GENERAL LAWS

OF THE

STATE OF IDAHO

Volume 2

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

Convened January 9, 1995
Adjourned March 17, 1995

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

PUBLISHED BY AUTHORITY OF THE
SECRETARY OF STATE

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Secretary of State
Boise, Idaho

Printed by The Caxton Printers, Ltd.
Caldwell, Idaho

CHAPTER 222
(H.B. No. 286)

AN ACT

RELATING TO THE CONVEYANCE OR LEASE OF A CITY HOSPITAL TO A NONPROFIT CORPORATION; AMENDING SECTION 50-305, IDAHO CODE, TO PROVIDE THAT A CITY MAY CONVEY OR LEASE A CITY HOSPITAL AND THE EQUIPMENT THEREIN TO A NONPROFIT CORPORATION AND PROVIDING CONDITIONS FOR SUCH CONVEYANCE OR LEASE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-305, Idaho Code, be, and the same is hereby amended to read as follows:

50-305. HOSPITALS -- MAINTENANCE. (1) Any city may acquire, in the manner provided for acquiring other property, by purchase or otherwise, hospital grounds, buildings and equipment, and clinics or other health care facilities, and maintain and operate the same and to provide by general ordinance, rules and regulations for governing the same. Cities acting through their respective city councils may convey or lease city hospitals, and the equipment therein, subject to the following conditions:

(a) The entity to which the hospital is to be transferred shall be a nonprofit corporation;

(b) No lease term shall exceed ninety-nine (99) years;

(c) The governing body of the nonprofit corporation must be composed initially of the incumbent members of the board of hospital trustees, as individuals. The articles of incorporation must provide for a membership of the corporation which is:

(i) Broadly representative of the public and includes residents of the city; or

(ii) A single nonprofit corporate member having articles of incorporation which provide for a membership of that corporation which is broadly representative of the public and includes residents of the city.

The articles must further provide for the selection of the governing body by the membership of the corporation, or exclusively by a parent corporation which is the corporate member, with voting power, and not by the governing body itself, except to fill a vacancy for the unexpired term. The articles must further provide that no member of the governing body shall serve more than two (2) consecutive three (3) year terms.

(d) The nonprofit corporation must provide care for indigent patients, and receive any person falling sick or maimed within the county.

(e) The transfer agreement must provide for the transfer of patients, staff and employees, and for the continuing administration of any trusts or bequests or maintenance of records pertaining to the existing public hospital.

(f) The transfer or lease agreement shall provide for a transfer or lease price which shall be either of the following:

(i) The acceptance of all assets and assumption of all liabilities; or

(ii) Such other price as the city council and the nonprofit corporation may agree.

(2) If any hospital which has been conveyed pursuant to this section ceases to be used as a nonprofit hospital, unless the premises so conveyed are sold and the proceeds used to erect or enlarge another nonprofit hospital for the city, the hospital so conveyed reverts to the ownership of the city. If any hospital which has been leased pursuant to this section ceases to be used as a nonprofit hospital, the lease shall terminate.

(3) The provisions of chapter 14, title 50, Idaho Code, with respect to the sale, lease and disposition of real property owned by the city, shall not apply to transactions covered by 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 20, 1995.

CHAPTER 223
(H.B. No. 109)

AN ACT

RELATING TO DOMESTIC VIOLENCE; AMENDING SECTION 18-918, IDAHO CODE, TO PROVIDE FOR DOMESTIC VIOLENCE COUNSELING AND TREATMENT UPON A CONVICTION FOR DOMESTIC ASSAULT OR BATTERY, PROVIDING FOR EVALUATION OF DEFENDANTS, PROVIDING FOR A SYSTEM TO BE ESTABLISHED WITHIN EACH JUDICIAL DISTRICT TO QUALIFY AND APPROVE EVALUATORS, AND PROVIDING FOR FUNDING; AMENDING SECTION 31-3201A, IDAHO CODE, TO PROVIDE FOR RETENTION BY THE COUNTY TREASURER AND DEPOSIT IN THE DISTRICT COURT FUND OF THE COUNTY OF FIVE DOLLARS FROM THAT PORTION OF THE FILING FEES FOR DIVORCE ACTIONS TO BE DEPOSITED IN THE STATE GENERAL ACCOUNT AND PROVIDING THE PURPOSE FOR WHICH SUCH MONEYS ARE TO BE USED.

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

SECTION 1. That Section 18-918, Idaho Code, be, and the same is hereby amended to read as follows:

18-918. DOMESTIC ASSAULT OR BATTERY. (1) For the purpose of this section, "adult household member" means a person who is eighteen (18) years of age or older and is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or have lived together at any time.

(2) An adult household member who commits an assault, as defined in section 18-901, Idaho Code, against another adult household member is guilty of domestic assault.

(3) An adult household member who commits a battery, as defined in section 18-903, Idaho Code, against another adult household member is guilty of domestic battery.

(4) Upon a first conviction, the crime of domestic assault or battery is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in a county jail not to exceed six (6) months, or both. Upon a second conviction, within ten (10) years of the first conviction, the person so convicted shall be punished by imprisonment in the county jail for a term not to exceed one (1) year or by a fine not exceeding two thousand dollars ($2,000) or by both fine and imprisonment. Upon a third or subsequent conviction, within fifteen (15) years of the first conviction, the person so convicted shall be punished by imprisonment in the state prison for a term not to exceed five (5) years or by a fine not to exceed five thousand dollars ($5,000) or by both fine and imprisonment.

(5) (a) Any person who pleads guilty or is found guilty of a violation of this section shall undergo, at the person's own expense and prior to the sentencing date, an evaluation by a person, agency or organization approved by the court in accordance with subsection (c) of this section to determine whether the defendant should be required to obtain aggression counseling or other appropriate treatment for anger control and prevention. If the evaluation recommends counseling or other treatment, the eval-

uation shall recommend the type of counseling or treatment considered appropriate for the defendant, together with the estimated costs thereof, and shall recommend any other suitable alternative counseling or treatment programs, together with the estimated costs thereof. The defendant 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 counseling is required unless the defendant makes a showing by a preponderance of evidence that counseling 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 counseling or other treatment is ordered, in no event shall the person, agency or organization doing the evaluation be the person, agency or organization that provides the counseling or other 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 for court-ordered counseling or treatment pursuant to this section for indigent defendants as provided by law. In the event that funding is provided for or on behalf of the defendant by a governmental entity, the defendant shall be ordered to make restitution to such governmental entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code.

(b) If the evaluation recommends counseling or other treatment, the court shall order the person to complete the counseling or other treatment in addition to any other sentence which may be imposed. If the court determines that counseling or treatment would be inappropriate or undesirable, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred counseling or 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 counseling or 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. Nothing contained in this subsection shall be construed as requiring a court to order that counseling or treatment be provided at government expense unless otherwise required by law.

(c) Each judicial district shall by rule establish a uniform system for the qualification and approval of persons, agencies or organizations to perform the evaluations required in this subsection. Only qualified evaluators approved by the court shall be authorized to perform such evaluations. Funds to establish a system for approval of evaluators shall be derived from moneys designated therefor and deposited in the district court fund as pro-

vided in section 31-3201A(p), Idaho Code.

SECTION 2. That Section 31-3201A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201A. COURT FEES. The clerk of the district court in addition to the fees and charges imposed by chapter 20, title 1, Idaho Code, and in addition to the fee levied by chapter 2, title 73, Idaho Code, shall charge, demand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law;

(a) A fee of $32.00 for filing a civil case of any type in the district court or in the magistrate's division of the district court including cases involving the administration of decedents' estates, whether testate or intestate, and conservatorships of the person or of the estate or both with the following exceptions:

The filing fee shall be $10.00 in each case where the amount of money or damages or the value of personal property claimed does not exceed $300. The filing fee shall be $12.00 in the following types of cases:

(1) Where the amount of money or damages or the value of personal property claimed exceeds $300 but does not exceed $1,000;

(2) Where a case is brought for forcible or unlawful entry or detainer whether brought for rent or possession or both and regardless of the amount;

(3) Where a case is brought under chapter 20, title 16, Idaho Code, for the termination of parent-child relationship;

(4) Where a case is brought under chapter 2, title 32, Idaho Code, for permission to marry;

(5) Where a case involving the administration of a decedent's estate is brought under the Summary Administration of Small Estates Act;

(6) In cases where a court order is issued only for a certain specific reason other than the administering of an estate, including but not limited to proceedings brought under sections 14-114, 15-514, 15-1401, 15-1518 and/or 15-1709, Idaho Code, or for some specific reason;

(7) In cases brought to determine heirship without administration;

(8) In cases brought to determine inheritance or transfer tax;

(9) In proceedings brought for adoption;

(10) In proceedings brought for letters of guardianship of the person or of the estate or both.

No filing fee shall be charged in the following types of cases:

(1) In cases brought under chapter 3, title 66, Idaho Code, for commitment of mentally ill persons;

(2) In cases brought under the Youth Rehabilitation Act;

(3) In cases brought under the Child Protective Act.

In all cases in which a filing fee of $32.00 is paid, $17.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $15.00 of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account. In all cases in which a filing

fee of $12.00 is paid, $4.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $8.00 of such filing fee shall be paid to the county treasurer who shall within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account. In all cases in which a filing fee of $10.00 is paid, $3.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $7.00 of such filing fee shall be paid to the county treasurer who shall within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account.

(b) A fee of $15.50 shall be paid, but not in advance, by each person found guilty of any felony or misdemeanor, or found to have committed an infraction or any minor traffic, conservation or ordinance violation except when the court orders such fee waived because the person is indigent and unable to pay such fee; provided, however, that the judge or magistrate may in his discretion consolidate separate nonmoving traffic offenses into one (1) offense for purposes of assessing such fee. If the magistrate court facilities are provided by the county, $5.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $10.50 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account. If the magistrate court facilities are provided by a city, $5.00 of such fee shall be paid to the city treasurer for deposit in the city general fund, $2.50 of such fee shall be paid to the city treasurer for deposit in the city capital facilities fund for the construction, remodeling and support of magistrates court facilities, and $8.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account.

(c) A fee of $12.00 shall be paid by any party, except the plaintiff, making an appearance in any civil action in the district court or in the magistrate's division of the district court. Of such fee, $4.00 shall be paid to the county treasurer for deposit in the district court fund of the county; and $8.00 of such fee shall be paid to the county treasurer who shall within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account.

(d) A fee of $9.00 shall be paid by the person or persons required to make an account pursuant to either chapter 11 or chapter 18, title 15, Idaho Code, at the time such account is filed. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(e) A fee of $17.00 shall be paid upon the filing of a petition of the executor or administrator or of any person interested in an estate for the distribution of such estate, $6.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $11.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account.

(f) A fee of $7.00 shall be paid by an intervenor upon making an appearance in any civil action in the district court or in the magistrate's division of the district court. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(g) A fee of $8.00 shall be paid by a party filing a third party claim as defined in the Idaho Rules of Civil Procedure. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(h) A fee of $8.00 shall be paid by any party filing a cross-claim. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(i) A fee of $9.00 shall be paid by a party initiating a change of venue. Such fee shall be paid to the clerk of the court of the county to which venue is changed. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(j) A fee of $9.00 shall be paid by any party appearing after judgment or applying to reopen a case. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(k) A fee of $9.00 shall be paid by a party taking an appeal from the magistrate's division of the district court to the district court. No additional fee shall be required if a new trial is granted. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(l) A fee of $9.00 shall be paid by the party taking an appeal from the district court to the supreme court for comparing and certifying the transcript on appeal, if such certificate is required. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(m) Fees not covered by this section shall be set by rule or administrative order of the supreme court.

(n) All fees required to be paid by this section or by rule or administrative order of the supreme court shall be collected by the clerk of the district court or by a person appointed by the clerk of the district court for this purpose. If it appears that there is a necessity for such fees to be collected by persons other than the clerk of the district court or a person designated by the clerk for such purpose, the supreme court by rule or administrative order may provide for the designation of persons authorized to receive such fees. Persons so designated shall account for such fees in the same manner required of the clerk of the district court and shall pay such fees to the clerk of the district court of the county in which such fees are collected.

(o) That portion of the filing fees required to be remitted to the state treasurer for deposit in the state general account shall be remitted within five (5) days after the end of the month in which such fees were remitted to the county treasurer. That portion of the filing fees required to be remitted to a city treasurer for deposit in the city's general fund shall be remitted within five (5) days after the end of the month in which such fees were remitted to the county treasurer.

(p) Of the fees derived from the filing of any divorce action

required to be transmitted to the state treasurer for deposit in the general account, the county treasurer shall retain $5.00, which shall be separately identified and deposited in the district court fund of the county. Such moneys shall be used exclusively for the purpose of establishing a uniform system of qualifying and approving persons, agencies or organizations to conduct evaluations of persons convicted of domestic assault or battery as provided in section 18-918, Idaho Code. No provision of chapter 52, title 39, Idaho Code, shall apply to the moneys provided for in this subsection.

(q) In consideration of the aforesaid fees the clerk of the district court shall be required to perform all lawful service that may be required of him by any party thereto; provided, that he shall not prepare and furnish any certified copy of any file or record in an action except printed transcript on appeal, without additional compensation as provided by law.

Approved March 20, 1995.

CHAPTER 224
(H.B. No. 171, As Amended)

AN ACT

RELATING TO ATTENDANCE AT SCHOOLS; AMENDING CHAPTER 2, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-203, IDAHO CODE, TO PROVIDE FOR DUAL ENROLLMENT.

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

SECTION 1. That Chapter 2, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-203, Idaho Code, and to read as follows:

33-203. DUAL ENROLLMENT. (1) The parent or guardian of a child of school age who is enrolled in a nonpublic school shall be allowed to enroll the student in a public school for dual enrollment purposes. The board of trustees of the school district shall adopt procedures governing enrollment pursuant to this section. If enrollment in a specific program reaches the maximum for the program, priority for enrollment shall be given to a student who is enrolled full time in the public school.

(2) Any student participating in dual enrollment may enter into any program in the public school available to other students subject to compliance with the same rules and requirements that apply to any student's participation in the activity.

(3) Any school district shall be allowed to include dual-enrolled nonpublic school students for the purposes of state funding only to the extent of the student's participation in the public school programs.

(4) Oversight of academic standards relating to participation in nonacademic public school activities shall be the responsibility of

the primary educational provider for that student. In order for the nonpublic school student to participate in nonacademic public school activities the nonpublic school student shall achieve a minimum score on the achievement test required annually by the state board of education, and that score shall be used to determine eligibility for the following year. The student shall be eligible if the minimum composite test score places the student within the average or higher than average range as established by the test service utilized.

(5) A public school student who has been unable to maintain academic eligibility is ineligible to participate in nonacademic public school activities as a nonpublic school student for the duration of the school year in which the student becomes academically ineligible and for the following academic year.

(6) A nonpublic school student participating in nonacademic public school activities must reside within the attendance boundaries of the school for which the student participates.

(7) Dual enrollment shall include the option of joint enrollment in a regular public school and an alternative public school program. The state board of education shall establish rules that provide funding to school districts for each student who participates in both a regular public school program and an alternative public school program.

(8) Dual enrollment shall include the option of enrollment in a post-secondary institution. Any credits earned from an accredited post-secondary institution shall be credited toward state board of education high school graduation requirements.

(9) A nonpublic student is any student who receives educational instruction outside a public school classroom and such instruction can include, but is not limited to, a private school or a home school.

Approved March 20, 1995.

CHAPTER 225
(H.B. No. 240)

AN ACT

RELATING TO BARBERS; AMENDING SECTION 54-528, IDAHO CODE, TO PROVIDE FOR ELIGIBILITY TO APPLY FOR A BARBER TEACHER'S CERTIFICATE BY ALLOWING FOR COMPLETION OF A MINIMUM SIX MONTH COURSE OF BARBER TEACHING AT A LICENSED BARBER COLLEGE.

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

SECTION 1. That Section 54-528, Idaho Code, be, and the same is hereby amended to read as follows:

54-528. QUALIFICATIONS OF TEACHERS. No person shall teach or be employed to teach in any barber school within the state, who at the time of rendering such service is not a holder of a teacher's certificate for barbering or cosmetology.

No person shall be issued a teacher's certificate until he has

satisfactorily completed a minimum six (6) month course of barber teaching as a student in a properly licensed barber college or had ~~not less--than~~ a minimum of three (3) years' experience in practical barbering. Any person who makes application to obtain a certificate to teach barbering must pass satisfactorily the barber teachers' examination to be conducted by the board of barber examiners.

The barber teachers' examination will determine fully the applicants' ability to teach all the branches of barbering, both practical and scientific.

A barber teacher's license may be renewed annually by the payment of the required fee and proof of having met the continued education as may be required by board rule.

Approved March 20, 1995.

CHAPTER 226
(H.B. No. 329)

AN ACT

RELATING TO FRANCHISES GRANTED IN CITIES FOR ELECTRIC, NATURAL GAS OR WATER PUBLIC UTILITIES OR FOR COOPERATIVE ELECTRICAL ASSOCIATIONS; AMENDING SECTION 50-329, IDAHO CODE, TO PROVIDE MINIMUM AND MAXIMUM TERMS FOR FRANCHISES; AMENDING CHAPTER 3, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-329A, IDAHO CODE, TO PROVIDE RESTRICTIONS AND LIMITATIONS ON FRANCHISE FEES CHARGED TO PUBLIC SERVICE PROVIDERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-329, Idaho Code, be, and the same is hereby amended to read as follows:

50-329. FRANCHISE ORDINANCES -- REGULATIONS. No ordinance granting a franchise in any city shall be passed on the day of its introduction, nor for thirty (30) days thereafter, nor until such ordinance shall have been published in at least one (1) issue of the official newspaper of the city; and after such publication, such proposed ordinance shall not thereafter and before its passage be amended in any particular wherein the amendment shall impose terms, conditions or privileges less favorable to the city than the proposed ordinance as published; but amendments favorable to the city may be made at any time and after publication; provided that an ordinance granting a franchise to lay a spur, railroad track or tracks connecting manufacturing plants, warehouses or other private property with a main railroad line, need not be published before the same is passed by the council. No franchise shall be created or granted by the city council otherwise than by ordinance, and the passage of any such ordinance shall require the affirmative vote of one-half (1/2) plus one (1) of the members of the full council. Franchises created or granted by the city council for electric, natural gas or water public utilities, as defined in chapter 1, title 61, Idaho Code, or to cooperative electri-

cal associations, as defined in section 63-3501(a), Idaho Code, shall be for terms of not less than ten (10) years and not greater than fifty (50) years unless otherwise agreed to by the utility or cooperative electrical association. All publications of ordinances granting a franchise, both before and after passage, shall be made at the expense of the applicant or grantee. Where an ordinance granting a franchise is sought to be amended after the same has been in force, the provisions of this section as to publication, before final action upon such amendment, shall apply as in cases of proposed ordinances granting original franchises.

SECTION 2. That Chapter 3, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-329A, Idaho Code, and to read as follows:

50-329A. FRANCHISE ORDINANCES -- FEES. (1) This section applies to franchises granted by cities to electric, natural gas and water public utilities, as defined in chapter 1, title 61, Idaho Code, and to cooperative electrical associations, as defined in subsection (a) of section 63-3501, Idaho Code, which provide service to customers in Idaho and which shall also be known as "public service providers" for purposes of this section. Notwithstanding any other provision of law to the contrary, cities may include franchise fees in franchises granted to public service providers, only in accordance with the following terms and conditions:

(a) Franchise fees assessed by cities upon a public service provider shall not exceed one percent (1%) of the public service provider's "gross revenues" received within the city without the consent of the public service provider or the approval of a majority of voters of the city voting on the question at an election held in accordance with chapter 4, title 50, Idaho Code. In no case shall the franchise fee exceed three percent (3%), unless a greater franchise fee is being paid under an existing franchise agreement, in which case the franchise agreement may be renewed at up to the greater percentage, with the consent of the public service provider or the approval of a majority of voters of the city voting on the question at an election held in accordance with chapter 4, title 50, Idaho Code. For purposes of this section, "gross revenues" shall mean the amount of money billed by the public service provider for the electricity, natural gas or water it sells within the city to customers less uncollectibles.

(b) Franchise fees shall be collected by the public service provider from its customers within the city, by assessing the franchise fee percentage on the amounts billed to customers for electricity, natural gas or water sold by the public service provider within the city. The franchise fee shall be separately itemized on the public service provider's billings to customers.

(c) Franchise fees shall be paid by public service providers within thirty (30) days of the end of each calendar quarter.

(d) Franchise fees paid by public service providers will be in lieu of and as payment for any tax or fee imposed by a city on a public service provider by virtue of its status as a public ser-

vice provider including, but not limited to, taxes, fees or charges related to easements, franchises, rights-of-way, utility lines and equipment installation, maintenance and removal during the term of the public service provider's franchise with the city.

(2) This section shall not affect franchise agreements which are executed and agreed to by cities and public service providers with an effective date prior to the effective date of this act.

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

Approved March 20, 1995.

CHAPTER 227
(H.B. No. 315)

AN ACT

RELATING TO ELECTIONS ON REFERRED MEASURES TO THE BALLOT; REPEALING SECTION 34-2217, IDAHO CODE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-2217, Idaho Code, be, and the same is hereby repealed.

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

Approved March 20, 1995.

CHAPTER 228
(S.B. No. 1066)

AN ACT

RELATING TO PHARMACY REIMBURSEMENT LEVELS; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-209g, IDAHO CODE, TO PROVIDE THAT THERE SHALL BE NO REDUCTION OF PHARMACY REIMBURSEMENT LEVEL IN THE STATE OF IDAHO PROGRAM PURSUANT TO TITLE XIX OF THE SOCIAL SECURITY ACT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-209g, Idaho Code, and to read as follows:

56-209g. PHARMACY REIMBURSEMENT. From January 1, 1991, through December 31, 1994, pursuant to federal action, a moratorium on reduction of pharmacy reimbursement levels for medicaid under title XIX of the social security act has been in effect. From and after January 1, 1995, it shall be the policy of the state of Idaho that there be no reduction of pharmacy reimbursement levels for medicaid under title XIX of the social security act except as necessary to comply with federal regulations, 42 CFR 447.331 through 447.334, as implemented in the state of Idaho.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and retroactively to January 1, 1995.

Approved March 20, 1995.

CHAPTER 229
(S.B. No. 1083)

AN ACT

RELATING TO PREMARITAL AGREEMENTS; AMENDING SECTION 32-916, IDAHO CODE, TO REMOVE APPLICABILITY OF SECTION TO PREMARITAL AGREEMENTS; AMENDING CHAPTER 9, TITLE 32, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 32-921, 32-922, 32-923, 32-924, 32-925, 32-926, 32-927, 32-928 AND 32-929, IDAHO CODE, TO PROVIDE DEFINITIONS, TO REQUIRE FORMALITIES FOR PREMARITAL AGREEMENTS, TO PROVIDE CONTENTS OF PREMARITAL AGREEMENTS, TO PROVIDE THAT PREMARITAL AGREEMENTS BECOME EFFECTIVE UPON MARRIAGE AND TO PROVIDE FOR AMENDMENT AND REVOCATION, TO PROVIDE FOR ENFORCEMENT, TO PROVIDE FOR ENFORCEABILITY IF A MARRIAGE IS VOID, TO TOLL THE STATUTE OF LIMITATIONS DURING MARRIAGE, TO PROVIDE FOR CONSTRUCTION OF THE ACT AND TO PROVIDE A SHORT TITLE.

