Term
1141 Link St., Rupert 83350 Phone 436-3927
Farmer Wife - Diane
CHAIRMAN--Revenue/Taxation
Business

Maxine T. Bell (R), House Seat B . . . . . 3rd Term
194 S. 300 E., Jerome 83338 Phone 324-4296
Farmer/Homemaker Husband - H. Jack
VICE-CHAIRMAN--Agricultural Affairs
Appropriations (JFAC), Resources/Conservation

LEGISLATORS BY DISTRICT (continued)

25-CASSIA, MINIDOKA & TWIN FALLS COUNTIES

Denton Darrington (R), Senate . . . . . 6th Term
Route 1, Declo 83323
Home 654-2712 Bus. 678-6613
Farmer/Teacher Wife - Virgene
CHAIRMAN--Judiciary/Rules
VICE-CHAIRMAN--Health/Welfare
State Affairs

Jim D. Kempton (R), House Seat A . . . . . 2nd Term
Star Rt., Box 28, Albion 83311
Rancher 673-6261 Wife - Susan
VICE-CHAIRMAN--Transportation/Defense
Human Resources, Revenue/Taxation

Bruce Newcomb (R), House Seat B . . . . . 4th Term
1626 Monroe, Burley 83318
Farmer/Rancher 678-3758 Wife - Celia Gould
MAJORITY LEADER
Resources/Conservation
State Affairs, Ways/Means

26-CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

Rex L. Furness (R), Senate . . . . . 3rd Term
3470 E. 300 N., Rigby 83442
Ag/Business 754-8558 Wife - Fern
CHAIRMAN -- Agricultural Affairs
Resources/Environment, Local Government/Taxation

JoAn E. Wood (R), House Seat A . . . . . 6th Term
3778 E. 500 N., Rigby 83442
Home 745-7846 Husband - Thomas D.
Partner-Ranch/Farm
CHAIRMAN--Transportation/Defense
State Affairs, Resources/Conservation

Lenore Hardy Barrett (R) House Seat B . . . 1st Term
143 W. Pleasant, Box 347, Challis 83226
Phone 879-2797 Husband - Robert
Mining/Investments
Local Government, Revenue/Taxation

27-FREMONT & MADISON COUNTIES

Mark G. Ricks (R), Senate . . . . . 8th Term
3348 S. 1400 W., Rexburg 83440
Retired Farmer Home 356-6676 Wife - Evelyn T.
CHAIRMAN--State Affairs
VICE-CHAIRMAN--Finance (JFAC)

Michael T. Johnson (R), House Seat A . . . . . 1st Term
472 Linden, Rexburg 83440 Wife - Mary
Home 356-8690 Educator/HS Bus. 359-3305
Education
Judiciary, Rules/Administration

Golden C. Linford (R), House Seat B . . . . . 5th Term
2120 West 4200 South, Rexburg 83440
Home 356-7220 Bus. 356-7346
Potato Grower/Processor Wife - Pat
CHAIRMAN--Resources/Conservation
Health/Welfare, Revenue/Taxation

28-BONNEVILLE, FREMONT & TETON COUNTIES

Stan Hawkins (R), Senate . . . . . 2nd Term
(Served 6 years House 1984-90)
Box 367, Ucon 83454
Home 524-1586 Bus. 523-2880
Agri-Business Wife - Linn
Finance (JFAC)
Local Government/Taxation
Resources & Environment

Max C. Mortensen (R), House Seat A . . . . . 1st Term
120 North 7th East, St. Anthony 83445
Home 624-3379 Wife - Bonnie
Self employed
Agricultural Affairs, Education
Human Resources

S. Lynn Loosli (R), House Seat B . . . . . 2nd Term
3140 E. 1100 N., Ashton 83420
Home/Bus. 652-3312 Wife - Portia
Rancher
Appropriations, Agricultural Affairs
Resources/Conservation

29-BONNEVILLE COUNTY

John D. Hansen (R), Senate . . . . . 4th Term
2840 Westmoreland Dr., Idaho Falls 83402
Legislative Address: P.O. Box 50096-0096 83405
Home 523-5599 Legis. Office 523-1055
Bus. 523-4445 FAX 523-4474
Attorney Wife - Michele
CHAIRMAN--Education
Agricultural Affairs, Resources/Environment

Jack T. Barraclough (R), House Seat A . . . . 1st Term
3018 Westmoreland Circle, Idaho Falls 83402
Home 523-4463 FAX 526-0875 Bus. 526-1887
Hydrologist Wife - Elaine
Education, Environmental Affairs
Resources/Conservation

Con Mahoney (R), House Seat B . . . . . 4th Term
333 W. 49th South, Idaho Falls 83404
Industrial Contractor/Manufacturer
Bus. 523-7030 Wife - Marie
VICE-CHAIRMAN--Revenue/Taxation
Local Government, Resources/Conservation

30-BONNEVILLE COUNTY

Melvin M. "Mel" Richardson (R), Senate . . . 1st Term
(Served 2 terms House, 1989-92)
3725 Brookfield, Idaho Falls 83406
Public Relations Wife - Dixie
Home 522-0772 Bus. 1-800-473-0772
Commerce/Human Resources
Education, Resources/Environment