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

SECTION 1. That Section 32-916, Idaho Code, be, and the same is hereby amended to read as follows:

32-916. PROPERTY RIGHTS GOVERNED BY CHAPTER. The property rights of husband and wife are governed by this chapter, unless there is a marriage settlement agreement entered into ~~prior to or~~ during marriage containing stipulations contrary thereto.

SECTION 2. That Chapter 9, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 32-921, 32-922, 32-923, 32-924, 32-925, 32-926, 32-927, 32-928 and 32-929, Idaho Code, and to read as follows:

32-921. DEFINITIONS. As used in this act:

(1) "Premarital agreement" means an agreement between prospective

spouses made in contemplation of marriage and to be effective upon marriage.

(2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

32-922. FORMALITIES. A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration. The premarital agreement shall be executed and acknowledged or proved as provided in sections 32-917 through 32-919, Idaho Code.

32-923. CONTENT. (1) Parties to a premarital agreement may contract with respect to:

(a) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(b) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

(c) The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;

(d) The modification or elimination of spousal support;

(e) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;

(f) The ownership rights in and disposition of the death benefit from a life insurance policy;

(g) The choice of law governing the construction of the agreement; and

(h) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(2) The right of a child to support may not be adversely affected by a premarital agreement.

32-924. EFFECT OF MARRIAGE -- AMENDMENT -- REVOCATION. A premarital agreement becomes effective upon marriage. After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

32-925. ENFORCEMENT. (1) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(a) That party did not execute the agreement voluntarily; or

(b) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(i) Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

(ii) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(iii) Did not have, or reasonably could not have had, an ade-

quate knowledge of the property or financial obligations of the other party.

(2) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(3) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

32-926. ENFORCEMENT -- VOID MARRIAGE. If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

32-927. LIMITATION OF ACTIONS. Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled as to the premarital agreement during the marriage of the parties. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

32-928. APPLICATION AND CONSTRUCTION. This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

32-929. SHORT TITLE. This act may be cited as the "Uniform Premarital Agreement Act."

Approved March 20, 1995.

CHAPTER 230
(S.B. No. 1156)

AN ACT

RELATING TO PHYSICIAN REIMBURSEMENT FOR MEDICAID SERVICES; AMENDING CHAPTER 1, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-136, IDAHO CODE, TO PROVIDE FOR REIMBURSEMENT TO PHYSICIANS FOR MEDICAID-COVERED PHYSICIAN SERVICES.

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

SECTION 1. That Chapter 1, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-136, Idaho Code, and to read as follows:

PART E.
PHYSICIANS

56-136. PHYSICIAN REIMBURSEMENT. (1) Beginning with fiscal year 1996, the rate of reimbursement for all medicaid-covered physician services rendered to medicaid recipients shall be adjusted each fiscal year. Each fiscal year adjustment shall be determined by the director and shall equal the year over year inflation rate forecasted as of the midpoint of the fiscal year by the all item, goods and services index in the pacific northwest as published by data resources incorporated. Such forecast index shall be the last published forecast prior to the start of the fiscal year. Provided however, an adjustment may exceed the index rate cited in this section at the discretion of the legislature.

(2) Actual payments made by the director to each physician shall not exceed the usual and customary charges made to private pay patients.

(3) For the purposes of this section, "physican" means a person licensed to practice medicine pursuant to chapter 18, title 54, Idaho Code.

(4) The amount to be paid under the provisions of this section shall in no event exceed any limitations imposed by federal law or regulation.

Approved March 20, 1995.

CHAPTER 231
(S.B. No. 1194, As Amended in the House)

AN ACT

RELATING TO LEASE OF STATE OWNED ENDOWMENT LANDS; AMENDING SECTION 58-310, IDAHO CODE, TO CLARIFY EXISTING LANGUAGE, TO PROVIDE FOR EXCEPTIONS AS AUTHORIZED IN SECTIONS 58-310A AND 58-310B, IDAHO CODE, AND TO DELETE LANGUAGE RELATING SPECIFICALLY TO CONFLICT APPLICATIONS FOR GRAZING LEASES; AMENDING CHAPTER 3, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-310B, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO PROVIDE THAT AN AUCTION SHALL BE HELD AMONG TWO OR MORE PERSONS APPLYING TO LEASE THE SAME GRAZING LANDS, TO PROVIDE PROCEDURES AND TO ESTABLISH THE CRITERIA TO BE CONSIDERED BY THE STATE BOARD OF LAND COMMISSIONERS IN AWARDING THE LEASE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 58-310, Idaho Code, be, and the same is hereby amended to read as follows:

58-310. TWO OR MORE APPLICANTS FOR SAME LAND -- AUCTION OF LEASE. Except as otherwise authorized in sections 58-310A and 58-310B, Idaho Code:

(1) When two (2) or more persons apply to lease the same land,

the director of the department of lands, or his agent, shall, at a stated time, and at such place as he may designate, auction off and lease the land to the applicant who will pay the highest premium bid therefor, the annual rental to be established by the state board of land commissioners.~~;provided,that~~

(2) T~~t~~he ~~state-land-commissioners~~ director shall give notice by letter~~,mailed-at-Boise,~~ at least fourteen (14) days prior to the date of such auction, which notice shall be sent in the course of regular mail, to each of the applicants, notifying them of the time and place such auction is to be held.~~;and-t~~The notice shall be sent to the name and address exactly as it is given in the application.

(3) If any applicants fail to appear in person or by proxy at the time and place so designated in said notice, the director may proceed to auction and lease any part or all of the lands applied for.~~;--provided-that-said~~

(4) The state board of land commissioners shall have power to reject any and all bids made at such auction sales, when in their judgment there has been fraud or collusion, or for any other reason, which in the judgment of said state board of land commissioners justified the rejection of said bids.~~;provided,that-for-all--state--lands upon--which--an--approved--grazing--management--contract,--designed-to enhance-the-resource-quality-of-the-state-land,-is-maintained-in--good standing--by--the--lessee,-any-party-making-application-to-lease-those lands-under-the-provisions-of-this-section-shall-be-qualified-to--fulfill--all--provisions--of--the--previously-approved-grazing-management plan;-and-provided-further-that-the-state-board-of-land--commissioners may--take-into-consideration:-(i)-whether-the-current-lessee-owns-sufficient-real-property-to-adequately-feed-the-livestock-in-his-agricultural-operation-when-the-lessee-is-not-utilizing-the-state--lands--for grazing-purposes-and-(ii)-the-importance-of-the-lease-of-state-grazing lands-upon-the-lessee's-total-annual-livestock-operation;-and-provided further-that~~

(5) T~~t~~he challenger of the current lease shall be required to provide payment of one (1) year's rental on the lease payable at the time of application to lease. If the amount of the annual rental bid be not paid forthwith by the successful bidder, together with the expense of such sale, if the state board of land commissioners shall require the same to be paid as hereinbefore provided, or if for any reason the successful bidder does not accept the lease on the terms offered, the lease may be immediately reoffered in the same manner at public auction, without further notice.~~;provided-further,that~~

(6) O~~o~~nly those persons who have filed applications in the manner and at the time provided for by statute or rule shall be permitted to bid at any such auction for the lease of state lands.

SECTION 2. That Chapter 3, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-310B, Idaho Code, and to read as follows:

58-310B. TWO OR MORE APPLICANTS FOR SAME LAND -- AUCTION OF LEASE. (1) The legislature of the state of Idaho finds:

(a) That state endowment lands are a valuable resource to the

people of Idaho, supporting employment opportunities and creating a significant source of income to the state and endowed state institutions;

(b) That many state endowment lands have few alternative uses, except for grazing livestock, that provide a stable long-term source of income to the endowed institutions of the state and contribute to tax revenues from all sources;

(c) That maximum long-term financial returns to the institutions to which granted are best obtained through stable leases;

(d) That long-term productivity of state endowment grazing lands and maximum long-term financial returns to the endowed institutions and the state are encouraged when lessees engage in cooperative grazing planning and management with the state of Idaho and federal land management agencies;

(e) That the promotion of good stewardship through the cooperative development and implementation of written grazing management plans, which meet department standards, on state endowment lands should be encouraged.

(2) It is hereby declared that the purposes of this section are:

(a) To support the endowed institutions and the state by encouraging a healthy Idaho livestock industry so as to generate related business and employment opportunities on a state and local level, thus supporting additional sales, income and property taxes;

(b) To enhance the long-term financial returns to the endowed institutions and the state from the state endowment lands available for grazing leases.

(3) When two (2) or more qualified applicants, as determined by the state board of land commissioners apply to lease the same endowment land that is currently leased for grazing, the director of the department of lands, or his agent, shall hold an auction.

(a) At least fourteen (14) days prior to the date of such auction, the director, or his agent, shall give notice by letter, which notice shall be sent in the course of regular mail to each of the qualified applicants for the lease, notifying them of the time and place such auction is to be held. The notice shall be sent to the name and address exactly as it is given in the application.

(b) Each qualified applicant who appears in person or by proxy at the time and place so designated in said notice shall be deemed to have participated in the auction. To be awarded the lease, a qualified applicant must participate in the auction.

(4) To be a qualified applicant and therefore entitled to participate at an auction for a lease under this section:

(a) The conflict applicant must have provided payment of one (1) year's rental on the lease payable at the time of application to lease;

(b) The applicant must be capable of and willing to fulfill all provisions of any existing written grazing management plan which meets department standards associated with the parcel;

(c) The conflict applicant's proposed use of the state land must be compatible with the purpose and terms of a written grazing management plan which meets department standards;

(d) The applicant must have filed applications in the manner and

at the time provided for by statute and rules duly promulgated thereunder.

(5) The state board of land commissioners is expressly authorized to reject conflict applications, filed under section 58-307, Idaho Code, and this section, to lease parcels of grazing land.

(6) Criteria to be considered by the state board of land commissioners, in deciding who shall be a qualified applicant and to whom the lease should be awarded, include, but are not limited to, the following:

(a) Whether the participant is qualified to bid, as provided for in subsection (4) of this section;

(b) Whether the current lessee owns or controls sufficient real property to adequately feed the livestock in the lessee's agricultural operation when the lessee is not utilizing the state lands for grazing purposes;

(c) The importance of the state grazing lands to be leased upon the current lessee's total annual livestock operation, and the ability of the lessee to remain economically viable without the lease;

(d) The future revenues reasonably anticipated to be generated for the beneficiaries of the endowment and the state as a result of awarding the lease to one (1) applicant over others including, but not limited to, the premium bids resulting from the auction. The board shall also consider the indirect benefits to the beneficiaries of the endowment from tax revenues from all sources generated by the lessee's proposed activities on the leasehold and those activities related thereto, and the long-term stability or appreciation of such tax revenues; and

(e) The impact that each proposed leasehold operation will have on any adjacent public grazing lands and related grazing management units;

(f) Whether the current lessee has managed the conflicted parcels in accordance with a written cooperative grazing management plan which meets department standards;

(g) Whether the current lessee has applied in writing to the director for the development and implementation of a written cooperative grazing management plan which meets department standards;

(h) For the purposes of subsection (6)(g) of this section, the qualified applicant status of a current lessee having applied in writing to the director for the cooperative development and implementation of a written grazing management plan, meeting department standards, shall remain in force until the director notifies the lessee in writing that the department is ready to develop a written grazing management plan;

(i) The failure of the lessee to enter into a cooperative grazing management plan within eighteen (18) months following the director's written notice shall constitute a breach of the lease;

(j) Upon written request by the lessee, filed before the expiration of the eighteen (18) month period, the department may authorize additional time to complete the plan, provided that development of the written grazing management plan is progressing to the satisfaction of the director;

(k) The department shall prioritize all written requests to

establish grazing management plans, with such priority list in writing to be made available at appropriate department offices.

(7) (a) If the board awards the lease for the conflicted parcels to the former lessee, any existing written grazing management plan shall be incorporated by reference in the lease;

(b) If the board awards the lease for the conflicted parcel(s) to the former lessee who, prior to said award, has applied in writing to the director for the development and implementation of a written grazing management plan which meets department standards, then said written grazing management plan shall, upon its development, be incorporated by reference into the lease as a matter of law, as if it had existed and been approved when the board awarded the lease;

(c) If the board awards the lease for the conflicted parcels to a conflict applicant, a written cooperative grazing management plan which meets department standards shall, upon its development, be incorporated by reference into the lease as a matter of law, as if it had existed and been approved when the board awarded the lessee.

(8) The state board of land commissioners shall review all bids and shall have the power to reject any and all bids made at such auctions, when in their judgment:

(a) There has been fraud or collusion;

(b) The criteria listed in subsection (6) of this section have not been satisfied so as to support the findings and purposes of this section; or

(c) For any other reasons which, in the judgment of the state board of land commissioners, justify the rejection of said bids.

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

Approved March 20, 1995.

CHAPTER 232
(S.B. No. 1030)

AN ACT

RELATING TO SUBPOENAS AND TESTIMONY BEFORE THE LEGISLATURE AND COMMITTEES OF THE LEGISLATURE; AMENDING SECTION 67-407, IDAHO CODE, TO REVISE PROCEDURES FOR THE ISSUANCE OF SUBPOENAS AND TO REVISE REQUIREMENTS FOR THE CONTENTS OF THE SUBPOENA; AMENDING SECTION 67-408, IDAHO CODE, TO REVISE REQUIREMENTS FOR SERVICE OF SUBPOENAS; AMENDING SECTION 67-409, IDAHO CODE, TO PROVIDE ADDITIONAL REMEDIES FOR REFUSING TO OBEY A SUBPOENA; AMENDING SECTION 67-410, IDAHO CODE, TO REVISE PROCEDURES FOR COMPELLING ATTENDANCE OF WITNESSES NEGLECTING OR REFUSING TO ATTEND IN OBEDIENCE TO A SUBPOENA; AMENDING SECTION 18-5401, IDAHO CODE, TO CLARIFY THAT FALSE TESTIMONY BEFORE A LEGISLATIVE COMMITTEE BY A PERSON HAVING TAKEN AN OATH IS PERJURY; AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY

THE ADDITION OF A NEW SECTION 67-411A, IDAHO CODE, TO PROVIDE FOR THE TAKING AND RECORDING OF TESTIMONY UNDER OATH; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-407, Idaho Code, be, and the same is hereby amended to read as follows:

67-407. ATTENDANCE OF WITNESS -- SUBPOENA. A subpoena requiring the attendance of any witness or the production of any papers or other materials before either house of the legislature, or a committee ~~thereof~~ of the legislature, may be issued by the president or president pro tempore of the senate, speaker of the house, or the chairman of any committee before whom the attendance of the witness or the production of papers or other materials is desired.~~;-and-it-is-sufficient if~~ The subpoena must:

1. ~~It-states~~ State whether the proceeding is before the senate or house, or a committee;

2. ~~It-is~~ Be addressed to the witness, and name with particularity the papers or other materials to be produced by the witness, if papers and materials are requested;

3. ~~It--requires~~ Require the attendance of ~~such~~ the witness~~es~~ or the production of such papers or other materials by the witness at a time and place certain to be shown on the subpoena;

4. ~~It--is~~ Be signed by the president or president pro tempore of the senate, speaker of the house, or the chairman of a committee; and

5. Inform the witness that the witness will be paid mileage, meals and lodging, if necessary, or otherwise provided necessary transportation, meals or lodging for attendance. Any witness subpoenaed under this section shall be entitled to necessary mileage, meals and lodging at the rates established by the state board of examiners pursuant to section 67-2008, Idaho Code, for official travel for state officers and employees, to be paid from the legislative account if other transportation, meals and lodging are not tendered for the witness's attendance.

SECTION 2. That Section 67-408, Idaho Code, be, and the same is hereby amended to read as follows:

67-408. ATTENDANCE OF WITNESSES -- SERVICE OF SUBPOENAS. The subpoena may be served by the sheriff of any county in which the subpoenaed person may be found or by any person ~~who-might-be-a-witness-in the-matter~~ authorized to serve process of courts of record, and ~~his~~ the affidavit of the person serving the subpoena that he delivered a copy to the witness is evidence of service.

SECTION 3. That Section 67-409, Idaho Code, be, and the same is hereby amended to read as follows:

67-409. ATTENDANCE OF WITNESSES -- REFUSAL TO OBEY SUBPOENA A CONTEMPT. If any witness neglects or refuses to obey such subpoena, or appearing, refuses to testify, or produce the subpoenaed documents or

other materials, the senate or house may, by resolution entered on the journal, ~~commit--him~~ cite the witness for contempt. It shall be the duty of the district court, upon application of the presiding officer of the house resolving to cite the witness for contempt, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or the refusal to testify or produce documents or other materials in court.

SECTION 4. That Section 67-410, Idaho Code, be, and the same is hereby amended to read as follows:

67-410. WITNESSES -- COMPELLING ATTENDANCE. Any witness neglecting or refusing to attend in obedience to a subpoena issued under sections 67-407 through 67-410, Idaho Code, may at the written direction of the president or president pro tempore of the senate or the speaker of the house of representatives be arrested by the sergeant-at-arms, a sheriff or such other person designated in writing and brought before the senate or house. The only warrant of authority necessary to authorize such arrest is a copy of a resolution of the senate or house citing the person for contempt, signed by the presiding officer, and countersigned by the clerk, and the written authorization for arrest signed by the arresting officer.

SECTION 5. That Section 18-5401, Idaho Code, be, and the same is hereby amended to read as follows:

18-5401. PERJURY DEFINED. Every person who, having taken an oath that he will testify, declare, depose, or certify truly, before any competent tribunal, legislative committee, officer, or person in any of the cases in which such an oath may by law be administered, wilfully and contrary to such oath, states as true any material matter which he knows to be false, is guilty of perjury.

SECTION 6. That Chapter 4, 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 67-411A, Idaho Code, and to read as follows:

67-411A. TAKING AND RECORDING TESTIMONY UNDER OATH. Whenever conducting legislative business, a committee may require that testimony be given under oath, which may be administered by the chairman or by a person authorized by law to administer oaths, and may require that the testimony be recorded by an official court reporter or by some other competent person, under oath, which report when written, certified and approved by the person as being the direct transcript of the testimony, proceedings or documents shall be prima facie a correct statement of the testimony and proceedings provided that the person's signature to the certificate shall be duly acknowledged by him before a notary public. Any person who takes an oath pursuant to this section who states as true any material matter which he knows to be false is guilty of perjury and shall be punished pursuant to chapter 54, title 18, Idaho Code.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 20, 1995.

CHAPTER 233
(S.B. No. 1255)

AN ACT

RELATING TO DOMESTIC WATER PURPOSES; AMENDING SECTION 42-111, IDAHO CODE, TO CLARIFY CERTAIN USES OF WATER THAT DO NOT QUALIFY AS AN EXEMPT DOMESTIC PURPOSE UNDER THIS ACT AND MUST INSTEAD COMPLY WITH THE STATUTORY APPLICATION AND PERMIT PROCESS FOR ESTABLISHING A NEW WATER RIGHT AND TO MAKE TECHNICAL CHANGES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-111, Idaho Code, be, and the same is hereby amended to read as follows:

42-111. DOMESTIC PURPOSES DEFINED. (1) For purposes of sections 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243 and 42-1401A, Idaho Code, the phrase "domestic purposes" or "domestic uses" means:

~~A.~~(a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or

~~B.~~(b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

(2) For purposes of ~~these~~ the sections listed in subsection (1) of this section, domestic purposes or domestic uses shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in subsection ~~B.~~(1)(b) of this section.

(3) Multiple water rights for domestic uses or domestic purposes, as defined in this section, shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section. The purpose of this limitation is to prohibit the diversion and use of water, under a combination of domestic purposes or domestic uses as defined in this section, to provide a supply of water for a use that does not meet the exemption of section 42-227, Idaho Code, and is required to comply with the mandatory application and permit process for developing a right to the use of water pursuant to chapter 2, title 42, 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 20, 1995.

CHAPTER 234
(H.B. No. 59, As Amended)

AN ACT

RELATING TO PROCEEDINGS TO ESTABLISH PATERNITY; AMENDING SECTION 7-1106, IDAHO CODE, TO CLARIFY WHEN THE DEPARTMENT OF HEALTH AND WELFARE MAY MOVE FOR AN ORDER OF FILIATION; AMENDING SECTION 7-1110, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE MAY INITIATE PROCEEDINGS TO ESTABLISH PATERNITY OF A CHILD FOR WHOM SERVICES ARE PROVIDED UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT; AMENDING SECTION 7-1115, IDAHO CODE, TO PROVIDE THAT A VOLUNTARY ACKNOWLEDGMENT OF PATERNITY MAY BE ADMITTED AS EVIDENCE RELATING TO PATERNITY; AMENDING SECTION 7-1116, IDAHO CODE, TO DELETE ALL REFERENCES TO "BLOOD TESTS" AND REPLACE WITH THE TERM "GENETIC TESTS" AND TO PROVIDE FOR SERVICE OF TEST RESULTS UPON THE DEFENDANT WITH THE COMPLAINT OR NO LATER THAN TWENTY-EIGHT DAYS BEFORE TRIAL; AND AMENDING SECTION 7-1119, IDAHO CODE, TO PROVIDE THAT THE PRESUMPTION OF LEGITIMACY OF A CHILD BORN DURING WEDLOCK IS OVERCOME BY GENETIC TESTS WHICH SHOW THAT THE HUSBAND IS NOT THE FATHER OF THE CHILD OR AN AFFIDAVIT OF NONPATERNITY SIGNED BY THE MOTHER AND HER HUSBAND AND AN AFFIDAVIT OF PATERNITY SIGNED BY THE MOTHER AND FATHER.

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

SECTION 1. That Section 7-1106, Idaho Code, be, and the same is hereby amended to read as follows:

7-1106. VOLUNTARY ACKNOWLEDGMENTS -- APPROVAL BY COURT -- EFFECT. (1) In lieu of contested paternity proceedings, a verified voluntary acknowledgment of parentage executed jointly by the father and the mother of a child may be filed with a court of competent jurisdiction and proper venue. A voluntary acknowledgment executed after July 1, 1994, shall be admissible as evidence of paternity and shall create a rebuttable presumption of paternity. After filing, either parent may, upon notice to the other parent, move the court for entry of an order of filiation. Upon notice to both parents, the department of health and welfare may move the court for entry of an order of filiation ~~if the child who is the subject of the acknowledgment is or was a recipient of public assistance~~ on behalf of a child for whom services are being provided under Title IV-D of the social security act.

(2) The voluntary acknowledgment of parentage may also contain agreements regarding custody, support and visitation. Such agreements, if approved by the court, shall have the same force and effect as a judgment of the court. However, the court shall have the same power to

investigate the facts regarding custody, support and visitation prior to entering an order relative to those issues as it would have if no agreement had been filed; and provided further, that an agreement regarding the issues of child support, custody, or visitation shall be approved only if the court finds it to be in the best interest of the child. The court may enter an order for the support of a child upon execution of a voluntary acknowledgment without further proceedings to establish paternity.

SECTION 2. That Section 7-1110, Idaho Code, be, and the same is hereby amended to read as follows:

7-1110. PROCEEDINGS -- BY WHOM BROUGHT. Proceedings to establish the paternity of the child and to compel support under this act may be commenced by the mother, whether a minor or not, or by the child's guardian or other person standing in a paternal relation or being the next of kin of the child, or by the ~~state--of--Idaho~~ department of health and welfare on behalf of a child for whom ~~aid-has-been-given~~ services are being provided under Title IV-D of the social security act.

SECTION 3. That Section 7-1115, Idaho Code, be, and the same is hereby amended to read as follows:

7-1115. TESTIMONY AND EVIDENCE RELATING TO PATERNITY. Evidence relating to paternity, whether given at the trial or the pretrial hearing, may include, but is not limited to:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(3) ~~Blood-test-results-under-section-7-1116,-Idaho-Code;~~

~~(4)~~ The statistical probability of the alleged father's paternity based upon the ~~blood~~ genetic tests; or

(~~5~~4) Medical, scientific or genetic evidence relating to the alleged father's paternity of the child based on tests performed by experts; or

(5) A voluntary acknowledgment of paternity executed under section 7-1106, Idaho Code.

SECTION 4. That Section 7-1116, Idaho Code, be, and the same is hereby amended to read as follows:

7-1116. ~~BLOOD~~ GENETIC TESTS. (1) The court may, and upon request of a party shall, require the child, mother, alleged father, or any male witness who testifies or will testify about his sexual relations with the mother at a possible time of conception to submit to ~~blood~~ genetic tests. The tests shall be performed by an expert qualified as an examiner of genetic markers ~~present-on-blood-cells-and-components, appointed-by-the-court~~. Verified documentation of the chain of custody of the ~~blood~~ genetic evidence is competent evidence to establish chain of custody. A v~~V~~erified experts' report prepared by a laboratory

approved by the American association of blood banks, pursuant to an order of the court or by voluntary agreement of the parties, shall be admitted at trial unless a challenge to the testing procedures or the ~~blood~~ genetic analysis has been made twenty-one (21) days before trial. The ~~blood~~ genetic test report must be served upon the defendant party with the complaint or as soon as it is obtained, and in any event at least twenty-eight (28) days before a trial together with a notice that the ~~blood~~ genetic test will be admitted unless a challenge to the testing procedures or the ~~blood~~ genetic analysis has been made by a party at least twenty-one (21) days before trial. A ~~blood~~ genetic test result with a probability of paternity of at least ninety-eight percent (98%) shall create a rebuttable presumption of paternity.

(2) The court, upon reasonable request by a party, shall order that independent tests be performed by other experts qualified as examiners of genetic markers present on blood cells and components. Additional tests performed by other experts of the same qualifications may be ordered by the court at the expense of the party requesting additional testing.

(3) In all cases, the court shall determine the number and qualifications of the experts.

(4) The requesting party shall pay the expense of ~~blood~~ genetic testing; however, the cost of ~~blood~~ genetic testing shall be recovered by the prevailing party in the action.

(5) Whenever the results of the tests exclude any male witness from possible paternity, the tests shall be conclusive evidence of nonpaternity of the male witness. The refusal of any party to submit to the ~~blood~~ genetic tests shall be disclosed to the court and is subject to the sanctions within the jurisdiction of the court. If the action was brought by the child's mother, but she refuses to submit herself or the child to ~~blood~~ genetic tests, the action shall be dismissed.

(6) Any party calling a male witness for the purpose of testifying that he had sexual intercourse with the mother at any possible time of conception shall provide all other parties with the name and address of the witness twenty (20) days before the trial or pretrial hearing. If a male witness is produced at the hearing for the purpose stated in this subsection, but the party calling the witness failed to provide the twenty (20) day notice, the court may adjourn the proceeding for the purpose of taking a ~~blood~~ genetic test of the witness prior to hearing the testimony of the witness if the court finds that the party calling the witness acted in good faith.

SECTION 5. That Section 7-1119, Idaho Code, be, and the same is hereby amended to read as follows:

7-1119. PRESUMPTION OF LEGITIMACY -- WHEN REBUTTED. The presumption of legitimacy of a child born during wedlock is overcome ~~if--the court--finds--that-the-conclusions-of-all-the-experts,-as-disclosed-by the-evidence-based-upon-the-tests,~~ by:

(1) Genetic tests which show that the husband is not the father of the child; or

(2) An affidavit of nonpaternity signed by the natural mother and her husband and an affidavit of paternity signed by the natural mother and natural father.

Approved March 20, 1995.

CHAPTER 235
(H.B. No. 303)

AN ACT

RELATING TO PROCEEDINGS OF THE PROFESSIONAL STANDARDS COMMISSION; AMENDING SECTION 33-1209, IDAHO CODE, TO PROVIDE THAT THE CHAIRMAN OF THE PROFESSIONAL STANDARDS COMMISSION SHALL APPOINT A PANEL AND SELECT A PANEL CHAIR TO CONDUCT A HEARING REGARDING AN ALLEGATION OF UNETHICAL PRACTICE BY A TEACHER, TO PROVIDE THAT THE PANEL SHALL HAVE AUTHORITY TO RENDER A DECISION TO SUSPEND OR REVOKE A TEACHER'S CERTIFICATE OR TO ORDER THAT A LETTER OF REPRIMAND BE ISSUED AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-1209, Idaho Code, be, and the same is hereby amended to read as follows:

33-1209. PROCEEDINGS TO REVOKE, SUSPEND OR DENY -- LETTERS OF REPRIMAND -- COMPLAINT -- SUBPOENA POWER -- HEARING. (1) The professional standards commission may conduct investigations on any signed allegation of unethical practice of any teacher brought by:

(a) An individual with a substantial interest in the matter, except a student in an Idaho public school; or

(b) A local board of trustees.

The allegation shall state the specific ground or grounds for revocation, suspension or issuance of a letter of reprimand. The executive committee of the professional standards commission shall review the circumstances of the case and determine whether probable cause exists to warrant the filing of a complaint and the requesting of a hearing.

(2) If the executive committee determines there are not sufficient grounds for revocation or suspension, the committee may recommend to the chief certification officer that a letter of reprimand be sent to the certificate holder, and that a copy of such letter shall be made a permanent part of the record of the certificate holder.

(3) Proceedings to revoke or suspend any certificate issued under section 33-1201, Idaho Code, or to issue a letter of reprimand shall be commenced by a written complaint against the holder thereof. Such complaint shall be made by the chief certification officer stating the ground or grounds for issuing a letter of reprimand or for revocation or suspension and proposing that a letter of reprimand be issued, or the certificate be revoked or suspended. A copy of the complaint shall be served upon the certificate holder, either by personal service or by certified mail.

(4) Not more than thirty (30) days after the date of service of

any complaint, the person complained against may request, in writing, a hearing upon the complaint. Any such request shall be made and addressed to the state superintendent of public instruction; and if no request for hearing is made, the grounds for suspension or revocation stated in the complaint shall be deemed admitted. Upon a request for hearing, the chief certification officer, shall give notice, in writing, to the person requesting the hearing, which notice shall state the time and place of the hearing. The time of such hearing shall not be less than five (5) days from the date of notice thereof. Any such hearing shall be informal and shall conform with chapter 52, title 67, Idaho Code. The hearing will be held within the school district in which any teacher complained of shall teach, or at such other place deemed most convenient for all parties.

(5) Any such hearing shall be conducted by three (3) or more panel members appointed by the chairman of the professional standards commission, a majority of whom shall hold a position of employment the same as the person complained against. One (1) of the panel members shall serve as the panel chair. The panel chair shall be selected by the chairman of the professional standards commission from a list of former members of the professional standards commission who shall be instructed in conducting administrative hearings. No commission member who participated in the probable cause determination process in a given case shall serve on the hearing panel. All hearings shall be held with the object of ascertaining the truth. Any person complained against may appear in person and may be represented by legal counsel, and may produce, examine and cross-examine witnesses, and, if he chooses to do so, may submit for the consideration of the hearing panel a statement, in writing, in lieu of oral testimony, but any such statement shall be under oath and the affiant shall be subject to cross-examination.

(6) The state superintendent of public instruction, as authorized by the state board of education, has the power to issue subpoenas and compel the attendance of witnesses and compel the production of pertinent papers, books, documents, records, accounts and testimony. The state board or its authorized representative may, if a witness refuses to attend or testify or to produce any papers required by such subpoena, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that a due notice has been given of the time and place of attendance of the witnesses, or the production of the papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the board, or its representative, or has refused to answer questions propounded to him in the course of the proceedings, and ask for an order of the court compelling the witness to attend and testify and produce the papers before the board. The court, upon the petition of the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in the order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he has not attended and testified or produced the papers before the board or its representative. A copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued by the board and regu-

larly served, the court shall ~~there-upon~~ thereupon order that the witness appear before the board at the time and place fixed in the order and testify or produce the required papers. Upon failure to obey the order, the witness shall be dealt with for contempt of court. The subpoenas shall be served and witness fees and mileage paid as allowed in civil cases in the district courts of this state.

(7) At the conclusion of any hearing dealing with the revocation, suspension, denial of a certificate or to issue a letter of reprimand, the hearing panel shall submit to the chief certification officer, a concise statement of the proceedings, a summary of the testimony, and any documentary evidence offered, together with the findings of fact and ~~recommendation~~ a decision. The hearing panel may ~~recommend-suspension--or-revocation-of~~ determine to suspend or revoke the certificate, or the panel may ~~recommend~~ order that a letter of reprimand be sent to the certificate holder~~,-and-that-a-copy-of-such-letter-shall-be-made-a permanent-part-of-the-record-of-the-certificate-holder.-The-chief-certification-officer-shall-submit-these-documents-to-the-state-board--of education.--The--board-shall-review-the-record-so-made,-as-well-as-its own-records-before-making-its-determination.-The-board-may--adopt--the panel's-recommended-decision,-reverse-or-alter-the-decision,-or-it-may order--another-hearing-before-the-same-or-other-persons,-or-before-the board~~.

(8) The ~~determination-of-the-state-board-of-education,--upon--any hearing,--shall--be--entered-in-its-records,-and-written-notice-of-its determination~~ hearing panel's decision shall be given to the person complained against ~~by-the-state-superintendent-of-public-instruction, which-notice-shall-be-a-part-of-the-records-of-the-state-board-of-education~~ and a copy of the panel's decision shall be made a permanent part of the record of the certificate holder.

(9) The final ~~determination~~ decision of the ~~state-board-of-education~~ professional standards commission shall be subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code, in the district court of the county in which the holder of a revoked certificate has been last employed as a teacher.

(10) Whenever any certificate has been refused or revoked, the ~~state-board-of-education~~ professional standards commission may, upon a clear showing that the cause constituting grounds for refusal or revocation no longer exists, issue a certificate or reinstate a revoked certificate either conditionally or unconditionally.

Approved March 20, 1995.

CHAPTER 236
(S.B. No. 1273)

AN ACT

APPROPRIATING MONEYS FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1996; TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE LIBRARY IMPROVEMENT FUND; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the State Library Board the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$1,508,800	$474,200	$197,100		$2,180,100
Federal Grant Fund	142,400	180,900	10,000	$659,900	993,200
Miscellaneous Revenue Fund		10,200	7,000	58,000	75,200
Library Improvement Fund				50,000	50,000
TOTAL	$1,651,200	$665,300	$214,100	$767,900	$3,298,500

SECTION 2. There is hereby transferred from the General Fund to the Library Improvement Fund, the amount of $50,000 for the purpose specified under Section 33-2513, Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Idaho State Library is authorized no more than forty-four and eighty-three one hundredths (44.83) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. There is hereby reappropriated to the State Board of Education for the State Library Board the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 261, Laws of 1994, to be used for nonrecurring expenditures for the period July 1, 1995 through, June 30, 1996.

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, 1995, is zero, the reappropriation in Section 4 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, 1995, 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 Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 20, 1995.

CHAPTER 237
(S.B. No. 1272)

AN ACT
APPROPRIATING MONEYS FOR THE MILITARY DIVISION FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Military Division, the following amounts to be expended for the listed programs from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. MILITARY MANAGEMENT:					
FROM:					
General Fund	$1,094,400	$ 742,200	$ 2,000		$ 1,838,600
Federal Grant Fund	37,500	663,900			701,400
Miscellaneous Revenue Fund	15,700	20,600			36,300
TOTAL	$1,147,600	$1,426,700	$ 2,000		$ 2,576,300
B. FEDERAL AND STATE CONTRACTS:					
FROM:					
General Fund	$ 170,900	$ 172,800	$ 2,500		$ 346,200
Federal Grant Fund	3,842,900	3,764,100	18,000		7,625,000
TOTAL	$4,013,800	$3,936,900	$20,500		$ 7,971,200
C. DISASTER SERVICES:					
FROM:					
General Fund	$ 329,200	$ 69,000	$25,400		$ 423,600
Federal Grant Fund	663,300	203,600	11,000	$700,000	1,577,900
Indirect Cost Recovery Fund	100,100	8,300			108,400
TOTAL	$1,092,600	$ 280,900	$36,400	$700,000	$ 2,109,900
GRAND TOTAL	$6,254,000	$5,644,500	$58,900	$700,000	$12,657,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than one hundred sixty-six and four tenths (166.4) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program speci-

fied in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 238
(S.B. No. 1271)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC HEALTH TRUST FUND FOR THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 1996.

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

SECTION 1. There is hereby appropriated $7,561,700 from the General Fund to be deposited in the Public Health Trust Fund for the period July 1, 1995, through June 30, 1996.

Approved March 20, 1995.

CHAPTER 239
(S.B. No. 1269)

AN ACT

APPROPRIATING MONEYS FOR GENERAL EDUCATION PROGRAMS AT BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE, THE UNIVERSITY OF IDAHO AND FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1996; LIMITING THE AMOUNT TO BE USED BY THE OFFICE OF THE STATE BOARD OF EDUCATION; ESTABLISHING AN AMOUNT OF THE GENERAL FUND APPROPRIATION THAT IS TO BE EXPENDED FOR RESEARCH; MAKING CERTAIN CODE PROVISIONS SPECIFICALLY AVAILABLE TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College, the University of Idaho, and the Office of the State Board of Education the following amount, to be expended for the designated programs from the listed funds for the period July 1, 1995, through June 30, 1996:

FOR:	
General Education Programs	$221,053,900
FROM:	
General Fund	$168,521,800
Agricultural College Endowment Fund	701,800
Charitable Institutions Endowment Fund	665,000
Normal School Endowment Fund	2,368,300
Science School Endowment Fund	2,474,600
University Endowment Fund	2,123,300
Unrestricted Current Fund	20,422,000
Restricted Current Fund	23,777,100
TOTAL	$221,053,900

SECTION 2. Of the amount appropriated from the General Fund in Section 1 of this act, an amount not to exceed $75,000 shall be used by the Office of the State Board of Education for system-wide needs for the period July 1, 1995, through June 30, 1996.

SECTION 3. Of the amount appropriated from the General Fund in Section 1 of this act, $2,100,000 shall be used for specific research funding, matching awards, research centers and infrastructure, with commercial application as a goal.

SECTION 4. The provisions of Sections 67-3608, 67-3609, 67-3610 and 67-3611, Idaho Code, are hereby made available to the State Board of Education and the Board of Regents of the University of Idaho for the period July 1, 1995, through June 30, 1996, the provisions of Section 67-3516(1), (3) and (4), Idaho Code, notwithstanding.

SECTION 5. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho, subject to the provisions of Section 6 of this act, the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 223, Laws of 1994, to be used for nonrecurring expenditures except as provided for in subsection (3) of Section 6 of this act, for the period July 1, 1995, through June 30, 1996.

SECTION 6. The reappropriation granted in Section 5 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is zero, the reappropriation in Section 5 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 5 of this act shall be in the proportion that the reappropriation for Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho bears to the total General Fund reappropriation authority granted to all state agencies.

(3) That $1,800,000 of General Fund reappropriations from the

University of Idaho shall be used for the cooperative engineering program in Boise and may be used for recurring costs of the program.

Approved March 20, 1995.

CHAPTER 240
(S.B. No. 1264)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 1996; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCE IN THE GENERAL ACCOUNT; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho School for the Deaf and the Blind the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$4,891,200	$815,100	$31,000	$5,737,300
Idaho School for the Deaf and the Blind Income Fund		58,500		58,500
Federal Grants Fund	70,000	95,200	5,400	170,600
Miscellaneous Revenue Fund	4,000	26,100	5,400	35,500
TOTAL	$4,965,200	$994,900	$41,800	$6,001,900

SECTION 2. There is hereby reappropriated to the State Board of Education for the Idaho School for the Deaf and the Blind, subject to the provisions of Section 3 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to the Idaho School for the Deaf and the Blind for the period July 1, 1994, through June 30, 1995, to be used for nonrecurring expenditures only for the period July 1, 1995, through June 30, 1996.

SECTION 3. The reappropriation granted in Section 2 of this act shall be subject to the following conditions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, 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, 1995, is greater than zero but less than the total

reappropriation authority granted to all state agencies, the amount reappropriated in Section 2 shall be in the proportion that the reappropriation for the Idaho School for the Deaf and the Blind bears to the total reappropriation authority granted to all state agencies.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Idaho School for the Deaf and the Blind is authorized no more than one hundred eighteen and two one-hundredths (118.02) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 241
(S.B. No. 1266)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$ 717,600	$ 561,700	$1,279,300
Federal Grants Fund	769,000	637,000	1,406,000
TOTAL	$1,486,600	$1,198,700	$2,685,300

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-seven (37) full-time equivalent positions to be funded by the appropriation in Section 1 of this act, at any point during the period July 1, 1995, through June 30, 1996, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 242
(S.B. No. 1263)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Agriculture the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Fund	$ 332,900	$ 205,200	$180,000		$ 718,100
Agriculture in the Classroom		20,100			20,100
Administration and Accounting Services Fund	303,100	67,200			370,300
Facilities Maintenance Fund	43,400	177,000			220,400
TOTAL	$ 679,400	$ 469,500	$180,000		$ 1,328,900
B. ANIMAL INDUSTRIES:					
FROM:					
General Fund	$ 648,500	$ 39,200	$ 1,000		$ 688,700
Agricultural Fees - Livestock Disease Control Fund	407,900	210,100	35,100		653,100
Agricultural Fees - Dairy Inspection Fund	402,700	115,200	10,500		528,400
Agricultural Fees - Commercial Fisheries Fund	6,000	4,100			10,100
Seminars and Publications Fund		142,200			142,200
TOTAL	$ 1,465,100	$ 510,800	$ 46,600		$ 2,022,500
C. AGRICULTURAL TECHNOLOGY:					
FROM:					
General Fund	$ 39,200	$ 6,000			$ 45,200
Water Pollution Control Fund	268,900	539,000	$ 51,200		859,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural Fees - Commercial Feed and Fertilizer Fund	147,700	50,400	3,000		201,100
Agricultural Fees - Pesticides Fund	795,300	362,100	73,200		1,230,600
Federal Grant Fund	360,300	148,200			508,500
TOTAL	$ 1,611,400	$1,105,700	$127,400		$ 2,844,500
D. PLANT INDUSTRIES:					
FROM:					
General Fund	$ 328,000	$ 100,300		$144,000	$ 572,300
Agricultural Inspection Fund	864,500	188,700	$ 52,200		1,105,400
Agricultural Fees - Commercial Feed and Fertilizer Fund	174,600	59,600	7,900		242,100
Agricultural Fees - Honey Advertising Fund	300	5,800			6,100
TOTAL	$ 1,367,400	$ 354,400	$ 60,100	$144,000	$ 1,925,900
E. AGRICULTURAL INSPECTIONS:					
FROM:					
General Fund	$ 798,200	$ 201,800	$ 30,900		$ 1,030,900
Agricultural Inspection Fund	171,200	53,200	6,400	$ 3,600	234,400
Agricultural Fees - Fresh Fruit and Vegetable Inspection Fund	8,136,700	861,500	176,600	294,700	9,469,500
Agricultural Fees - Egg Inspection Fund	113,700	23,900			137,600
Agricultural Fees - Organic Food Products Fund	50,100	9,700			59,800
TOTAL	$ 9,269,900	$1,150,100	$213,900	$298,300	$10,932,200
F. AGRICULTURAL MARKETING AND DEVELOPMENT:					
FROM:					
General Fund	$ 234,800	$ 120,300	$ 3,000		$ 358,100
Agricultural Inspection Fund	30,100	100			30,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Agricultural Loans Fund	14,600	15,000		$ 5,100	34,700
Seminars and Publications Fund	41,900	143,400			185,300
USDA Publications Fund	2,100	59,000			61,100
TOTAL	$ 323,500	$ 337,800	$3,000	$ 5,100	$ 669,400
G. ANIMAL DAMAGE CONTROL:					
FROM:					
General Fund				$105,500	$ 105,500
Animal Damage Control Fund				50,000	50,000
Agricultural Fees - Sheep Industry Regulation Fund		200		100,000	100,200
TOTAL		$ 200		$255,500	$ 255,700
H. SHEEP COMMISSION:					
FROM:					
General Fund	$ 31,600	$ 5,800			$ 37,400
Agricultural Fees - Sheep Industry Regulation Fund	52,700	20,200			72,900
TOTAL	$ 84,300	$ 26,000			$ 110,300
I. QUALITY ASSURANCE LABORATORY:					
FROM:					
General Fund	$ 122,900				$ 122,900
Quality Assurance Laboratory Services Fund	160,700	$ 209,900			370,600
TOTAL	$ 283,600	$ 209,900			$ 493,500
GRAND TOTAL	$15,084,600	$4,164,400	$ 631,000	$702,900	$20,582,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than one hundred seventy-six and thirty-two one hundredths (176.32) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 243
(S.B. No. 1262)

AN ACT
APPROPRIATING MONEYS FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1996; 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 standard classification from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND SUPERVISION:					
FROM:					
General Fund	$1,413,200	$263,000	$38,400		$ 1,714,600
Federal Grant Fund	163,900	86,100			250,000
TOTAL	$1,577,100	$349,100	$38,400		$ 1,964,600
B. GENERAL PROGRAMS:					
FROM:					
General Fund	$ 189,300	$ 34,400	$ 5,800	$ 6,164,600	$ 6,394,100
Federal Grant Fund	187,200	20,400		5,011,000	5,218,600
Hazardous Materials/ Waste Enforcement Fund				66,800	66,800
Hazardous Waste, Emergency and Monitoring Fund				61,900	61,900
TOTAL	$ 376,500	$ 54,800	$ 5,800	$11,304,300	$11,741,400
C. POST-SECONDARY PROGRAMS:					
FROM:					
General Fund				$22,170,700	$22,170,700
Unrestricted Fund				205,000	205,000
TOTAL				$22,375,700	$22,375,700
D. DISPLACED HOMEMAKER PROGRAM:					
FROM:					
General Fund				$ 30,600	$ 30,600
Displaced Homemaker Fund		$ 5,000		135,000	140,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund				360,200	360,200
TOTAL		$ 5,000		$ 525,800	$ 530,800
E. IDAHO STATE COUNCIL ON VOCATIONAL EDUCATION:					
FROM:					
Federal Grant Fund	$ 101,800	$ 48,200			$ 150,000
GRAND TOTAL	$2,055,400	$457,100	$44,200	$34,205,800	$36,762,500

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, 1994, through June 30, 1995, to be used for nonrecurring expenditures only for the period July 1, 1995, through June 30, 1996.