Ralph J. Steele (R), House Seat A . . . . . 4th Term
531 South 52nd East, Idaho Falls 83401
Home 523-5424 Bus (mobile) 525-1122
Farmer/Rancher Wife - Lucile
VICE-CHAIRMAN--Resources/Conservation
Appropriations (JFAC)
Transportation/Defense

Thomas F. Loertscher (R), House Seat B . . . 4th Term
1357 Bone Road, Iona 83427 Home 522-3072
Farmer Wife - Linda
ASSISTANT MAJORITY LEADER
Health/Welfare, State Affairs
Ways/Means

LEGISLATORS BY DISTRICT (continued)

31-BINGHAM & BUTTE COUNTIES

Jerry T. Twiggs (R), Senate . . . . . 5th Term
955 West 100 South, Blackfoot 83221
Senate Office 334-2085 Home 684-4090
Farmer Wife - Sandra
PRESIDENT PRO TEM
VICE-CHAIRMAN--State Affairs, Transportation

Allan F. Larsen (R), House Seat A . . . . . 1st Term
(Served 6 terms, House 1967-78)
(Served 1 term, Senate 1991-92)
848 W. Taber Rd. Blackfoot 83221
Home/Bus. 684-4911 Wife - Alva Lu
Farmer
Human Resources, Revenue/Taxation
Transportation/Defense

Michael K. Simpson (R), House Seat B . . . . 5th Term
786 Hoff Drive, Blackfoot 83221
Home 785-5043 Bus. 785-0310
Dentist Wife - Kathy
SPEAKER OF THE HOUSE

32-BANNOCK, BEAR LAKE, CARIBOU FRANKLIN & ONEIDA COUNTIES

Dennis S. Hansen (R), Senate . . . . . 4th Term
2612 Second Bridge Rd., Soda Springs 83276
Home 547-4410 Bus. 547-3391 X 308
Accountant Wife - Marianne
CHAIRMAN--Transportation
Finance (JFAC)

Robert C. Geddes (R), House Seat A . . . . . 9th Term
7235 N. 2600 West, Preston 83263
Farmer 852-1376 Wife - Carma
VICE-CHAIRMAN--Appropriations (JFAC)
Agricultural Affairs

John H. Tippets (R), House Seat B . . . . . 3rd Term
65 E. Center, Bennington, 83254
Home 847-2876 Wife - Nancy
Instrumentation Technician
CHAIRMAN--Human Resources
State Affairs, Health/Welfare

33-BANNOCK COUNTY

Mary Ellen Lloyd (D), Senate . . . . . 2nd Term
(Served 2 terms House 1987-1990)
162 Hawthorne, Pocatello 83204
Home 232-7099 Restaurant Owner Husband - Bill
MINORITY CAUCUS CHAIRMAN
Health/Welfare, State Affairs
Resources/Environment

John Alexander (D), House Seat A . . . . . 2nd Term
3537 Conlin, Pocatello 83201
Home 238-0912 Bus. 526-0849
Procurement Wife - Lisa
State Affairs, Human Resources
Environmental Affairs

Millie L. Flandro (D), House Seat B . . . . . 2nd Term
4944 Mohawk Place, Pocatello 83204
Home 232-0723 Bus. 237-1300
Teacher Husband - Michael
MINORITY CAUCUS CHAIRMAN
Business, Health/Welfare
Ways/Means

34-BANNOCK COUNTY

Evan Frasure (R), Senate . . . . . 1st Term
(Served 1 term House, 1990-92)
2950 Trevor, Pocatello 83201
Home/Bus. 238-8800
Marketing executive Wife - Analyn
VICE-CHAIRMAN--Transportation
Resources/Environment, Local Government & Taxation

Elaine Hofman (D), House Seat A . . . . . 2nd Term
216 S. 16th Ave., Pocatello 83201
Home 232-7167 Husband - Cornelius
Former Educator
Education, Health/Welfare
Judiciary, Rules/Administration

Pete Black (D), House Seat B . . . . . 6th Term
2249 Cassia, Pocatello 83201
Home 237-1779 Bus. 237-2271
Educator Wife - Ronda
ASSISTANT MINORITY LEADER
Appropriations (JFAC), Local Govt, Ways/Means

35-BANNOCK, BINGHAM & POWER COUNTIES

C. E. "Chick" Bilyeu (D), Senate . . . . . 12th Term
11076 N. Philbin Rd., Pocatello 83202 237-3158
Educator/Retired Wife - Diane
Finance (JFAC), Transportation

Albert M. (Al) Johnson (D), House Seat A . . 6th Term
12350 N. Philbin Rd., Pocatello 83202
Farmer/Rancher 237-2828 Wife - Betty
Agricultural Affairs, Resources/Conservation
Revenue/Taxation

Jim Christiansen (D), House Seat B . . . . . 1st Term
(Served 2 terms Senate 1987-1990)
P.O. Box 458, Aberdeen 83210
Home 397-4644 Bus 226-5001
Small business/farmer/rancher Wife - Lou Etta
Agricultural Affairs, Education