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, 1995, 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, 1995, 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 March 20, 1995.

CHAPTER 244
(S.B. No. 1261)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Labor and Industrial Services not exceed the following amount for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$ 376,600	$ 86,300	$ 13,700	$ 476,600
Electrical Fund	1,915,100	505,400	57,200	2,477,700
Building Fund	710,000	135,600	25,000	870,600
Plumbing Fund	1,053,000	263,400	119,700	1,436,100
Manufactured Housing Fund	41,800	15,100		56,900
Federal Grant Fund	131,800	72,700		204,500
Miscellaneous Revenue Fund	578,900	233,300	75,000	887,200
TOTAL	$4,807,200	$1,311,800	$290,600	$6,409,600

SECTION 2. There is hereby appropriated to the Department of Labor and Industrial Services the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Fund	$ 56,700	$ 4,500	$ 1,300	$ 62,500
Electrical Fund	221,000	19,900	5,700	246,600
Building Fund	84,700	8,000	2,300	95,000
Plumbing Fund	112,400	10,300	3,100	125,800
Miscellaneous Revenue Fund	89,600	30,000	2,000	121,600
TOTAL	$ 564,400	$ 72,700	$ 14,400	$ 651,500
B. SAFETY COMPLIANCE:				
FROM:				
Electrical Fund	$1,694,100	$ 485,500	$ 51,500	$2,231,100
Building Fund	625,300	127,600	22,700	775,600
Plumbing Fund	940,600	253,100	116,600	1,310,300
Manufactured Housing Fund	41,800	15,100		56,900
Federal Grant Fund	79,800	39,100		118,900
TOTAL	$3,381,600	$ 920,400	$190,800	$4,492,800
C. INDUSTRIAL RELATIONS AND SAFETY:				
FROM:				
General Fund	$ 319,900	$ 81,800	$ 12,400	$ 414,100
Federal Grant Fund	52,000	33,600		85,600
Miscellaneous Revenue Fund	489,300	203,300	73,000	765,600
TOTAL	$ 861,200	$ 318,700	$ 85,400	$1,265,300
GRAND TOTAL	$4,807,200	$1,311,800	$290,600	$6,409,600

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Labor and Industrial Services is authorized no more than one hundred eight (108) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 245
(S.B. No. 1235)

AN ACT

RELATING TO ELECTION OF HIGHWAY DISTRICT COMMISSIONERS; AMENDING CHAPTER 13, TITLE 40, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 40-1305AA, 40-1305BB, 40-1305CC, 40-1305DD, 40-1305EE, 40-1305FF, 40-1305GG, 40-1305HH, 40-1305II, 40-1305JJ, 40-1305KK, 40-1305LL, 40-1305MM, 40-1305NN, 40-1305OO, 40-1305PP, 40-1305QQ, 40-1305RR AND 40-1305SS, IDAHO CODE, TO PROVIDE PROCEDURES FOR HOLDING RECALL ELECTIONS FOR HIGHWAY DISTRICT COMMISSIONERS.

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

SECTION 1. That Chapter 13, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 40-1305AA, 40-1305BB, 40-1305CC, 40-1305DD, 40-1305EE, 40-1305FF, 40-1305GG, 40-1305HH, 40-1305II, 40-1305JJ, 40-1305KK, 40-1305LL, 40-1305MM, 40-1305NN, 40-1305OO, 40-1305PP, 40-1305QQ, 40-1305RR and 40-1305SS, Idaho Code, and to read as follows:

40-1305AA. INITIATING RECALL PROCEEDINGS -- STATEMENT -- CONTENTS -- VERIFICATION -- DEFINITIONS. Whenever any legal voter of the highway district, either individually or on behalf of an organization, desires to demand the recall and discharge of a commissioner of a highway district, under the provisions of section 6, article VI, of the constitution of the state of Idaho, he shall prepare a typewritten petition. The petition may recite that the commissioner has wilfully neglected or failed to perform faithfully a duty imposed by law; or acted in an arbitrary and capricious manner; or has committed an unlawful act; or has wrongfully acted so as to interfere with, interrupt, or adversely affect the performance of his official duty; or has violated his oath of office. The petition may describe the act or acts complained of, if applicable, in concise language, give a detailed description including the approximate date, location and nature of each act complained of, be signed by the person making the charge, give his respective post office address and be verified, under oath, that he believes the charge or charges to be true and that he has knowledge of the alleged facts relating to the charges if any have been alleged in the recall petition.

40-1305BB. PETITION -- WHERE FILED. Any person making a charge shall file it with the secretary of the district, whose duty it is to receive and to promptly serve a copy of the charge upon the commissioner whose recall is demanded.

40-1305CC. BALLOT SYNOPSIS. (1) Within fifteen (15) days after receiving a petition, the secretary of the district shall formulate a ballot synopsis of not more than two hundred (200) words.

(2) The synopsis shall set forth the name of the person seeking to be recalled and if any charges have been filed in the petition, a concise statement of the elements of the charge. Upon completion of the ballot synopsis, the secretary shall certify and transmit the exact language of the ballot synopsis to the person filing the petition and the commissioner subject to recall. The secretary shall additionally certify and transmit the charges, if any, and the ballot synopsis to the magistrate court of the county in which the commissioner subject to recall resides and shall petition the magistrate court to approve the synopsis and to determine the sufficiency of the charges, if any.

40-1305DD. DETERMINATION BY MAGISTRATE COURT -- CORRECTION OF BALLOT SYNOPSIS. Within fifteen (15) days after receiving the petition, the magistrate court shall have conducted a hearing on and shall have determined, without cost to any party the adequacy of the ballot synopsis. If any charges have been included in the petition and ballot synopsis, the magistrate court shall dismiss those charges that are frivolous and designed to harass the commissioner. The clerk of the magistrate court shall notify the person subject to recall and the person demanding recall of the hearing date. Both persons may appear with counsel. The court may hear arguments as to the adequacy of the ballot synopsis and if any charges have been included in the petition and ballot synopsis, the sufficiency of the charges. The court shall not consider the truth of the charges if any have been included, but only their sufficiency. Any decision regarding the ballot synopsis by the magistrate court is final. The court shall certify and transmit the ballot synopsis to the commissioner subject to recall, the person demanding the recall, and the secretary of the highway district.

40-1305EE. FILING SUPPORTING SIGNATURES -- TIME LIMITATIONS. (1) The sponsors of a recall demanded of any commissioner of a highway district shall stop circulation and file all petitions with the appropriate highway district secretary not less than six (6) months before the next regular election in which any commissioner is subject to reelection.

(2) The sponsors of a recall demanded of any commissioner shall have a maximum of thirty (30) days in which to obtain and file supporting signatures after the approval of a ballot synopsis by the magistrate court.

40-1305FF. PETITION -- FORM. Recall petitions shall be printed on single sheets of paper of good writing quality including, but not limited to, newsprint not less than eight and one-half (8 1/2) inches in width and not less than fourteen (14) inches in length. No petition

may be circulated or signed prior to the approval of a ballot synopsis by the magistrate court. Such petitions shall be substantially in the following form:

WARNING

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

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

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

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

State of Idaho)
) ss.
County of)

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

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

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

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

40-1305GG. PETITION -- SIZE. Each recall petition at the time of circulating, signing and filing with the secretary of the highway district with whom it is to be filed, shall consist of not more than five (5) sheets with numbered lines for not more than twenty (20) signatures on each sheet, with the prescribed warning, title and form of petition on each sheet, and a full, true and correct copy of the original statement of the charges against the commissioner referred to therein, printed on sheets of paper of like size and quality as the petition, firmly fastened together.

40-1305HH. NUMBER OF SIGNATURES REQUIRED. When the person, demanding the recall of a commissioner has secured sufficient signatures upon the recall petition he may submit the same to the secretary of the highway district for filing in his office. The number of signatures required shall be equal to twenty percent (20%) of the total number of eligible voters residing in the district as compiled by the secretary.

40-1305II. CANVASSING PETITION FOR SUFFICIENCY OF SIGNATURES -- NOTICE. Upon the filing of a recall petition in his office, the secretary of the highway district with whom the charge was filed shall stamp on each petition the date of filing, and shall notify the person filing them and the commissioner whose recall is demanded of the date when the petitions will be canvassed, which date shall be not less than five (5) nor more than ten (10) days from the date of its filing.

40-1305JJ. VERIFICATION AND CANVASS OF SIGNATURES -- PROCEDURE. (1) Upon the filing of a recall petition, the secretary of the highway district shall proceed to verify and canvass the names of legal voters on the petition.

(2) The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed recall so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the magistrate court. The secretary of the highway district may limit the number of observers if in his opinion a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides, but in no case shall fewer than two (2) observers on each side be allowed. If the secretary of the highway district finds the same name signed to more than one (1) petition, he shall reject all but one (1) such valid signature.

40-1305KK. FIXING DATE FOR RECALL ELECTION -- NOTICE. If, after verifying and canvassing the signatures, the recall election official finds that the petition forms bear the required number of signatures of certified qualified electors, the recall election official shall promptly certify the petitions as sufficient and fix a date for the recall election to determine if the commissioner charged shall be recalled and discharged from office, or retained in office. The recall election shall be held on the nearest date provided for election in section 34-106, Idaho Code, after the date of the certification. Public notice of the recall election shall be given in the manner as required by law for the regular elections of the highway district as provided in section 40-1305E, Idaho Code.

40-1305LL. RESPONSE TO PETITION CHARGES. When a date for a recall election is set, the secretary of the highway district shall serve a notice of the date of the election to the commissioner whose recall is demanded and the person demanding recall. Such notice may be made only in person or by certified mail, return receipt requested. After having been served a notice of the date of the election and the ballot synopsis, the commissioner whose recall is demanded may submit to the sec-

retary of the highway district a response, not to exceed two hundred (200) words in length, to the charge contained in the ballot synopsis. Such response shall be submitted by the seventh consecutive day after service of the notice. The secretary of the highway district shall promptly send a copy of the response to the person who filed the petition.

40-1305MM. DESTRUCTION OF INSUFFICIENT RECALL PETITION. If it is found that the recall petition does not contain the requisite number of signatures of certified legal voters, the secretary of the highway district shall so notify the person filing the petition, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the secretary finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the secretary shall declare the petition null and void ab initio in its entirety.

40-1305NN. INVALID NAMES -- RECORD OF. The secretary of the highway district shall keep a record of all names appearing thereon which are not certified to be legal residents of the district, and of all names appearing more than once thereon, and he may report the same to the prosecuting attorneys of the respective counties where such names appear to have been signed, to the end that prosecutions may be had for such violation of the provisions of this chapter.

40-1305OO. CONDUCT OF ELECTION -- FORM OF BALLOT. The recall election to be called for the recall of commissioners of highway districts shall be conducted in the same manner as regular highway district elections are conducted. The secretary of the highway district shall provide for the holding of recall elections and the necessary places and officers, ballot boxes, ballots, poll books, voting machines, supplies, and returns as are required by law for holding regular highway district elections. The ballots at any recall election shall contain a full, true, and correct copy of the ballot synopsis of the charge, the commissioner's response to the charge if such has been filed, and shall be so arranged that any voter can, by making one cross (X), express his desire to have the commissioner charged recalled from his office, or retained therein. The following form shall substantially comply with the provisions of this section:

RECALL BALLOT

(Here insert the ballot synopsis of the charge.)

(Here insert the highway commissioner's response to the charge.)

FOR the recall of (here insert the name of the commissioner of the highway district) .....

AGAINST the recall (here insert the name of the commissioner of the highway district) .....

40-1305PP. ASCERTAINING THE RESULT -- WHEN RECALL EFFECTIVE. The votes on a recall election shall be counted, canvassed, and the results certified in the manner provided by law for counting, canvassing, and certifying the results of an election for commissioners. If a majority of all votes cast at the recall election is for the recall of

the commissioner charged, he shall thereupon be recalled and discharged from his office and there shall be declared a vacancy in the office.

40-1305QQ. ENFORCEMENT PROVISIONS -- MANDAMUS -- APPEALS. The magistrate court of the county in which the commissioner subject to recall resides has original jurisdiction to compel the performance of any act required of any public officer or to prevent the performance by any such officer of any act in relation to the recall not in compliance with law.

40-1305RR. VIOLATIONS BY SIGNERS. Every person who signs a recall petition with any other than his true name is guilty of a felony. Every person who knowingly: (1) signs more than one (1) petition for the same recall; (2) signs a recall petition when he is not a legal voter; or (3) makes a false statement as to his residence on any recall petition is guilty of a misdemeanor.

40-1305SS. VIOLATIONS -- CORRUPT PRACTICES. (1) Every person is guilty of a misdemeanor, who:

(a) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purpose or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition;

(b) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing the petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;

(c) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;

(d) Makes any false affidavit concerning any recall petition or the signatures appended thereto;

(e) Offers, proposes or threatens for any pecuniary reward or consideration:

(i) To offer, propose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures thereon;

(ii) To offer, propose or threaten to desist from beginning, promoting or circulating any recall petition;

(iii) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

(2) A public officer is guilty of a felony, who knowingly makes any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

Approved March 20, 1995.

CHAPTER 246
(S.B. No. 1229)

AN ACT

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES AND CARDS FOR PERSONS WITH A DISABILITY; AMENDING SECTION 49-410, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF SPECIAL PLATES AND CARDS FOR PERSONS WITH A DISABILITY TO THE PARENT OR GUARDIAN OF A DEPENDENT CHILD WITH A DISABILITY WITHOUT REGARD TO THE AGE OF THE DEPENDENT CHILD.

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

SECTION 1. That Section 49-410, Idaho Code, be, and the same is hereby amended to read as follows:

49-410. SPECIAL LICENSE PLATES AND CARDS FOR PERSONS WITH A DISABILITY -- PARKING PRIVILEGES -- CARDS FOR CERTAIN TEMPORARILY DISABLED PERSONS. (1) Any person with a disability as defined in section 49-117, Idaho Code, <u>or any parent or guardian of a dependent child with a disability as defined in section 49-117, Idaho Code, without regard to the age of the dependent child,</u> shall be eligible for the use of special license plates bearing the international accessible symbol, for any vehicle owned by such person <u>or owned by a qualified parent or guardian,</u> provided the vehicle does not weigh in excess of eight thousand (8,000) pounds and is not used in the furtherance of a business.

(2) Registration and license plate fees for vehicles owned by a person with a disability <u>or qualified parent or guardian of a dependent child with a disability,</u> shall be as provided, respectively, in sections 49-402 and 49-450, Idaho Code, for vehicles not in excess of eight thousand (8,000) pounds gross weight, and as provided in section 49-434, Idaho Code, for noncommercial vehicles in excess of eight thousand (8,000) pounds gross weight. Nothing in this section shall be construed as abrogating provisions of section 49-445, Idaho Code. The use of the special card issued under the provisions of subsection (4) of this section, shall not exempt the owner of a motor vehicle from otherwise properly registering and licensing the motor vehicle.

(3) Special license plates for persons with a disability <u>and for the parent or guardian of a dependent child with a disability,</u> shall be the same size and color as other license plates, and shall have displayed upon them the registration numbers assigned to the vehicle and to the owner. The plates shall be numbered in a manner prescribed by the department, but the plates shall display the international accessible symbol.

International Accessible Symbol

(4) The department shall issue a special card bearing the international accessible symbol and other information the department may require, to:

(a) Any qualified person with a disability who does not own a motor vehicle;

(b) Any qualified person with a disability who owns a motor vehicle, without regard to weight or use of the vehicle;

(c) Any parent or guardian of a dependent child with a disability who owns a motor vehicle without regard to weight or use of the vehicle;

(d) Any business entity which is engaged in transportation of persons with a disability, which business shall not be required to submit a physician's certification. In addition to other application requirements, a business applicant shall sign a declaration that he is engaged in the transportation of persons with a disability. A business entity may include but not be limited to hospitals, nursing homes, federal, state and local governmental agencies and taxicabs.

(5) The fee for a special accessible card shall be five dollars ($5.00) which shall be deposited in the state highway account established in section 40-702, Idaho Code.

(6) Any person or business issued a special card shall affix the special card to a motor vehicle in a conspicuous place designated by the department. The card shall bear distinguishing marks, letters or numerals indicating the vehicle is utilized by a permanently disabled person. When the card is affixed to a motor vehicle and the motor vehicle is transporting a person with a disability, special parking privileges are granted as provided in subsection (8) of this section.

(7) Application for special license plates, a special card, or both as applicable and at the option of the applicant, shall be made upon a form furnished by the department and shall include a written certification by a licensed physician verifying that the applicant's stated impairment qualifies as a disability according to the provisions of section 49-117, Idaho Code.

(8) Any motor vehicle displaying special license plates for a person with a disability, without regard to the state of residence or displaying the special card provided in subsection (5) and (9) of this section, shall be allowed to park for unlimited periods of time in parking zones or areas which are otherwise restricted as to the length of time parking is permitted, and to park in any public parking space with metered parking without being required to pay any parking meter fee. The provisions of this subsection shall not be applicable to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(9) Any person who shall submit satisfactory proof to the department that he is so temporarily disabled as to be unable to move without the aid of crutches or a wheelchair, shall be entitled to receive for one (1) motor vehicle only, a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, bearing distinguishing marks, letters or numerals indicating that the vehicle is utilized by a temporarily disabled person. This special temporary card shall expire six (6) months from the date of issuance, or sooner as specified by the department on the card. The fee for a temporary card shall be five dollars ($5.00), two dollars ($2.00) of which shall be retained by the county and credited to the county cur-

rent expense fund, and three dollars ($3.00) of which shall be transmitted to the state treasurer for deposit in the state highway account. When the card is issued by the department the five dollars ($5.00) shall be deposited in the state highway account.

(10) Any unauthorized use of the plate or card shall constitute an infraction punishable by a fine of fifty dollars ($50.00). The second offense shall be punishable by a fine of fifty dollars ($50.00) and loss of parking privileges for the registered owner of the vehicle displaying the plates or for the person to whom the card was issued, for a period of one (1) year.

Law enforcement officials shall enforce the provisions of this section and are empowered, using reasonable discretion, to check personal identification to determine if the user of the plate or placard is authorized to use accessible parking privileges. Any fines collected shall be retained by the city or county whose law enforcement official issued the citation.

Approved March 20, 1995.

CHAPTER 247
(S.B. No. 1228)

AN ACT

RELATING TO COMMUTATION, SUSPENSION OR WITHHOLDING OF SENTENCE AND PROBATION; AMENDING SECTION 19-2601, IDAHO CODE, TO PROVIDE THAT A SENTENCING COURT SHALL RETAIN JURISDICTION OVER A SENTENCED PRISONER FOR THE FIRST ONE HUNDRED EIGHTY DAYS AND THE PRISONER WILL REMAIN COMMITTED TO THE BOARD OF CORRECTION IF NOT AFFIRMATIVELY PLACED ON PROBATION BY THE COURT, TO PROVIDE CONDITIONS FOR PROBATION, TO PROVIDE DUTIES OF THE DEPARTMENT OF CORRECTION AND TO PROVIDE LIABILITY TO THE BOARD OF CORRECTION AND DEPARTMENT OF CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

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

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

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

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

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

4. Suspend the execution of the judgment at any time during the first one hundred ~~and~~ eighty (180) days of a sentence to the custody of the state board of correction.~~,-during-which-time-the-court-shall retain-jurisdiction-over-the-defendant--which--jurisdiction--shall--be entered--on-the-order-of-commitment,-and-place-the-defendant-on-probation-under-such-terms-and-conditions-as-it-deems-necessary-and-expedient,-notwithstanding-that-the-term-of--the--court--during--which--such defendant--was-convicted-or-sentenced-may-have-expired~~ The court shall retain jurisdiction over the prisoner for the first one hundred eighty (180) days. The prisoner will remain committed to the board of correction if not affirmatively placed on probation by the court. Placement on probation shall be under such terms and conditions as the court deems necessary and expedient. In no case shall the board of correction or its agent, the department of correction, be required to hold a hearing of any kind with respect to a recommendation to the court for the grant or denial of probation. Probation is a matter left to the sound discretion of the court. Any recommendation made by the department to the court regarding the prisoner shall be in the nature of an addendum to the presentence report. The board of correction and its agency, the department of correction, and their employees shall not be held financially responsible for damages, injunctive or declaratory relief for any recommendation made to the district court under this section.

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

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

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

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

Approved March 20, 1995.

CHAPTER 248
(S.B. No. 1189, As Amended)

AN ACT

RELATING TO DISCIPLINE OF STUDENTS CARRYING CONCEALED FIREARMS ON SCHOOL PROPERTY; AMENDING SECTION 18-3302D, IDAHO CODE, TO REQUIRE THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT TO EXPEL A STUDENT CARRYING A WEAPON OR FIREARM ON SCHOOL PROPERTY, TO PROVIDE FOR IMMEDIATE SUSPENSION AND TO PROVIDE DEFINITIONS; AMENDING SECTION 33-205, IDAHO CODE, TO PROVIDE FOR EXPULSION OF A STUDENT CARRYING A FIREARM ON SCHOOL PROPERTY, TO PROVIDE FOR DISCIPLINE OF STUDENTS WITH DISABILITIES AND TO PROVIDE FOR REPORTING TO APPROPRIATE LAW ENFORCEMENT AGENCY; AND AMENDING SECTION 33-512, IDAHO CODE, TO REQUIRE THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT TO ANNUALLY SUBMIT TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION DOCUMENTATION WHICH MEETS THE REPORTING REQUIREMENTS OF APPLICABLE FEDERAL LAW.

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

SECTION 1. That Section 18-3302D, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302D. CARRYING ~~CONCEALED~~ WEAPONS OR FIREARMS ON SCHOOL PROPERTY. (1) It shall be unlawful and is a misdemeanor for any person under the age of twenty-one (21) to carry a firearm, dirk knife, bowie knife, dagger, metal knuckles or other deadly or dangerous weapon ~~concealed~~ on or about his person while on the property of a public or private elementary or secondary school or in those portions of any building, stadium or other structure on school grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school in this state or while riding school provided transportation. Provisions of this section shall not apply to persons in private vehicles delivering children to and from school or school activities. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year, or if a minor, not in excess of one hundred twenty (120) days in a juvenile detention facility, or fined an amount not in excess of one thousand dollars ($1,000) or both. Additionally, the board of trustees of a school district ~~may~~ shall expel any person violating the provisions of this section if the violator is a student. The school ~~may~~ shall immediately suspend the student pursuant to the provisions of section 33-205, Idaho Code. If a violator is a student and under the age of eighteen (18), the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from or otherwise withdraws from the

program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

(2) For purposes of enforcing the provisions of this section, employees of a school district shall be deemed to have the right to search all students or minors, their belongings and lockers which are reasonably believed to be in violation of the provisions of this section regarding the carrying of a firearm, dirk knife, bowie knife, dagger, metal knuckles or other deadly or dangerous weapon. A person shall not be deemed to be in violation of the provisions of this section if he is carrying a firearm as part of the requirements for a hunter safety course offered by or approved by the school district, or if the person is carrying a firearm while under the supervision of the school district or an employee thereof authorized to give such permission, or if the person is carrying the firearm pursuant to a requirement of law or in compliance with law.

(3) As used in this section~~,~~:

(a) "Deadly or dangerous weapon" means any weapon as defined in federal law in section 921 of title 18 of the United States Code.

(b) "~~f~~Firearm" means a pistol, revolver or other firearm designed to be fired with the use of a single hand.

(c) "Minor" means a person under the age of eighteen (18) years.

SECTION 2. That Section 33-205, Idaho Code, be, and the same is hereby amended to read as follows:

33-205. DENIAL OF SCHOOL ATTENDANCE. The board of trustees may deny attendance at any of its schools by expulsion to any pupil who is an habitual truant, or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils. Any pupil having been expelled may be readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such readmission shall not prevent the board from again expelling such pupil for cause.

Provided however, the board shall expel from school for a period of not less than one (1) year, twelve (12) calendar months, a student who has been found to have carried a weapon or firearm on school property, except that the board may modify the expulsion order on a case-by-case basis. Discipline of students with disabilities shall be in accordance with the requirements of federal law part B of the individuals with disabilities education act and section 504 of the rehabilitation act. An authorized representative of the board shall report such student and incident to the appropriate law enforcement agency.

No pupil shall be expelled without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance, and which notice shall also state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on its own behalf, and to

cross-examine any adult witnesses who may appear against him. Within a reasonable period of time following such notification, the board of trustees shall grant the pupil and his parents or guardian a full and fair hearing on the proposed expulsion. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge. Any pupil who is within the age of compulsory attendance, who is expelled as herein provided, shall come under the purview of the youth rehabilitation law, and an authorized representative of the board shall file a petition with the magistrate division of the district court of the county of the pupil's residence, in such form as the court may require under the provisions of section 16-1807, Idaho Code.

The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension shall not exceed five (5) school days in length; provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

The board of trustees of each school district shall establish the procedure to be followed by the superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process.

SECTION 3. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. To determine school holidays. Any listing of school holidays

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

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

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

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

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

14. To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994.

Approved March 20, 1995.

CHAPTER 249
(S.B. No. 1163)

AN ACT

RELATING TO ADMINISTRATIVE RULES; CONTINUING CERTAIN RULES IN FULL FORCE AND EFFECT UNTIL JULY 1, 1996; CONTINUING RULES APPROVED, MODIFIED OR AMENDED BY ADOPTION OF A CONCURRENT RESOLUTION OF THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE IN FULL FORCE AND EFFECT UNTIL JULY 1, 1996; 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, 1995, pursuant to the provisions of Subsections (1) and (2) of Section 67-5292, Idaho Code, shall continue in full force and effect until July 1, 1996, 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 First Regular Session of the Fifty-third Idaho Legislature shall continue in full force and effect in such approved, modified or amended language until July 1, 1996, 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 First Regular Session of the Fifty-third 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, 1996, pursuant to Sections 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. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 20, 1995.

CHAPTER 250
(S.B. No. 1140)

AN ACT
RELATING TO DENIAL OF SCHOOL ATTENDANCE; AMENDING SECTION 33-205, IDAHO CODE, TO AUTHORIZE A SCHOOL SUPERINTENDENT TO EXTEND A SUSPENSION BY A PRINCIPAL.

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

SECTION 1. That Section 33-205, Idaho Code, be, and the same is hereby amended to read as follows:

33-205. DENIAL OF SCHOOL ATTENDANCE. The board of trustees may deny attendance at any of its schools by expulsion to any pupil who is an habitual truant, or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils. Any pupil having been expelled may be readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such readmission shall not prevent the board from again expelling such pupil for cause.

No pupil shall be expelled without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance, and which notice shall also state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on its own behalf, and to cross-examine any adult witnesses who may appear against him. Within a reasonable period of time following such notification, the board of trustees shall grant the pupil and his parents or guardian a full and fair hearing on the proposed expulsion. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge. Any pupil who is within the age of compulsory attendance, who is expelled as herein provided, shall come under the purview of the youth rehabilitation law, and an authorized representative of the board shall file a petition with the magistrate division of the district court of the county of the pupil's residence, in such form as the court may require under the provisions of section 16-1807, Idaho Code.

The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension <u>by the principal</u> shall not exceed five (5) school days in length; <u>and the school superintendent may extend the temporary suspension an additional ten (10) school days. P</u>provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student

would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

The board of trustees of each school district shall establish the procedure to be followed by the superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process.

Approved March 20, 1995.

CHAPTER 251
(S.B. No. 1136)

AN ACT

RELATING TO PENALTIES FOR FAILURE TO PAY OPERATING FEES FOR CERTAIN MOTOR VEHICLES; AMENDING SECTION 49-434A, IDAHO CODE, TO PROVIDE FOR SEIZURE AND DETENTION OF VEHICLES FOR UP TO SEVENTY-TWO HOURS BY PORT OF ENTRY PERSONNEL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-434A, Idaho Code, be, and the same is hereby amended 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 <u>or port of entry personnel</u> 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 its passage and approval.

Approved March 20, 1995.

CHAPTER 252
(S.B. No. 1024)

AN ACT

RELATING TO ATTENDANCE AT PUBLIC SCHOOL; AMENDING SECTION 33-205, IDAHO CODE, TO AUTHORIZE LOCAL SCHOOL BOARDS OF TRUSTEES TO DENY ATTENDANCE TO A STUDENT WHO HAS BEEN EXPELLED FROM OR DENIED ENROLLMENT IN ANOTHER SCHOOL DISTRICT AND TO PROVIDE DUE PROCESS FOR STUDENTS WHO HAVE BEEN EXPELLED OR DENIED ENROLLMENT.

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

SECTION 1. That Section 33-205, Idaho Code, be, and the same is hereby amended to read as follows:

33-205. DENIAL OF SCHOOL ATTENDANCE. The board of trustees may deny attendance at any of its schools by expulsion to any pupil who is an habitual truant, or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils, or who has been expelled from another school district. Any pupil having been expelled may be readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such readmission shall not prevent the board from again expelling such pupil for cause.

No pupil shall be expelled nor denied enrollment without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion or denial of enrollment and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance, and which notice shall also state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on its own behalf, and to cross-examine any adult witnesses who may appear against him. Within a reasonable period of time following such notification, the board of trustees shall grant the pupil and his parents or guardian a full and fair hearing on the proposed expulsion or denial of enrollment. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge. Any pupil who is within the age of compulsory attendance, who is expelled or denied enrollment as herein provided, shall come under the purview of the youth rehabilitation law, and an authorized representative of the board shall file a petition with the magistrate division of the district court of the county of the pupil's residence, in such form as the court may require under the provisions of section 16-1807, Idaho Code.

The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension shall not exceed five (5) school days in length; provided, that on a finding by the board of

trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

The board of trustees of each school district shall establish the procedure to be followed by the superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process.

Approved March 20, 1995.

CHAPTER 253
(S.B. No. 1225)

AN ACT

RELATING TO PLUMBING AND PLUMBERS; AMENDING SECTION 54-2606, IDAHO CODE, TO AUTHORIZE THE IDAHO PLUMBING BOARD TO CERTIFY AND PRESCRIBE STANDARDS FOR SPECIALTY PLUMBING CERTIFICATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2611, IDAHO CODE, TO DEFINE THE PLUMBING CLASSIFICATIONS OF SPECIALTY CONTRACTOR, SPECIALTY JOURNEYMAN, AND SPECIALTY APPRENTICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2614, IDAHO CODE, TO ESTABLISH APPLICATION FEES FOR SPECIALTY CERTIFICATION AND REGISTRATION AND TO AUTHORIZE THE BOARD TO CONTRACT WITH A PROFESSIONAL TESTING SERVICE TO ADMINISTER ANY LICENSING EXAMINATION AND, IF CONTRACTED, THE PROFESSIONAL TESTING SERVICE SHALL BE RESPONSIBLE TO ESTABLISH AND COLLECT THE EXAMINATION FEE; AMENDING SECTION 54-2616, IDAHO CODE, TO ESTABLISH CERTIFICATION FEES FOR SPECIALTY CONTRACTORS AND SPECIALTY JOURNEYMEN; AMENDING SECTION 54-2618, IDAHO CODE, TO REQUIRE THE DISPLAY OF SPECIALTY CONTRACTOR AND SPECIALTY JOURNEYMEN CERTIFICATES.

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

SECTION 1. That Section 54-2606, Idaho Code, be, and the same is hereby amended to read as follows:

54-2606. POWERS AND DUTIES -- EXECUTIVE OFFICERS -- EMPLOYEES -- COMPENSATION -- TENURE. The board shall have the general administration and supervision of the design, construction, installation, improvement, extension and alteration of plumbing and plumbing systems, except that which has been heretofore and hereinafter exempted from the jurisdiction of this board, in connection with all buildings,

residences and structures in this state including buildings, residences and structures owned by the state or any political subdivision thereof. The department of labor and industrial services shall enforce the minimum standards and requirements therefor as provided by this act. The board may exercise such powers and duties as are reasonably necessary to carry out the provisions of this act, and it may among other things:

(a) Establish the fees to be charged for permits and inspections of plumbing systems.

(b) Hold public meetings and attend or be represented at such meetings, within or without the state, prepare and publish rules ~~and regulations~~ pertaining to this act, and such other information as may be necessary, and furnish copies thereof to those engaged in the business, trade, practice or work of plumbing and pipe fitting and to the public upon request.

(c) Furnish standards and procedures and prescribe reasonable rules ~~and--regulations~~ for examinations, qualification and certification of plumbing contractors and journeymen and apprentice plumbers not herein prescribed, including the furnishing of a compliance bond in an amount not to exceed two thousand dollars ($2,000) for the contractor classification or evidence of such coverage by a corporate industry group bond acceptable to the board.

(d) Furnish standards and procedures and prescribe reasonable rules to provide for the certification of specialty contractors, specialty journeymen, and specialty apprentices, including the furnishing of a compliance bond in an amount not to exceed two thousand dollars ($2,000) for the specialty contractor classification or evidence of coverage by a corporate industry group bond acceptable to the board.

SECTION 2. That Section 54-2611, Idaho Code, be, and the same is hereby amended to read as follows:

54-2611. CLASSIFICATION OF COMPETENCY. There shall be three (3) classifications of competency in the business, trade, practice or work of plumbing and three (3) classifications of competency in the business, trade, practice or work of specialty plumbing, as follows:

(a) A plumbing contractor shall be any person, or a member, representative or agent of a firm, copartnership, association, or corporation skilled in the planning and supervision of the construction, installation, improvement, extension and alteration of plumbing systems, and who is familiar with the provisions of this act and the rules ~~and regulations~~ made by the Idaho plumbing board, and who is competent to offer and to assume to work on a contract basis and to direct the work of qualified employees. A contractor who in person does plumbing work shall also be qualified as a journeyman plumber, or have in his employ on all work a qualified journeyman.

(b) A plumbing journeyman shall be any person, who as his principal occupation, is engaged in the installation, improvement, extension and alteration of plumbing systems, and who is familiar with the provisions of this act and who works in the employ and under the direction of a plumbing contractor.

(c) A plumbing apprentice shall be any person, who as his principal occupation is engaged in learning and assisting in installation,

improvement, extension and alteration of plumbing systems. Apprentices shall not perform plumbing work except under the supervision of a journeyman.

(d) A specialty contractor shall be any person, or a member, representative or agent of a firm, copartnership, association, or corporation skilled in the specialty classification for which he is certified and who is familiar with the provisions of this act and rules made by the Idaho plumbing board, and who is competent to offer and to assume work on a contract basis and to direct the work of qualified employees. A specialty contractor who in person does specialty work shall also be qualified as a specialty journeyman, or have in his employ on all work a specialty journeyman.

(e) A specialty journeyman shall be any person who is engaged in the specialty classification for which he is certified and who is familiar with the provisions of this act and who works in the employ and under the direction of a plumbing or specialty contractor.

(f) A specialty apprentice shall be any person who is engaged in learning and assisting in the specialty classification for which he is registered. Specialty apprentices shall not perform specialty work except under supervision of a specialty journeyman.

SECTION 3. That Section 54-2614, Idaho Code, be, and the same is hereby amended to read as follows:

54-2614. ~~EXAMINATION~~ APPLICATION AND REGISTRATION FEES. All applicants shall pay to the board at the time of application for examination, a fee in accordance with the following:

~~Examination~~ Application for Plumbing Contractor.....$22.50
~~Examination~~ Application for Plumbing Journeyman..... 22.50
Application for Specialty Contractor.....22.50
Application for Specialty Journeyman.....22.50

Apprentices and specialty apprentices shall not be required to be examined for competency, but shall register with the board and maintain such registration yearly. The registration fee for apprentices and specialty apprentices shall be five dollars ($5.00) initial and five dollars ($5.00) per year renewal. The board may contract with a professional testing service to administer any licensing examination and any contracted professional testing service shall be responsible to establish and collect the examination fee. Any person who fails to pass the examination may apply for reexamination at the next scheduled examination upon payment of the examination fee. Should any person fail to pass the examination the second time, the board may refuse to allow a subsequent ~~application~~ examination until the expiration of one (1) year.

SECTION 4. That Section 54-2616, Idaho Code, be, and the same is hereby amended to read as follows:

54-2616. FEES FOR CERTIFICATES. Before a certificate is issued, and for the renewal thereof, the successful applicant shall pay to the department of labor and industrial services a fee in accordance with the following schedule:

	Initial Fee	Renewal
Plumbing Contractor	$75.00	$37.50
Plumbing Journeyman	15.00	7.50
Specialty Contractor	75.00	37.50
Specialty Journeyman	15.00	7.50

SECTION 5. That Section 54-2618, Idaho Code, be, and the same is hereby amended to read as follows:

54-2618. CERTIFICATE TO BE DISPLAYED AND CARRIED. All holders of valid certificates in the contractor and specialty contractor classifications shall display a sign or card, upon a form prescribed and furnished by the department of labor and industrial services, for public view in their place of business. All journeymen and specialty journeymen shall have on their persons during working hours their certificate of competency, and apprentices and specialty apprentices shall have on their persons evidence of registration.

Approved March 20, 1995.

CHAPTER 254
(S.B. No. 1183, As Amended)

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTION 41-2145, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 404, LAWS OF 1994, TO REDESIGNATE THE SECTION, TO MAKE TECHNICAL CORRECTIONS, TO INCLUDE MEDICARE SUPPLEMENT INSURANCE POLICIES WITHIN THE DEFINITION OF MAJOR MEDICAL DISABILITY POLICIES, TO DELETE THE EXCLUSION FOR POLICIES SUBJECT TO THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT, TO PROVIDE FOR IMPOSITION BY THE INSURER OF HEALTH UNDERWRITING CRITERIA AND TO PROVIDE THAT THE TWELVE-MONTH PREEXISTING CONDITION CLAUSE MAY NOT BE APPLIED TO THE TRANSFER FROM ONE MEDICARE SUPPLEMENT POLICY TO ANOTHER WHERE BENEFITS ARE INCREASED; AMENDING SECTION 41-2219, IDAHO CODE, AS ADDED BY SECTION 2, CHAPTER 404, LAWS OF 1994, TO REDESIGNATE THE SECTION, TO MAKE TECHNICAL CORRECTIONS, TO INCLUDE MEDICARE SUPPLEMENT INSURANCE POLICIES WITHIN THE DEFINITION OF MAJOR MEDICAL DISABILITY POLICIES, TO DELETE THE EXCLUSION FOR POLICIES SUBJECT TO THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT, TO PROVIDE FOR IMPOSITION BY THE INSURER OF HEALTH UNDERWRITING CRITERIA AND TO PROVIDE THAT THE TWELVE-MONTH PREEXISTING CONDITION CLAUSE MAY NOT BE APPLIED TO THE TRANSFER FROM ONE MEDICARE SUPPLEMENT POLICY TO ANOTHER WHERE BENEFITS ARE INCREASED; AND AMENDING SECTION 41-4403, IDAHO CODE, TO PROVIDE THAT THE SIX-MONTH PREEXISTING CONDITION LIMITATION OTHERWISE APPLICABLE TO A MEDICARE SUPPLEMENT POLICY SHALL NOT APPLY TO A TRANSFER FROM ONE MEDICARE SUPPLEMENT POLICY TO ANOTHER IF THE INSURED HAD PREVIOUS COVERAGE AND TO THE EXTENT THE PREEXISTING CONDITION CLAUSE WAS MET UNDER THE PREVIOUS COVERAGE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-2145, Idaho Code, as added by Section 1, Chapter 404, Laws of 1994, be, and the same is hereby amended to read as follows:

41-2145~~6~~. 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~~ or 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, including medicare supplement insurance policies, contracts or certificates 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~~ offers benefits in excess of what was included in the ~~insured's~~ insurer's contract to the insured, the insurer may impose health underwriting criteria and 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. The preexisting condition clause herein authorized may not be applied to the transfer from one (1) medicare supplement policy, contract or certificate to another where benefits are increased. 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 Section 41-2219, Idaho Code, as added by Section 2, Chapter 404, Laws of 1994, be, and the same is hereby amended to read as follows:

41-22~~19~~20. 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~~ or 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, including medicare supplement insurance policies, contracts or certificates 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 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 with the company. If the insurer ~~provides~~ offers benefits in excess of what was included in the ~~insured's~~ insurer's contract to the insured, the insurer may impose health underwriting criteria and 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. The preexisting condition clause herein

authorized may not be applied to the transfer from one (1) medicare supplement policy, contract or certificate to another where benefits are increased. 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 3. That Section 41-4403, Idaho Code, be, and the same is hereby amended to read as follows:

41-4403. STANDARDS FOR POLICY PROVISIONS. (1) No medicare supplement insurance policy, contract or certificate in force in the state shall contain benefits that duplicate benefits provided by medicare.

(2) Notwithstanding any other provision of law of this state, a medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. The preexisting condition clause authorized shall not apply to a transfer from one (1) medicare supplement insurance policy, contract or certificate to another medicare supplement policy, contract or certificate, including a transfer pursuant to section 41-2146 or 41-2220, Idaho Code, if the insured has had previous coverage and to the extent the preexisting condition clause was met under the previous coverage.

(3) The director shall adopt reasonable ~~regulations~~ rules to establish specific standards that set forth the content of policies and certificates providing coverage of persons eligible for medicare. Such standards shall be in addition to and in accordance with applicable laws of this state, and may cover, but shall not be limited to:

(a) Terms of renewability, which may not provide that the policy may be cancelled by the insurer solely on the grounds of deterioration of health;

(b) Initial and subsequent conditions of eligibility;

(c) Nonduplication of coverage;

(d) Preexisting conditions;

(e) Probationary periods;

(f) Limitations, exceptions and reductions, which shall not include those which are more restrictive than those of medicare for any type of care covered under the policy;

(g) Elimination periods;

(h) Requirements for replacement;

(i) Recurrent conditions;

(j) Definition of terms, including the terms accident, benefit period, hospital, nurse, physician, and skilled nursing facility.

(~~3~~4) The director may issue reasonable ~~regulations~~ rules that specify prohibited policy provisions not otherwise specifically authorized by statute, which in the opinion of the director, are unjust, unfair, or unfairly discriminatory to the policyholder, beneficiary or any person insured under a medicare supplement policy.

Approved March 20, 1995.

CHAPTER 255
(S.B. No. 1175, As Amended)

AN ACT

RELATING TO THE FOREST PRODUCTS COMMISSION; AMENDING SECTION 38-1503, IDAHO CODE, TO PROVIDE THAT COMMISSION MEMBERS SHALL SERVE TERMS OF THREE YEARS AND MAY BE REAPPOINTED; AMENDING SECTION 38-1507, IDAHO CODE, TO PROVIDE THAT THE COMMISSION SHALL MEET NOT LESS THAN FOUR TIMES EACH YEAR AND AT SUCH OTHER TIMES AS MAY BE DETERMINED BY EITHER THE CHAIRMAN OR A MAJORITY OF THE COMMISSION MEMBERS; AND AMENDING SECTION 38-1515, IDAHO CODE, TO REVISE AND INCREASE ASSESSMENTS, TO FURTHER DEFINE FOREST PRODUCTS MANUFACTURERS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 38-1503, Idaho Code, be, and the same is hereby amended to read as follows:

38-1503. FOREST PRODUCTS COMMISSION CREATED -- MEMBERS. (1) There is hereby created and established in the department of self-governing agencies the Idaho forest products 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 for each district submitted to the governor by the financial supporters of the commission in each district. Initial mMembers of the commission shall serve either a three (3) or five (5) year term, with two (2) members of the commission serving three (3) year terms, and three (3) members of the commission serving five (5) year terms. For the initial commission members, the duration of each member's term shall be determined by lot. Thereafter, all commission members shall serve terms of three (3) years, and may be reappointed. The commission shall adopt rules to define the process for filling vacancies to the commission and to provide for determining the terms of office for all members of the commission after the expiration of the terms of the original members.

(2) The governor shall also name as permanent advisory members to the commission, the director of the department of lands, a representative of the United States forest service, the dean of the University of Idaho college of forestry, wildlife and range sciences or the dean's designee, and the executive directors of the intermountain forest industry association and the associated logging contractors. No

advisory member of the commission shall have a vote on the commission.

SECTION 2. That Section 38-1507, Idaho Code, be, and the same is hereby amended to read as follows:

38-1507. MEETINGS OF THE COMMISSION. The commission shall meet not less than ~~one (1) time in every three (3) month period~~ four (4) times each year and at such other 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.

SECTION 3. That Section 38-1515, Idaho Code, be, and the same is hereby amended to read as follows:

38-1515. IMPOSITION OF ASSESSMENTS AND PROVISION FOR LATE FEES. (1) From and after the first day of July, 199~~2~~5, there is hereby authorized the following fees and assessments:

(a) For all forest products manufacturers, an amount no greater than ~~thirty~~ fifty cents (3~~0~~50¢) per thousand board feet or the equivalent thereof for all logs either harvested in Idaho or measured or processed by a manufacturing entity located in the state of Idaho, regardless of the state in which the logs might have been cut. For purposes of this chapter, "forest products manufacturers" shall include those business entities which buy timber in Idaho and then sell it to other persons outside the state for manufacture into finished products. Such business entities shall be liable for the assessments described in this paragraph for all timber cut within Idaho and then distributed to other persons outside the state.

(b) For all business entities engaged in the harvest or transport of logs, lumber, chips, or other forest products in Idaho, a sum no greater than ~~fifteen~~ twenty-five dollars ($~~1~~25.00) per employee, including single, self-employers and the individuals involved in partnerships, as measured by the records of the department of employment during the month of July of the preceding year, provided, however, those business entities engaged solely in the harvest or transport of those exclusions to forest products manufacturers as set forth in subsection (4)(a), (b), (c) and (d) of section 38-1502, Idaho Code, shall owe no duty or assessment under this chapter.

(c) For business entities or persons owning more than fifty thousand (50,000) acres of private forest land within the state of Idaho but with no facilities for manufacturing forest products within the state, a sum no greater than ~~ten~~ sixteen and sixty-six one hundredths cents (1~~0~~6.66¢) per each acre of forest land, provided, however, that this assessment shall be reduced by an amount equal to the assessment described in paragraph (a) of this subsection for all logs harvested from that land in the preceding calendar year and assessed in this section. Persons owning less than a total of fifty thousand (50,000) acres of forest land in the state shall bear no assessment or fee pursuant to the provisions of this subsection.

(d) No firm or business entity shall be liable for assessments

under this chapter in more than one (1) of the categories described in this section. In the event that a person, firm or business entity qualifies to pay more than one (1) assessment as described herein, then the greater of the assessments shall be assessed, due and payable.

(2) In collecting assessments and other financial obligations due the commission, the commission is authorized to cooperate with and coordinate its actions to collect assessments with the various efforts of Idaho board of scaling practices, the tax commission, the department of employment, and the department of lands to either collect assessments or taxes due under the provisions of this chapter or to identify those who may owe assessments under the provisions of this chapter.

(3) Any person or firm who makes payment to the commission at a date later than that prescribed in rules set forth by the commission under this section may be subject to a late payment penalty as set forth by the commission by rule ~~and regulation~~. Such penalty shall not exceed fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

(4) All assessments due under this chapter shall be based upon the data for the year immediately preceding and payments due the commission shall be made quarterly according to such rules as may be adopted by the commission.

Approved March 20, 1995.

CHAPTER 256
(S.B. No. 1173, As Amended)

AN ACT

RELATING TO ELECTIONS FOR SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2721, IDAHO CODE, TO PROVIDE THAT ELECTIONS FOR SUPERVISORS OF SOIL CONSERVATION DISTRICTS SHALL BE GOVERNED BY THE PROVISIONS OF THE SECTION AND THE UNIFORM DISTRICT ELECTION LAW, TO REDUCE THE NUMBER OF ELECTOR SIGNATURES REQUIRED FOR DECLARATIONS OF CANDIDACY, TO ALLOW FOR THE DESIGNATION OF AN ELECTION OFFICIAL, TO PROVIDE THAT UNOPPOSED CANDIDATES MAY BE DECLARED ELECTED, TO PROVIDE THAT WRITE-IN CANDIDATES MUST FILE A DECLARATION OF INTENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 22-2721, Idaho Code, be, and the same is hereby amended to read as follows:

22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS. The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided in this act. Elections shall be conducted pursuant to the provisions of this section

and the uniform district election law, chapter 14, title 34, Idaho Code. If at any time the supervisors of a district deem it necessary, they may request permission from the state soil conservation commission to increase the number of supervisors to seven (7). Upon receipt of such a request in writing, signed by all five (5) supervisors, stating a valid reason for such need, the commission shall grant permission. The additional supervisors shall then be appointed as outlined in subparagraph C of this section until such time as regular district elections for two (2) supervisors in each district. At that time those districts having seven (7) supervisors shall then elect four (4) supervisors for four (4) year terms. The two (2) supervisors appointed by the commission shall be persons who are by training and experience qualified to perform the specialized services which will be required of them in the performance of their duties. All supervisors shall be landowners or farmers of the district where they are elected or appointed.

A. Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil conservation commission to nominate candidates for supervisors of each district. The soil conservation commission, unless it has contracted with the county clerk to conduct the election, shall designate an individual to act as the election official. If contracted to do so, the county clerk shall act as the election official. The ~~commission~~ election official shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the ~~commission~~ election official unless it shall be subscribed by ~~ten~~ five (~~10~~5) or more persons who are qualified electors owning land or residing within the boundaries of the district. The ~~commission~~ election official shall give due notice of an election to be held for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall appear arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and directions to insert a mark in the square before any three (3) names to indicate the voter's preference. The three (3) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The commission shall pay all the expenses of such election, which shall ~~supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof~~ be supervised and conducted by the election official.

B. All elections in districts, excluding the first election as provided in subparagraph A hereof, shall be conducted by the district supervisors of the districts involved who shall designate an individual to be the election official, or the county clerk if contracted for that purpose. Such election shall be held on the first Tuesday succeeding the first Monday of November in each even-numbered year. Such elections shall be ~~held after due notice has been given by the district supervisors and the elections shall be~~ supervised and conducted ~~under such rules and regulations as may be prescribed by the state~~

~~soil conservation commission~~ by the election official. The cost of conducting such elections shall be borne by the district involved. The ~~board of supervisors~~ election official shall certify to the state soil conservation commission the names of the elected supervisors. The state soil conservation commission shall issue certificates of election to each elected supervisor so certified. The state soil conservation commission may authorize each district to contract with the county clerk or county clerks of the county or counties in which the district is located to conduct the election for the soil conservation district. If a district election is conducted by a county clerk, the county clerk must provide a ballot for the district election, and must provide a process that allows only qualified electors of the district to vote in that district's election.

C. In any election for supervisors of a soil conservation district, if after the expiration of the date for filing written nominations it appears that only one (1) qualified candidate has been nominated for each position to be filled and no declaration of intent has been filed by a write-in candidate as provided in subparagraph D. of this section, it shall not be necessary to hold an election, and the election official shall, no later than seven (7) days before the scheduled date of the election, declare such candidate elected as supervisor, and the state soil conservation commission shall immediately make and deliver to such person a certificate of election.

D. No write-in vote for supervisor shall be counted unless a declaration of intent has been filed with the election official indicating that the person making the declaration desires the office and is legally qualified to assume the duties of supervisor if elected as a write-in candidate. The declaration of intent shall be filed not later than eleven (11) days before the day of election.

E. The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be four (4) years commencing on the second Monday of January next following election, except that the two (2) supervisors who are first appointed shall be designated to serve for terms of two (2) years. A supervisor shall hold office until a qualified successor has been elected or appointed. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term shall be made by a vote of the majority of the supervisors duly qualified and acting at the time the vacancy shall arise and the supervisors shall certify the name of the appointed supervisor to the state soil conservation commission who shall issue a certificate of such appointment.

~~D~~F. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of duties. A supervisor shall receive no compensation for services from regular district funds, county funds authorized in section 22-2726, Idaho Code, or state funds authorized in section 22-2727, Idaho Code.

In the event the district has a special project, approved by the state soil conservation commission, making project funds available from federal or other sources, a supervisor may receive compensation

not to exceed thirty-five dollars ($35.00) per day plus actual and necessary expenses from project funds for services directly related to the project.

The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general of the state for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one (1) or more supervisors, or to one (1) or more agents, or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the state soil conservation commission, upon request, copies of such ordinances, rules, ~~regulations,~~ orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; they shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, ~~regulations,~~ and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of a municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Approved March 20, 1995.

CHAPTER 257
(S.B. No. 1257)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1996; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Secretary of State, the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Fund	$ 751,900	$ 262,500	$ 16,000		$1,030,400
B. CENTRALIZED UNIFORM COMMERCIAL CODE:					
FROM:					
UCC Administrative Fund	$ 467,600	$ 218,500	$ 52,300		$ 738,400
C. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Fund		$ 16,100			$ 16,100
D. IDAHO COMMISSION ON THE ARTS:					
FROM:					
General Fund	$ 291,100	$ 222,300	$ 20,300	$319,800	$ 853,500
Federal Grant Fund	242,900	215,200		335,900	794,000
Miscellaneous Revenue Fund		106,500		15,800	122,300
TOTAL	$ 534,000	$ 544,000	$ 20,300	$671,500	$1,769,800
GRAND TOTAL	$1,753,500	$1,041,100	$ 88,600	$671,500	$3,554,700

SECTION 2. It is legislative intent that an amount not to exceed $1,000 of the amounts appropriated in Section 1, may be used at the discretion of the Secretary of State to assist in defraying expenses relating to or resulting from the discharge of the Secretary of State's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Office of the Secretary of State is authorized no more than forty-three (43) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 258
(S.B. No. 1046)

AN ACT

RELATING TO IDAHO CHILD SUPPORT GUIDELINES; AMENDING SECTION 32-706A, IDAHO CODE, TO ADD TWO YEARS TO THE SUNSET CLAUSE.

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

SECTION 1. That Section 32-706A, Idaho Code, be, and the same is hereby amended to read as follows:

32-706A. PURPOSE -- AUTHORIZATION TO ADOPT GUIDELINES -- GUIDELINES TO BE PRESUMPTIVE. A. The purpose of this act is to provide compliance with recent federal action whereby the congress of the United States has enacted 42 USC 667 as amended by public law 100-485, 102 STAT 2343, which measure requires that, effective October 13, 1989, as a condition to having a state plan for the receipt of federal aid for dependent children funds approved, a state must establish child support guidelines, which are to have a rebuttable presumption of being the correct amount for purposes of setting the level of child support, unless in a particular case the court finds, under criteria established by the legislature of the state that application of the guidelines would be unjust or inappropriate. In addition, the purpose of this act is to recognize and give presumptive effect to the child support guidelines which have been adopted by the supreme court of the state of Idaho, to be effective on and after April 1, 1989, which guidelines have been declared by the supreme court to be advisory, as an aid for the litigants and the courts to evaluate the needs of the children and the resources of the parents in determining the appropriate level of child support.

B. The legislature hereby authorizes and encourages the supreme court of the state of Idaho to adopt and to periodically review for modification, guidelines to promote uniform and adequate child support awards, to supplement the factors set forth in section 32-706, Idaho Code, to be used as an aid and a structure for litigants and courts to evaluate the individual circumstances of the needs of children and the resources of parents, in determining the levels of child support, and in evaluating the evidentiary circumstances of each individual case.

C. In arriving at the amount to be ordered as child support, the court, in addition to considering the factors described in section 32-706, Idaho Code, shall also apply the guidelines adopted by the supreme court of the state of Idaho on January 27, 1989, and as those guidelines are from time to time amended. There shall be a rebuttable presumption that the amount of the award which would result from the application of the guidelines is the amount of child support to be awarded, unless evidence is presented in a particular case which indicates that an application of the guidelines would be unjust or inappropriate. If the court determines that circumstances exist to permit a departure from the guidelines, the judge making the determination shall make a written or specific finding on the record that the application of the guidelines would be unjust or inappropriate in the particular case before the court.

D. The provisions of this section shall be null, void and of no force and effect on and after July 1, 1995~~7~~.

Approved March 20, 1995.

CHAPTER 259
(H.B. No. 308)

AN ACT

RELATING TO DUTIES OF THE STATE BOARD OF EDUCATION RELATED TO TRANSPORTATION; AMENDING SECTION 33-1511, IDAHO CODE, TO PROVIDE THAT THE BASIS FOR ADOPTION OF STANDARDS FOR THE CONSTRUCTION OF SCHOOL BUSES SHALL BE THE LATEST REPORT OF THE NATIONAL CONFERENCE ON SCHOOL TRANSPORTATION.

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

SECTION 1. That Section 33-1511, Idaho Code, be, and the same is hereby amended to read as follows:

33-1511. STATE BOARD OF EDUCATION -- POWERS AND DUTIES RELATED TO TRANSPORTATION. In addition to powers and duties of the state board of education hereinbefore prescribed, the said state board shall:

1. Designate a member of its staff as supervisor of school transportation responsible for a school bus driver training program and such program shall provide for a qualified driver trainer for each school district and with such duties as the board may prescribe;

2. Adopt, publish and distribute, and from time to time as need therefor arises amend, minimum standards for the construction of school buses, the basis of which standards shall ~~at no time~~ be ~~lower than~~ those incorporated in the latest report of the National Conference on School Transportation, which report shall be filed with the department of law enforcement;

3. Approve the form(s) to be used for the inspection of school buses.

Approved March 20, 1995.

CHAPTER 260
(H.B. No. 358)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 1995; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amount from the listed fund for the period July 1, 1994, through June 30, 1995:

FROM:

General Fund $187,000

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

Approved March 20, 1995.

CHAPTER 261
(H.B. No. 359)

AN ACT
APPROPRIATING MONEYS FOR THE STATE LIQUOR DISPENSARY FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the State Liquor Dispensary the following amounts, to be expended according to designated standard classifications from the listed fund for the period July 1, 1995, through June 30, 1996:

FOR:	
Personnel Costs	$5,135,900
Operating Expenditures	2,470,900
Capital Outlay	251,200
TOTAL	$7,858,000
FROM:	
Liquor Control Fund	$7,858,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Liquor Dispensary is authorized no more than one hundred thirty-four (134) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 262
(H.B. No. 360)

AN ACT
APPROPRIATING MONEYS FOR THE COMMISSION ON WOMEN'S PROGRAMS FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission on Women's Programs the following amounts, to

be expended according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	$24,800	$13,400	$38,200
Miscellaneous Revenue Fund		6,500	6,500
TOTAL	$24,800	$19,900	$44,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Commission on Women's Programs is authorized no more than fifty-two one hundredths (0.52) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 263
(H.B. No. 361)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1996; AUTHORIZING AN AMOUNT FOR PAYMENT OF BANK SERVICE FEES; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Treasurer the following amounts from the listed funds, to be expended according to designated standard classifications for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$ 84,200			$ 84,200
Professional Services Fund	670,300	$507,900	$62,300	1,240,500
TOTAL	$754,500	$507,900	$62,300	$1,324,700

SECTION 2. Of the amount appropriated for Operating Expenditures in Section 1, $306,000 or so much thereof as is necessary is to be used solely and only for the payment of bank service fees for the period July 1, 1995, through June 30, 1996, any other provisions of law notwithstanding.

SECTION 3. It is legislative intent that an amount, not to exceed $1,000 of the amount appropriated in Section 1, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State Treasurer's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Office of the State Treasurer is authorized no more than fifteen and nine-tenths (15.9) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 1995.

CHAPTER 264
(H.B. No. 63, As Amended)

AN ACT

RELATING TO CHILD SUPPORT; AMENDING SECTION 5-245, IDAHO CODE, TO PROVIDE THE TYPES OF PROCEEDINGS FOR COLLECTION OF CHILD SUPPORT WITHIN THE PURVIEW OF THE SECTION; AMENDING SECTION 10-1110, IDAHO CODE, TO PROVIDE THAT A LIEN RESULTING FROM A JUDGMENT FOR SUPPORT OF A CHILD ENTERED AFTER JULY 1, 1995, CONTINUES TWENTY-THREE YEARS FROM THE DATE OF JUDGMENT OR UNTIL FIVE YEARS AFTER THE CHILD REACHES THE AGE OF MAJORITY OR DIES, WHICHEVER OCCURS FIRST; AMENDING SECTION 10-1111, IDAHO CODE, TO PROVIDE THAT A JUDGMENT OTHER THAN A JUDGMENT FOR CHILD SUPPORT MAY BE RENEWED; AND AMENDING SECTION 11-101, IDAHO CODE, TO PROVIDE THAT EXECUTION ON A JUDGMENT FOR SUPPORT OF A CHILD IS CONTROLLED BY SECTION 5-245, IDAHO CODE, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 5-245, Idaho Code, be, and the same is hereby amended to read as follows:

5-245. ACTIONS TO COLLECT CHILD SUPPORT ARREARAGES. An action or proceeding to collect child support arrearages accrued under a support order must be commenced within five (5) years after the child reaches the age of majority or within five (5) years after the child's death, if death occurs before the child reaches majority. <u>An action or proceeding under this section shall include, but is not limited to, execution on the judgment, order to show cause, garnishment, income withholding, income tax offset or lottery prize offset.</u>

SECTION 2. That Section 10-1110, Idaho Code, be, and the same is hereby amended to read as follows:

10-1110. FILING TRANSCRIPT OF JUDGMENTS -- LIEN ACQUIRED. A transcript or abstract of any judgment or decree of any court of this state or any court of the United States the enforcement of which has not been stayed as provided by law, if rendered within this state, certified by the clerk having custody thereof, may be recorded with the recorder of any county of this state, who shall immediately record and docket the same as by law provided, and from the time of such recording, and not before, the judgment so recorded becomes a lien upon all real property of the judgment debtor in the county, not exempt from execution, owned by him at the time or acquired afterwards at any time prior to the expiration of the lien; provided that where a transcript or abstract is recorded of any judgment or decree of divorce or separate maintenance making provision for installment or periodic payment of sums for maintenance of children or alimony or allowance for wife's support, such judgment or decree shall be a lien only in an amount for payments so provided, delinquent or not made when due. The lien resulting from recording of a judgment other than for support of a child continues five (5) years from the date of the judgment, unless the judgment be previously satisfied, or unless the enforcement of the judgment be stayed upon an appeal as provided by law. A lien arising from the delinquency of a payment due under a recorded judgment for support of a child after July 1, 1995, continues twenty-three (23) years from the date of judgment unless the judgment be previously satisfied or unless the enforcement of the judgment be stayed upon an appeal as provided by law. Provided, that no lien for child support shall continue more than five (5) years after the child reaches the age of majority or five (5) years after the child's death, whichever shall first occur. If the recorded judgment is for the support of more than one (1) child, the lien shall continue until five (5) years after the youngest child reaches the age of majority or five (5) years after the death of the last remaining child, whichever shall first occur. The transcript or abstract above mentioned shall contain the title of the court and cause and number of action, names of judgment creditors and debtors, time of entry, where entered in judgment book and amount of judgment.

SECTION 3. That Section 10-1111, Idaho Code, be, and the same is hereby amended to read as follows:

10-1111. RENEWAL OF JUDGMENT -- LIEN. Unless the judgment has been satisfied, at any time prior to the expiration of the lien created by section 10-1110, Idaho Code, or any renewal thereof, the court which entered the judgment, other than a judgment for child support, may, upon motion, renew such judgment. The renewed judgment may be recorded in the same manner as the original judgment, and the lien established thereby shall continue for five (5) years from the date of judgment.

SECTION 4. That Section 11-101, Idaho Code, be, and the same is hereby amended to read as follows:

11-101. TIME WITHIN WHICH EXECUTION MAY ISSUE -- STAY PENDING DISPOSITION OF MOTIONS. Except as provided in section 5-245, Idaho

Code, for execution on judgments for support of a child, t~~T~~he party in whose favor judgment is given may, at any time within five (5) years after the entry thereof, have a writ of execution issued for its enforcement, subject to the right of the court to stay execution as herein provided.

In its discretion and on such conditions for the security of the adverse party or parties as are proper, the court may stay the execution of, or any proceeding to enforce, a judgment pending the disposition of a motion for a new trial made pursuant to section 10-602, Idaho Code, or judgment notwithstanding the verdict made pursuant to sections 10-224 and 10-602, Idaho Code, or a motion for relief from a judgment or order made pursuant to section 5-905, Idaho Code.

Approved March 20, 1995.

CHAPTER 265
(H.B. No. 167, As Amended in the Senate)

AN ACT

RELATING TO IMPRISONMENT FOR NON-PAYMENT OF A FINE; AMENDING SECTION 20-624, IDAHO CODE, TO PROVIDE WHENEVER ANY DEFENDANT IS CONFINED SOLELY FOR WILLFUL NON-PAYMENT OF ANY FINE, THE COURT MAY IN LIEU OF PAYMENT CONFINE SUCH PERSON AT THE RATE OF THIRTY-FIVE DOLLARS PER DAY UNTIL THE FINE IS SATISFIED.

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

SECTION 1. That Section 20-624, Idaho Code, be, and the same is hereby amended to read as follows:

20-624. IMPRISONMENT FOR FINE. Whenever any ~~prisoner, under conviction for any criminal offense,~~ defendant is confined ~~in any jail~~ solely for willful non-payment of any fine, the ~~district~~ court, ~~upon satisfactory evidence of such inability,~~ may, in lieu ~~thereof~~ of payment, confine such person ~~in the county jail~~ at the rate of thirty-five dollars ($35.00) per day until the fine imposed is satisfied.

Approved March 20, 1995.

CHAPTER 266
(H.B. No. 215, As Amended in the Senate)

AN ACT

RELATING TO RECALL ELECTIONS; AMENDING SECTION 34-1701, IDAHO CODE, TO PROVIDE THAT ELECTED OFFICERS OF SPECIAL DISTRICTS ARE SUBJECT TO RECALL ELECTION; AMENDING SECTION 34-1702, IDAHO CODE, TO SPECIFY THE NUMBER OF SIGNATURES REQUIRED ON A RECALL PETITION; AMENDING SECTION 34-1703, IDAHO CODE, TO SPECIFY THE FORM OF A RECALL PETITION; AMENDING SECTION 34-1706, IDAHO CODE, TO PROVIDE FOR EXAMI-

NATION AND CERTIFICATION OF SIGNATURES ON PETITIONS; AND AMENDING SECTION 34-1707, IDAHO CODE, TO PROVIDE FOR CONDUCT OF A RECALL ELECTION IN A SPECIAL DISTRICT.

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

SECTION 1. That Section 34-1701, Idaho Code, be, and the same is hereby amended to read as follows:

34-1701. OFFICERS SUBJECT TO RECALL. The following public officers, whether holding their elective office by election or appointment, and none other, are subject to recall:

(1) State officers:

(a) The governor, lieutenant-governor, secretary of state, state controller, state treasurer, attorney general, and superintendent of public instruction;

(b) Members of the state senate, and members of the state house of representatives.

(2) County officers:

(a) The members of the board of county commissioners, sheriff, treasurer, assessor, prosecuting attorney, clerk of the district court, and coroner.

(3) City officers:

(a) The mayor;

(b) Members of the city council.

(4) Special district elected officers for whom recall procedure is not otherwise provided by law.

SECTION 2. That Section 34-1702, Idaho Code, be, and the same is hereby amended to read as follows:

34-1702. REQUIRED SIGNATURES ON PETITION. A petition for recall of an officer shall be instituted by filing with the appropriate official a verified written petition requesting such recall.

(1) If the petition seeks recall of any of the officers named in subsection (1)(a) of section 34-1701, Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors equal in number to twenty per cent (20%) of the number of electors registered to vote at the last general election held to elect a governor.

(2) If the petition seeks recall of any of the officers named in subsection (1)(b) of section 34-1701, Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors of the legislative district equal in number to twenty per cent (20%) of the number of electors registered to vote at the last general election held in the legislative district at which the member was elected.

(3) If the petition seeks recall of any of the officers named in subsection (2)(a) of section 34-1701, Idaho Code, the petition shall be filed with the county clerk, and must be signed by registered electors of the county equal in number to twenty per cent (20%) of the number of electors registered to vote at the last general election held in the county for the election of county officers at which the

officer was elected.

(4) If the petition seeks recall of any of the officers named in subsection (3) of section 34-1701, Idaho Code, the petition shall be filed with the city clerk, and must be signed by registered electors of the city equal in number to twenty per cent (20%) of the number of electors registered to vote at the last general city election held in the city for the election of officers.

(5) If the petition seeks recall of any of the officers named in subsection (4) of section 34-1701, Idaho Code, the petition shall be filed with the county clerk of the county wherein the district is located. If the district is located in two (2) or more counties, the clerk in each county shall perform the functions within that county. The petition must be signed by registered electors of the district equal in number to fifty per cent (50%) of the number of electors who cast votes in the last election of the district.

SECTION 3. That Section 34-1703, Idaho Code, be, and the same is hereby amended to read as follows:

34-1703. FORM OF PETITION. (1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the honorable ...., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of the State of Idaho respectfully demand that ...., holding the office of ...., be recalled by the registered electors of this state for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the State of Idaho; my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

(2) The recall petition for members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the honorable ...., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of Legislative District No. ...., respectfully demand that ...., holding the office of ...., be recalled by the registered electors of Legislative District No. .... for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of Legislative District No. ...., my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

(3) The recall petition for county officers shall be in substantially the following form:

RECALL PETITION

To the honorable ...., County Clerk for the County of ....:

We, the undersigned citizens and registered electors of the County of ...., respectfully demand that ...., holding the office of ...., of the County of ...., be recalled by the registered electors of the County of .... for the following reasons, to-wit:
(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of ...., my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

(4) The recall petition for city officers shall be in substantially the following form:

RECALL PETITION

To the honorable ...., City Clerk for the City of ....:

We, the undersigned citizens and registered electors of the City of ...., respectfully demand that ...., holding the office of ...., of the City of ...., be recalled by the registered electors of the City of .... for the following reasons, to-wit:
(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of ...., my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

(5) The recall petition for special district officers shall be in substantially the following form:

RECALL PETITION

To the honorable ....,County Clerk of the County of ....:

We, the undersigned citizens and registered electors of (here insert the official name of the district), respectfully demand that ...., holding the office of ..., of the (district), be recalled by the registered electors of the (district) for the following reasons, to-wit: (insert the reasons for the recall in two hundred (200) words or less); that a special election therefor be called, that we, each for himself say: I am a registered elector of the (district), my residence, post office address, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City or Post Office	Date

(Here follow twenty numbered lines for signatures.)

SECTION 4. That Section 34-1706, Idaho Code, be, and the same is hereby amended to read as follows:

34-1706. EXAMINATION AND CERTIFICATION OF SIGNATURES. (1) All petitions with attached signature sheets shall be presented to the secretary of state, county clerk, or city clerk, as the case may be, on the same day, and a cursory examination of the petitions shall be made by such officer first receiving them. The cursory examination shall be made to determine whether the petitions apparently contain the necessary number of signatures.

(a) If the total number of signatures on the petitions is not sufficient to satisfy the number required by section 34-1702, Idaho Code, all petitions with attached signature sheets shall be retained by the officer who shall notify in writing the person filing the petition of the number of signatures needed, and further signatures may be gathered.

(b) If the cursory examination of the signature sheets reveals:

(i) Erasures on any signature;

(ii) Illegible or undecipherable signatures;

(iii) Signatures not properly identified by all of the information required on the sheet;

(iv) Duplicate signatures;

(v) Signatures of persons who have requested in writing to have their names removed from the petition;

the officer making such cursory examination shall summarily reject such signatures and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the rejecting officer. If the total number of signatures not rejected is not sufficient to satisfy the number required by section 34-1702, Idaho Code, all petitions with attached signature sheets shall be retained by the officer who shall notify in writing the person filing the petition of the number of signatures needed, and further signatures may be gathered.

(2) (a) All recall petitions presented to the secretary of state found to apparently contain the necessary number of signatures, after the examination provided for in section 34-1706(1), Idaho Code, shall be filed by the secretary of state and become public records of the state not to be returned. The secretary of state shall promptly transmit the petition sections with attached signature sheets to the proper county clerk, with an accompanying letter from the secretary of state ordering the signature sheets to be examined and returned to the secretary of state within ten (10) days. The county clerk shall examine each signature purported to be that of a registered elector from his county, and compare each such signature with the registration documents available to the county clerk. The county clerk shall summarily reject all signatures:

(i) Which are illegible or undecipherable;

(ii) Which are not the signatures of registered electors; and such rejected signatures shall not be counted;

(iii) Duplicate signatures; and

(iv) Signatures of persons who have requested in writing to have their names removed from the petition.

Each rejected signature shall be drawn through with ink and initialed by the auditor.

The county clerk shall certify each signature found to comply with all of the requirements of this act by an appropriate mark following each signature.

The county clerk shall certify to the secretary of state within the specified number of days the number of signatures on the petition found to be of registered electors, and shall return all petitions to the secretary of state.

(b) The secretary of state shall total the number of certified signatures from each of the county clerks, if applicable, and if found to total the number of signatures required by section 34-1702, Idaho Code, shall proceed as provided in section 34-1707, Idaho Code.

(3) All recall petitions presented to the county clerk for the recall of any county officer <u>or special district officer</u> found to apparently contain the necessary number of signatures, after the examination provided for in section 34-1706(1), Idaho Code, shall be filed with the county clerk and become public records of the county not to be returned. The county clerk shall examine each signature purported to be that of a registered elector from his county, and compare each such signature with the registration documents available to the county clerk. The county clerk shall summarily reject all signatures which are not the signatures of registered electors; and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the clerk. The county clerk may take not to exceed ten (10) days after filing of the petition to complete his examination.

The county clerk shall certify each signature found to comply with all of the requirements of this act by an appropriate mark following each signature.

The county clerk shall total the number of certified signatures, and if found to total the number of signatures required by section 34-1702, Idaho Code, shall proceed as provided in section 34-1707, Idaho Code.

(4) All recall petitions presented to the city clerk for the recall of any city officer found to apparently contain the necessary number of signatures, after the examination provided for in section 34-1706(1), Idaho Code, shall be filed with the city clerk and become public records of the city not to be returned. The city clerk shall examine each such signature purported to be that of a registered elector of the city, and compare each such signature with the registration documents available to the city clerk. The city clerk shall summarily reject all signatures which are not the signatures of a registered elector of the city; and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the city clerk. The city clerk may take not to exceed ten (10) days after filing of the petition to complete his examination.

The city clerk shall certify each signature found to comply with all of the requirements of this act by an appropriate mark following each signature.

The city clerk shall total the number of certified signatures, and if found to total the number of signatures required by section 34-1702, Idaho Code, shall proceed as provided in section 34-1707, Idaho Code.

SECTION 5. That Section 34-1707, Idaho Code, be, and the same is hereby amended to read as follows:

34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIGNATION -- SPECIAL ELECTION.

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

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

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

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

(2) (a) In the event that a petition filed with a county clerk does not contain the required number of certified signatures, the county clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The

petition must be perfected within thirty (30) days of the date that the clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the clerk shall declare the petition null and void ab initio in its entirety.

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

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

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

(c) In the event that a petition filed with the county clerk concerning the recall of an official of a special district is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly, by certified mail, inform the officer being recalled, and the petitioner, and the governing board and election officials of the special district that the recall petition is in proper form.

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

(ii) If the officer being recalled does not resign his office within five (5) days after notice from the county clerk, a special election shall be ordered by the governing board of the special district. The special election must be held on the date prescribed in section 34-106, Idaho Code. The election shall be conducted by the special district in the manner provided in section 34-1401, Idaho Code, and the special district may contract with the county clerk as provided in section 34-1401, Idaho Code.

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

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

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

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

Approved March 20, 1995.

CHAPTER 267
(S.B. No. 1150)

AN ACT

RELATING TO RECREATIONAL VEHICLES AND PARK TRAILERS; AMENDING SECTION 39-4001, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-4002, IDAHO CODE, TO DELETE REFERENCES TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4003, IDAHO CODE, TO DELETE REFERENCES TO RECREATIONAL VEHICLES; REPEALING SECTIONS 39-4005 AND 39-4007, IDAHO CODE; AMENDING SECTION 39-4006, IDAHO CODE, TO DELETE REFERENCE TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4008, IDAHO CODE, TO DELETE REFERENCE TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4009, IDAHO CODE, TO DELETE REFERENCES TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4010, IDAHO CODE, TO DELETE REFERENCES TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4105, IDAHO CODE, TO DELETE DEFINITIONS OF RECREATIONAL VEHICLES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4106, IDAHO CODE, TO DELETE REFERENCES TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4109, IDAHO CODE, TO DELETE CODES RELATED TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4111, IDAHO CODE, TO DELETE REFERENCES TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4113, IDAHO CODE, TO DELETE REFERENCES TO RECREATIONAL VEHICLES; AMENDING SECTION 39-4116, IDAHO CODE, TO DELETE REFERENCES TO RECREATIONAL VEHICLES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 42, TITLE 39, IDAHO CODE, TO PROVIDE STANDARDS FOR RECREATIONAL VEHICLES AND PARK TRAILERS, TO DEFINE TERMS, TO REQUIRE COMPLIANCE WITH CODES SPECIFIED AND TO PROVIDE EXEMPTION FROM LOCAL ORDINANCES OR REGULATIONS.

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

SECTION 1. That Section 39-4001, Idaho Code, be, and the same is hereby amended to read as follows:

39-4001. ENFORCEMENT OF LAW. The director of the Idaho department of labor and industrial services shall enforce the provisions of this ~~act~~ chapter. It shall be the responsibility and duty of the state electrical and plumbing boards to assist the director in the administration and enforcement of the provisions of this ~~act~~ chapter as hereinafter provided.

SECTION 2. That Section 39-4002, Idaho Code, be, and the same is hereby amended to read as follows:

39-4002. COMPLIANCE WITH LAW REQUIRED. It is unlawful for any person, firm, partnership, association or corporation to sell or offer for sale within this state any manufactured home ~~or recreational vehicle~~ that is not manufactured in compliance with this act after March 8, 1971.

SECTION 3. That Section 39-4003, Idaho Code, be, and the same is hereby amended to read as follows:

39-4003. DIRECTOR OF DEPARTMENT -- DUTIES. (1) The director shall by rule~~:~~

~~(a) D~~define the terms "manufactured homes" ~~and "recreational vehicles"~~ to be consistent with national standards and the use of ~~such~~ the terms in industry~~; and~~

~~(b) Adopt minimum health and safety standards for plumbing, heat producing and electrical systems installed in recreational vehicles while being manufactured. Health and safety standards shall be reasonably consistent with nationally recognized standards to protect the health and safety of occupants and users of recreational vehicles.~~

(2) Such rules shall be enforced by the director who may delegate to the Idaho electrical board and the Idaho plumbing board the administration and enforcement of such health and safety standards as involve plumbing, heat producing and electrical systems.

SECTION 4. That Sections 39-4005 and 39-4007, Idaho Code, be, and the same are hereby repealed.

SECTION 5. That Section 39-4006, Idaho Code, be, and the same is hereby amended to read as follows:

39-4006. CONVERSION OF SYSTEM FOLLOWING ISSUANCE OF INSIGNIA PROHIBITED. It is unlawful for any person to alter or convert, or cause to be converted, the plumbing, heat producing or electrical system of a manufactured home ~~or recreational vehicle~~ which bears an insignia of approval, when such manufactured home ~~or recreational vehicle~~ is used, occupied, sold or offered for sale within this state, and was manufactured subsequent to March 8, 1971, unless the alteration or conversion is in compliance with rules adopted by the director. The director shall adopt rules providing requirements for such alterations and

conversions.

SECTION 6. That Section 39-4008, Idaho Code, be, and the same is hereby amended to read as follows:

39-4008. EXEMPTION FROM LOCAL ORDINANCES OR REGULATIONS. No manufactured home ~~or recreational vehicle~~ which meets the standards prescribed by this chapter and the rules adopted pursuant thereto shall be required to comply with any local ordinances or regulations adopting standards relating to plumbing, heat producing and electrical systems in manufactured homes ~~and recreational vehicles~~.

SECTION 7. That Section 39-4009, Idaho Code, be, and the same is hereby amended to read as follows:

39-4009. CERTIFICATION OF PLANT SUPERVISOR -- BASIS OF EXAMINATION -- ISSUANCE OF CERTIFICATE OF COMPETENCY -- FEES -- NUMBER OF SUPERVISORS REQUIRED -- AUTOMATIC CERTIFICATION. The director is authorized to certify personnel in plants operating within the state of Idaho to supervise the installation of the plumbing, heat producing and electrical systems in the manufacturing of manufactured homes ~~and recreational vehicles~~. The director shall conduct examinations and pass upon the qualifications of applicants and shall issue certificates of competency to such applicants as are found to be qualified to supervise the installation of plumbing, heat producing and electrical systems in manufacturing manufactured homes ~~and recreational vehicles~~. The director shall base the examination upon the standards promulgated by this chapter. Upon certification of examination results, the director shall issue certificates of competency to the successful applicants. The director shall determine the time and place for examinations, the examination fee and the fee for certificates of competency. No other form of certification or licensing shall be required for employees of manufacturers of manufactured homes ~~or recreational vehicles~~ in the installation of the plumbing, heat producing or electrical systems in the manufacturing of manufactured homes ~~or--recreational vehicles~~, provided, however, that each manufacturer of manufactured homes ~~or recreational vehicles~~ shall be required to have only (a) one (1) certified supervisor for plumbing systems, and (b) one (1) certified supervisor for heat producing systems, and (c) one (1) certified supervisor for electrical systems. Certified supervisors shall be on duty in the plant at all times that a manufactured home ~~or--recreational--vehicle~~ plant is manufacturing plumbing, heat producing or electrical systems. Journeymen plumbers shall be automatically certified as supervisors for plumbing and heat producing systems. Journeymen electricians shall be automatically certified as supervisors for electrical systems. Certified supervisors shall not be required to be journeymen plumbers or journeymen electricians.

SECTION 8. That Section 39-4010, Idaho Code, be, and the same is hereby amended to read as follows:

39-4010. WARRANTY BY MANUFACTURERS. Any person, firm, partnership, association or corporation constructing, in whole or in part, a

manufactured home ~~or recreational vehicle~~ in this state, or constructing outside of this state but selling at retail in this state, shall issue a warranty in writing to the buyer containing the following terms:

(1) That the manufactured home ~~or recreational vehicle~~ is free from any substantial defects in materials or workmanship in the structure, plumbing, heating and electrical systems and all appliances and other equipment installed or included therein or thereon by the manufacturer.

(2) That the manufacturer shall take appropriate corrective action at the site of the manufactured home in instances of substantial defects in materials or workmanship which become evident within one (1) year from the date of delivery of the manufactured home to the buyer, provided the buyer gives written notice of such defects to the manufacturer or dealer at their business address not later than one (1) year and ten (10) days after date of delivery.

The warranty provided herein shall be in addition to and not in derogation of any other right or privilege which the buyer may have as otherwise provided by law or instrument. The manufacturer shall not require the buyer to waive his rights under this section and any waiver shall be deemed contrary to public policy and shall be void and unenforceable. Any action instituted by a buyer for failure of the manufacturer to comply with the provisions of this act shall be considered as an action within the provisions of section 12-120, Idaho Code, providing for recovery of attorney fees.

SECTION 9. That Section 39-4105, Idaho Code, be, and the same is hereby amended to read as follows:

39-4105. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Director" means the director of the department of labor and industrial services for the state of Idaho.

(2) "Department" means the department of labor and industrial services of the state of Idaho.

(3) "Board" means the Idaho building code advisory board, herein created.

(4) "Person" means a natural person, corporation, partnership, trust, society, club, association, or other organization.

(5) "Building" means a combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any use or occupancy, and shall include a part or parts thereof and all equipment therein normally a part of the structure.

(6) "Construction" means the erection, fabrication, reconstruction, demolition, alteration, conversion, or repair of a building (other than in-kind), or the installation of equipment therein normally a part of the structure.

(7) "Equipment" means facilities or installations including, but not limited to, heating, ventilating, air conditioning, and refrigerating facilities or installations, and elevators, dumbwaiters, escalators, boilers and pressure vessels and ski lifts, but not including telecommunications facilities.

(8) "Local inspection agency" means the agency or agencies of local government with authority to make inspections of buildings and to enforce the codes, laws~~,~~ and rules ~~and regulations~~ of the state of Idaho which establish standards and requirements applicable to the construction, alteration, repair, or demolition of buildings.

(9) "Local government" means any city or county of this state.

(10) "Modular building" means any building or building component, other than a manufactured home, which is constructed according to standards contained in the Uniform Building Code, as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

(11) "Building site" means any lot, tract, parcel, or subdivision of land, either public or private, upon which a building is placed or is to be placed.

(12) "Closed construction" means any manufactured building or building component which may enclose factory installed structural, mechanical, electrical or plumbing systems and is not open for visual inspection at the building site.

(13) "Commercial coach" means a modular building equipped with the necessary service connections and made so as to be readily movable as a unit on its own running gear and originally designated to be used without a permanent foundation.

(14) "Manufactured home" (formerly mobile home) means a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq.

(15) ~~"Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, fifth wheel camper, and motor home.~~

~~"Camping trailer" means 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 camp site to provide temporary living quarters for recreational, camping, or travel use.~~

~~"Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.~~

~~"Travel trailer or fifth wheel camper" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for~~

~~recreational,--camping-or-travel-use-and-of-such-size-or-weight-as-not to-require-special-highway-movement-permits-when-drawn-by-a--motorized vehicle,-and-with-a-living-area-of-less-than-four-hundred-(400)-square feet,--excluding-built-in-equipment-(such-as-wardrobes,-closets,-cabinets,-kitchen-units-or-fixtures)-and-bath-and-toilet-rooms.~~

~~"Truck-camper"-means-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-pick-up-truck.~~

~~(16)~~ "Temporary facility" means a structure designed and constructed to service actual construction projects and which is completely removed upon completion of the project. This structure shall not be a place of employment or human habitation, and does not include those temporary structures used for the protection of the public around and in conjunction with construction work.

(1~~7~~6) "Human habitation," when used in respect to temporary facilities, means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, storage or utility space and similar areas are not considered space for human habitation.

(1~~8~~7) "Telecommunications facilities" mean all wires, cables, equipment, apparatus or other installations necessary to furnish service, by which there is accomplished or may be accomplished, the sending or receiving of information, data, message writing signs, signals, pictures, and sounds of all kinds, by aid of such wires, cables, equipment, apparatus or other installations, but shall not include the habitable structure in which such telecommunications facilities are housed.

(1~~9~~8) "Farm" means an agricultural unit of five (5) acres or more.

SECTION 10. That Section 39-4106, Idaho Code, be, and the same is hereby amended to read as follows:

39-4106. IDAHO BUILDING CODE ADVISORY BOARD CREATED -- MEMBERSHIP -- APPOINTMENT -- TERMS -- QUORUM -- COMPENSATION -- MEETINGS. (1) The Idaho building code advisory board is established within the department as an appeals, code adoption and variance, and advisory board, to be appointed by the governor, and shall consist of seven (7) members: two (2) members of the general public, one (1) of which can be a fire official; one (1) registered engineer or licensed architect; one (1) local building inspector; one (1) homebuilder or general contractor; one (1) representative of the modular building industry; and one (1) representative of the manufactured home ~~or recreational vehicle~~ industry. Board members shall be appointed for a term of four (4) years. Three (3) consecutive failures by a member to attend meetings of the board without reasonable cause shall constitute cause for removal of the member from the board by the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(2) The members of the board shall, at their first regular meeting following the effective date of this chapter and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. A majority of the members of the board shall constitute a quorum provided that said

majority shall include at least one (1) public member.

(3) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(g), Idaho Code, for each day spent in attendance at meetings of the board.

(4) The board shall meet for regular business sessions at the call of the director, chairman, or at the request of three (3) members of the board, provided that the board shall meet at least biannually.

SECTION 11. That Section 39-4109, Idaho Code, be, and the same is hereby amended to read as follows:

39-4109. ADOPTION OF CODES. The following codes are hereby adopted for the state of Idaho:

(1) The latest edition of the Uniform Building Code, published by the International Conference of Building Officials, as adopted by the Idaho Building Code Advisory Board and appendices thereto, excepting appendices chapter 1 as it relates to existing buildings, chapter 11 as it relates to agricultural buildings and structures, chapter 12 as it relates to group R division 3 occupancies, chapter 31, chapter 35 as it relates to sound transmission control, and chapter 70 as it relates to excavation and grading;

(2) The Uniform Mechanical Code, 1973, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials;

(3) Americans with Disabilities Act (ADA) Part III, (Appendix A to Part 36-Standards for Accessible Design), Accessibility Guidelines for Buildings and Facilities as published in the Federal Register Volume 56 No. 144, Friday, July 26, 1991, and subsequent editions and this shall also be known as UBC Standard 31-1;

(4) Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1-1971, and ANSI A17.1b-1973, published by the American National Standards Institute;

(5) The Life Safety Code, National Fire Protection Association Code number 101-1973, published by the National Fire Protection Association;

(6) ~~National--Fire--Protection-Association-Code-numbers-501B-1974 (ANSI-A119.1),-and-501C-1974-(ANSI-A119.2),-and-the-accepted-engineering-practice-standards-therein,-for--compliance--by--the--manufactured home-and-recreational-vehicle-industry,-published-by-the-National-Fire Protection-Association;~~

~~(7)~~ National Fire Protection Association Code numbers 501A-1974, and 501D-1974, published by the National Fire Protection Association; and

(8~~7~~) Americans with Disabilities Act (ADA) Part II, Accessibility Guidelines for Buildings and Facilities, and Transportation Facilities as published in the Federal Register Volume 56 No. 173, Friday, September 6, 1991.

~~(8)--American-Standard-Specifications--for--Park--Trailers,--(ANSI A119.5),-published-by-the-American-National-Standards-Institute-as-the same-relates-to-park-trailers.~~

SECTION 12. That Section 39-4111, Idaho Code, be, and the same is hereby amended to read as follows:

39-4111. PERMITS REQUIRED. It shall be unlawful for any person to do, or cause or permit to be done, whether acting as principal, agent or employee, any construction, improvement, extension or alteration of any building, residence or structure, coming under the purview of this chapter, in the state of Idaho without first procuring a permit from the appropriate agency authorizing such work to be done.

For the purposes of permit requirements for ~~recreational vehicles,~~ commercial coaches and modular buildings, a single permit covering all aspects of construction shall be issued by the director.

SECTION 13. That Section 39-4113, Idaho Code, be, and the same is hereby amended to read as follows:

39-4113. PLAN CHECKING -- MAXIMUM FEES. (1) Notwithstanding the provisions of section 302(b), Uniform Building Code, 1985, the director shall establish a program for total plan checking and permit issue entirely within the safety inspection division of the department.

(2) Plan review fees shall be as required by section 304(b), Uniform Building Code, 1985.

(3) Each manufacturer of ~~recreational vehicles,~~ commercial coaches and modular buildings shall submit the building plans for every model of such structure to the director for the purpose of review. The manufacturer must certify that each such building plan meets the appropriate construction and safety standards in force at that time before the model involved is produced.

(4) Each school district shall submit to the department of labor and industrial services a set of working drawings and specifications for new school buildings and additions or alterations to existing buildings which are estimated to cost in excess of twenty-five thousand dollars ($25,000). The department will review the plans for compliance with the current editions of the codes specified in section 39-4109, Idaho Code. These plans must be approved before the school district may advertise for bids.

SECTION 14. That Section 39-4116, Idaho Code, be, and the same is hereby amended to read as follows:

39-4116. LOCAL GOVERNMENT ENFORCEMENT -- ASSISTANCE. (1) Local governments may, effective July 1 of any year, by affirmative action by resolution or ordinance taken by the governing board of a local government, prior to December 31 of the previous year, comply with the codes enumerated in this chapter, and codes~~,~~ and rules ~~and regulations~~ promulgated pursuant to this chapter, and inspection and enforcement may be provided by the local government, or may be provided by the department if such local government opts to comply with the provisions of this chapter but not to provide inspection and enforcement, except that the department shall retain jurisdiction of inspection and enforcement of construction standards and set-up codes for manufactured homes ~~and construction standards for recreational vehicles~~, and for inspection and enforcement of construction standards for modular buildings and commercial coaches, and for review of public school construction plans, whether or not a local government opts to comply with the other provisions of this chapter. Any decision to comply with the

provisions of this chapter must be communicated to the director in writing, and compliance must be for an entire year commencing July 1. The minimum codes a local government must adopt in order to opt into this chapter are the latest editions of the Uniform Building Code and the Uniform Mechanical Code. Except as listed in subsection (2) of this section, the remaining codes enumerated in the act are optional as to whether or not the local government wishes to adopt them.

(2) Regardless of whether or not a local government opts to comply with other sections of this act, they shall adopt the Americans With Disabilities Act (ADA) Part III, (Appendix A to Part 36-Standards for Accessible Design), Accessibility Guidelines for Buildings and Facilities as published in the Federal Register Volume 56 No. 144 Friday, July 26, 1991 and subsequent editions and this shall also be known as UBC Standard 31-1 and the Americans With Disabilities Act (ADA) Part II, Accessibility Guidelines for Buildings and Facilities, and Transportation Facilities as published in the Federal Register Volume 56 No. 173, Friday, September 6, 1991.

(3) All building code inspectors, including those of local governments which have opted to comply with the provisions of this chapter, shall be certified as provided by section 39-4108, Idaho Code.

(4) The department may contract to assist a local government in such matters as technical assistance, code interpretation, education, training, personnel, and information and dissemination of information and statistics.

(5) The department may conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose, it may cooperate and contract with educational institutions, local, state, regional or national building officials' organizations, and any other appropriate organization.

(6) Local governments who do not exercise their option may at any time of the year contract with the department to administer the building code enforcement program for them. The terms of such a contract shall be negotiated between the local unit of government and the director.

SECTION 15. 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 42, Title 39, Idaho Code, and to read as follows:

CHAPTER 42
RECREATIONAL VEHICLES AND PARK TRAILERS

39-4201. DEFINITIONS. As used in this chapter:

(1) "Park trailer" means a park trailer as defined in the American National Standards Institute (ANSI) A119.5 Standard for Park Trailers.

(2) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The entities are: travel trailer, camping trailer, truck camper, fifth-wheel trailer, and motor home.

(a) "Camping trailer" means 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.

(b) "Fifth wheel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permit(s), of gross trailer area not to exceed four hundred (400) square feet in the set up mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

(c) "Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(d) "Travel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and of gross trailer area less than three hundred twenty (320) square feet.

(e) "Truck camper" means a portable unit constructed to provide temporary living quarters for recreational, camping or travel use, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

39-4202. COMPLIANCE. No manufacturer shall sell or offer for sale within this state:

(1) Any new recreational vehicle that is not manufactured in compliance with the American National Standards Institute (ANSI) Standard A119.2 for Recreational Vehicles; or

(2) Any new park trailer that is not manufactured in compliance with the American National Standards Institute (ANSI) A119.5 Standards for Park Trailers.

39-4203. EXEMPTION FROM LOCAL ORDINANCES OR REGULATIONS. No recreational vehicle which meets the ANSI A119.2 Standard for Recreational Vehicles or park trailers which meets the ANSI A119.5 Standard for Park Trailers shall be required to comply with any local ordinances or regulations adopting standards relating to plumbing, heat producing and electrical systems in recreational vehicles or park trailers.

Approved March 20, 1995.

CHAPTER 268
(S.B. No. 1116)

AN ACT

RELATING TO THE LOCAL HIGHWAY TECHNICAL ASSISTANCE COUNCIL; AMENDING SECTION 40-717, IDAHO CODE, TO PROVIDE DEPOSIT AND DISBURSEMENT OF FUNDS OF THE COUNCIL; AND AMENDING SECTION 40-2401, IDAHO CODE, TO PROVIDE AUTHORITY TO PAY EXPENSES OF COUNCIL MEMBERS.

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

SECTION 1. That Section 40-717, Idaho Code, be, and the same is hereby amended to read as follows:

40-717. ~~ESTABLISHMENT--OF--A~~ DEPOSIT AND DISBURSEMENT OF FUNDS OF THE LOCAL HIGHWAY TECHNICAL ASSISTANCE ~~ACCOUNT~~ COUNCIL -- ADMINISTRATION. (1) ~~There--is--established--in-the-dedicated-fund-of-the-state treasury-an-account-to-be-known-as--the--"Local--Technical--Assistance Account."~~ Funds apportioned under section 40-709, Idaho Code, to the local highway technical assistance council shall immediately be deposited by the council in one (1) or more banks or trust companies approved under chapter 27, title 67, Idaho Code, as state depositories. All funds so deposited and interest from the same are hereby continuously appropriated for the purpose of carrying out the provisions of chapter 24, title 40, Idaho Code.

(2) The local highway technical assistance council is charged with the sole and exclusive administration of the ~~account~~ council funds and shall follow federal guidelines in providing technical assistance to local highway jurisdictions which ~~are~~ may be funded in part with federal funds. Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such account, signed by two (2) officers of the council or employees designated by the council.

(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~~ The right is reserved to the state of Idaho to audit the accounts and expenditures of the council at any time.

(4) All money received or expended by the council shall be audited annually by a certified public accountant, designated by the council, as provided in section 40-2405, Idaho Code.

SECTION 2. That Section 40-2401, Idaho Code, be, and the same is hereby amended to read as follows:

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~~ may be entitled to compensation for services at the rate of fifty dollars ($50.00) per day and actual and necessary expenses, subject to the limits as provided in section ~~59-509(h)~~ 67-2008, Idaho Code, if not otherwise compensated by the appointing authority. Payment of an honorarium as provided in this subsection shall not be considered salary as defined in section 59-1302(31), Idaho Code. Compensation and reimbursement shall be made from the local highway technical assistance council accounts established in section 40-717, Idaho Code.

Approved March 20, 1995.

CHAPTER 269
(S.B. No. 1050)

AN ACT

RELATING TO EXTRATERRITORIAL AUTHORITY OF PEACE OFFICERS; REPEALING SECTION 67-2337, IDAHO CODE; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2337, IDAHO CODE, TO PROVIDE FOR EXTRATERRITORIAL AUTHORITY OF PEACE OFFICERS.

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

SECTION 1. That Section 67-2337, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 23, 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 67-2337, Idaho Code, and to read as follows:

67-2337. EXTRATERRITORIAL AUTHORITY OF PEACE OFFICERS. (1) As used in this section, "peace officer" shall mean a certified full-time paid employee of a police or law enforcement agency whose duties include and primarily consist of the prevention, investigation and detection of crime, and the enforcement of penal, traffic, or highway laws of this state or any political subdivision.

(2) All authority that applies to peace officers when performing their assigned functions and duties within the territorial limits of the respective city or political subdivisions, where they are employed, shall apply to them outside such territorial limits to the same degree and extent only when any one (1) of the following conditions exist:

(a) A request for law enforcement assistance is made by a law enforcement agency of said jurisdiction.

(b) The peace officer possesses probable cause to believe a crime

is occurring involving a felony or an immediate threat of serious bodily injury or death to any person.

(c) When a peace officer is in fresh pursuit as defined in and pursuant to chapter 7, title 19, Idaho Code.

(3) Subsection (2) of this section shall not imply that peace officers may routinely perform their law enforcement duties outside their jurisdiction in the course and scope of their employment.

(4) Cities or political subdivisions may enter into mutual assistance compacts with other cities or political subdivisions of this state or of states immediately adjacent. The director of the Idaho department of law enforcement is authorized to commission as special deputies, police officers engaged in law enforcement duties within the scope of such mutual assistance compacts. Provided, however, that in the case of a mutual assistance compact between cities or political subdivisions, the original, employing agency shall be responsible for any liability arising from the acts of its employees participating in such compact. Any mutual assistance compact between a city or political subdivision of this state with a city or political subdivision of any other state shall include a written statement of assumption of liability consistent with the requirements of this section.

(5) Circumstances surrounding any actual exercise of peace officer authority outside the territorial limits of the city, county, or political subdivision of their employment shall be reported, as soon as safety conditions allow, to the law enforcement agency having jurisdiction where the authority granted herein is exercised and the officer shall relinquish authority and control over any event to the authority having jurisdiction.

(6) The state of Idaho and its agencies or departments shall not be liable for the acts of police officers, other than its own employees, commissioned by the director of the department of law enforcement, for acts done under a mutual assistance compact created under this section.

Approved March 20, 1995.

CHAPTER 270
(S.B. No. 1031)

AN ACT

RELATING TO THE ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 67-5225, IDAHO CODE, TO REVISE THE PLACES FOR MAINTAINING AND THE TIME FOR MAINTAINING THE RECORD FOR ADMINISTRATIVE RULEMAKING; AMENDING SECTION 67-5230, IDAHO CODE, TO PROVIDE ADDITIONAL TIME TO RESPOND TO PETITIONS TO INITIATE RULEMAKING IN CERTAIN INSTANCES; AMENDING SECTION 67-5250, IDAHO CODE, TO REFLECT IN THAT SECTION'S CATCHLINE THE REQUIREMENT TO MAINTAIN AN INDEX OF AGENCY GUIDANCE DOCUMENTS; AMENDING SECTION 67-5272, IDAHO CODE, TO PROVIDE FOR JUDICIAL REVIEW OF AGENCY ACTION WHEN TWO OR MORE PETITIONS ARE FILED IN DIFFERENT COUNTIES OR ARE ASSIGNED TO DIFFERENT DISTRICT JUDGES; AND AMENDING SECTION 67-5273, IDAHO CODE, TO CLARIFY THE TIME FOR SEEKING JUDICIAL REVIEW FROM A PRELIMINARY ORDER.

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

SECTION 1. That Section 67-5225, Idaho Code, be, and the same is hereby amended to read as follows:

67-5225. RULEMAKING RECORD. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall prepare a rulemaking record. The record shall be maintained in the main ~~and regional or district~~ offices of the agency.

(2) The rulemaking record shall be available for public inspection and copying. The rulemaking record must contain:

(a) copies of all publications in the bulletin;

(b) all written petitions, submissions, and comments received by the agency and the agency's response to those petitions, submissions, and comments;

(c) all written materials considered by the agency in connection with the formulation, proposal, or adoption of the rule;

(d) a record of any oral presentations, any transcriptions of oral presentations, and any memorandum prepared by a presiding officer summarizing the contents of the presentations; and

(e) any other materials or documents prepared in conjunction with the rulemaking.

(3) Except as otherwise required by a provision of law, the rulemaking record need not constitute the exclusive basis for agency action on that rule or for judicial review thereof.

(4) The record required in this section shall be maintained by the agency for a period of not less than ~~one~~ two (~~1~~2) years after the effective date of the rule.

SECTION 2. That Section 67-5230, Idaho Code, be, and the same is hereby amended to read as follows:

67-5230. PETITION FOR ADOPTION OF RULES. (1) Any person may petition an agency requesting the adoption, amendment, or repeal of a rule. ~~Within twenty-eight (28) days after submission of a petition, t~~The agency shall either:

(a) deny the petition in writing, stating its reasons for the denials, or

(b) initiate rulemaking proceedings in accordance with this chapter.

The agency shall deny the petition or initiate rulemaking proceedings in accordance with this chapter within twenty-eight (28) days after submission of the petition, unless the agency's rules are adopted by a multimember agency board or commission whose members are not full-time officers or employees of the state, in which case the agency shall take action on the petition no later than the first regularly scheduled meeting of that board or commission that takes place seven (7) or more days after submission of the petition.

(2) An agency decision denying a petition is a final agency action.

SECTION 3. That Section 67-5250, Idaho Code, be, and the same is hereby amended to read as follows:

67-5250. INDEXING OF PRECEDENTIAL AGENCY ORDERS -- INDEXING OF AGENCY GUIDANCE DOCUMENTS. (1) Unless otherwise prohibited by any provision of law, each agency shall index all written final orders that the agency intends to rely upon as precedent. The index and the orders shall be available for public inspection and copying at cost in the main office and each regional or district office of the agency. The orders shall be indexed by name and subject.

A written final order may not be relied on as precedent by an agency to the detriment of any person until it has been made available for public inspection and indexed in the manner described in this subsection.

(2) Unless otherwise prohibited by any provision of law, each agency shall index by subject all agency guidance documents. The index and the guidance documents shall be available for public inspection and copying at cost in the main office and each regional or district office of the agency. As used in this section, "agency guidance" means all written documents, other than rules, orders, and pre-decisional material, that are intended to guide agency actions affecting the rights or interests of persons outside the agency. "Agency guidance" shall include memoranda, manuals, policy statements, interpretations of law or rules, and other material that are of general applicability, whether prepared by the agency alone or jointly with other persons. The indexing of a guidance document does not give that document the force and effect of law or other precedential authority.

SECTION 4. That Section 67-5272, Idaho Code, be, and the same is hereby amended to read as follows:

67-5272. VENUE -- FORM OF ACTION. (1) Except when required by other provision of law, proceedings for review or declaratory judgment are instituted by filing a petition in the district court of the county in which:

(a) the hearing was held; or

(b) the final agency action was taken; or

(c) the aggrieved party resides or operates its principal place of business in Idaho; or

(d) the real property or personal property that was the subject of the agency decision is located.

(2) When two (2) or more petitions for judicial review of the same agency action are filed in different counties or are assigned to different district judges in the same county, upon motion filed by any party to any of the proceedings for judicial review of the same agency action, the separate consideration of the petitions in different counties or by different district judges shall be stayed. The administrative judge in the judicial district in which the first petition was filed, after appropriate consultation with the affected district judges and the affected administrative judges, shall then order consolidation of the judicial review of the petitions before one (1) district judge in one (1) county in which a petition for judicial review was properly filed, at which time the stay shall be lifted.

SECTION 5. That Section 67-5273, Idaho Code, be, and the same is hereby amended to read as follows:

67-5273. TIME FOR FILING PETITION FOR REVIEW. (1) A petition for judicial review of a final rule may be filed at any time, except as limited by section 67-5231, Idaho Code.

(2) A petition for judicial review of a final order or a preliminary order that has become final when it was not reviewed by the agency head or preliminary, procedural or intermediate agency action under section 67-5271(2), Idaho Code, must be filed within twenty-eight (28) days of the issuance of the final order, the date when the preliminary order became final, or the issuance of a preliminary, procedural or intermediate agency order, or, if reconsideration is sought, within twenty-eight (28) days after the decision thereon. A cross-petition for judicial review may be filed within fourteen (14) days after a party is served with a copy of the notice of the petition for judicial review.

(3) A petition for judicial review of a final agency action other than a rule or order must be filed within twenty-eight (28) days of the agency action, except as provided by other provision of law. The time for filing a petition for review shall be extended during the pendency of the petitioner's timely attempts to exhaust administrative remedies, if the attempts are clearly not frivolous or repetitious. A cross-petition for judicial review may be filed within fourteen (14) days after a party is served with a copy of the notice of the petition for judicial review.

Approved March 20, 1995.

CHAPTER 271
(S.B. No. 1076)

AN ACT

RELATING TO THE EDUCATION SUPPORT PROGRAM; AMENDING SECTION 33-1004, IDAHO CODE, TO AUTHORIZE AN APPEAL PROCEDURE TO PERMIT ADDITIONAL STAFF ALLOWANCE WHEN A STAFF ALLOWANCE IS INSUFFICIENT TO MEET ACCREDITATION STANDARDS.

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

SECTION 1. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

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

1. 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 actu-

ally 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.

6. In the event that the staff allowance in any category is insufficient to meet accreditation standards, a district may appeal to the state board of education, demonstrating the insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to be included within the staff allowance to meet accreditation standards. Such a waiver shall be limited to one (1) year, but may be renewed upon showing of continuing justification.

Approved March 20, 1995.

CHAPTER 272
(S.B. No. 1082)

AN ACT

RELATING TO THE UNIFORM COMMERCIAL CODE, INVESTMENT SECURITIES; REPEALING CHAPTER 8, TITLE 28, IDAHO CODE; AMENDING TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 8, TITLE 28, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS, TO PROVIDE FOR ACQUISITION OF A SECURITY OR FINANCIAL ASSET OR INTEREST, TO PROVIDE FOR NOTICE OF AN ADVERSE CLAIM, TO PROVIDE FOR CONTROL OF CERTAIN SECURITIES, TO PROVIDE WHETHER AN INDORSEMENT, INSTRUCTION OR ENTITLEMENT ORDER IS EFFECTIVE, TO PROVIDE WARRANTIES IN DIRECT HOLDING, TO PROVIDE WARRANTIES IN INDIRECT HOLDING, TO PROVIDE FOR APPLICABILITY AND CHOICE OF LAW, TO PROVIDE CLEARING CORPORATION RULES, TO PROVIDE A CREDITOR'S LEGAL PROCESS, TO PROVIDE THAT THE STATUTE OF FRAUDS IS INAPPLICABLE, TO PROVIDE EVIDENTIARY RULES CONCERNING CERTIFICATED SECURITIES, TO PROVIDE WHEN A SECURITIES INTERMEDIARY AND OTHERS ARE NOT LIABLE TO AN ADVERSE CLAIMANT, TO PROVIDE WHEN A SECURITIES INTERMEDIARY IS A PURCHASER FOR VALUE, TO PROVIDE A SAVINGS CLAUSE, TO DEFINE ISSUER, TO PROVIDE FOR THE ISSUER'S RESPONSIBILITY AND DEFENSES AND NOTICE OF A DEFECT OR DEFENSE, TO PROVIDE FOR STALENESS AS A NOTICE OF DEFECT OR A DEFENSE, TO PROVIDE THE EFFECT OF THE ISSUER'S RESTRICTION ON TRANSFER, TO PROVIDE THE EFFECT OF AN UNAUTHORIZED SIGNATURE ON A SECURITY CERTIFICATE, TO PROVIDE FOR COMPLETION OR ALTERATION OF A SECURITY CERTIFICATE, TO PROVIDE THE RIGHTS AND DUTIES OF AN ISSUER WITH RESPECT TO REGISTERED OWNERS, TO PROVIDE THE EFFECT OF A SIGNATURE OF AN AUTHENTICATING TRUSTEE, REGISTRAR OR TRANSFER AGENT, TO PROVIDE FOR AN ISSUER'S LIEN, TO PROVIDE FOR OVERISSUE, TO PROVIDE FOR DELIVERY OF SECURITIES, TO PROVIDE THE RIGHTS OF A PURCHASER, TO DEFINE PROTECTED PURCHASER, TO PROVIDE FOR INDORSEMENT, TO PROVIDE FOR INSTRUCTION, TO PROVIDE THE EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT OR INSTRUCTION, TO PROVIDE THE PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER, TO PROVIDE THE DUTY OF THE ISSUER TO REGISTER A TRANSFER, TO PROVIDE FOR ASSURANCE THAT AN INDORSEMENT OR INSTRUCTION IS EFFECTIVE, TO PROVIDE FOR A DEMAND THAT THE ISSUER NOT REGISTER A TRANSFER, TO PROVIDE FOR WRONGFUL REGISTRATION, TO PROVIDE FOR REPLACEMENT OF A LOST, DESTROYED OR WRONGFULLY TAKEN SECURITY CERTIFICATE, TO PROVIDE THE OBLIGATION TO NOTIFY THE ISSUER OF A LOST, DESTROYED OR WRONGFULLY TAKEN SECURITY CERTIFICATE, TO PROVIDE THE OBLIGATIONS OF AN AUTHENTICATING TRUSTEE, TRANSFER AGENT AND REGISTRAR, TO DEFINE SECURITIES ACCOUNT AND TO PROVIDE FOR ACQUISITION OF A SECURITY ENTITLEMENT FROM A SECURITIES INTERMEDIARY, PROVIDING FOR THE ASSERTION OF AN ADVERSE CLAIM AGAINST THE ENTITLEMENT HOLDER, TO PROVIDE THE PROPERTY INTEREST OF THE ENTITLEMENT HOLDER IN A FINANCIAL ASSET HELD BY A SECURITIES INTERMEDIARY, TO PROVIDE THE DUTY OF THE SECURITIES INTERMEDIARY TO MAINTAIN THE FINANCIAL ASSET, TO MAKE PAYMENTS AND DISTRIBUTIONS, TO EXERCISE RIGHTS AS DIRECTED BY THE ENTITLEMENT HOLDER, TO COMPLY WITH AN ENTITLEMENT

ORDER, TO CHANGE AN ENTITLEMENT HOLDER'S POSITION TO ANOTHER FORM OF SECURITY HOLDING, TO PROVIDE FOR THE DUTIES OF A SECURITIES INTERMEDIARY AS SET OUT BY OTHER STATUTE OR RULE AND TO PROVIDE THE MANNER OF PERFORMANCE OF DUTIES OF A SECURITIES INTERMEDIARY AND EXERCISE OF THE RIGHTS OF AN ENTITLEMENT HOLDER, TO PROVIDE THE RIGHTS OF A PURCHASER OF A SECURITY ENTITLEMENT FROM AN ENTITLEMENT HOLDER, AND TO PROVIDE FOR PRIORITY AMONG SECURITY INTERESTS AND ENTITLEMENT HOLDERS; AMENDING SECTION 28-9-103, IDAHO CODE, TO PROVIDE FOR PERFECTION OF INVESTMENT PROPERTY; AMENDING SECTION 28-9-105, IDAHO CODE, TO INCLUDE INVESTMENT PROPERTY AND COMMODITY CONTRACTS IN THE DEFINITION OF GOODS, TO DELETE INVESTMENT PROPERTY AND CERTIFICATED SECURITY FROM THE DEFINITION OF INSTRUMENT, TO ADD CROSS REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-106, IDAHO CODE, TO EXCLUDE INVESTMENT PROPERTY FROM THE DEFINITION OF GENERAL INTANGIBLES; AMENDING CHAPTER 9, PART 1, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-9-115, IDAHO CODE, TO PROVIDE FOR INVESTMENT PROPERTY; AMENDING CHAPTER 9, PART 1, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-9-116, IDAHO CODE, TO PROVIDE FOR A SECURITY INTEREST ARISING OUT OF THE PURCHASE OR DELIVERY OF A FINANCIAL ASSET; AMENDING SECTION 28-9-203, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-301, IDAHO CODE, TO PROVIDE THE RIGHTS OF A LIEN CREDITOR WITH RESPECT TO INVESTMENT PROPERTY PROPER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 28-9-302, IDAHO CODE, TO EXCLUDE CERTIFICATED SECURITIES FROM THE FILING OTHERWISE REQUIRED TO PERFECT CERTAIN SECURITY INTERESTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-304, IDAHO CODE, TO PROVIDE FOR PERFECTION OF A CERTIFICATED SECURITY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-305, IDAHO CODE, TO DELETE AN OBSOLETE REFERENCE; AMENDING SECTION 28-9-306, IDAHO CODE, TO PROVIDE THAT PAYMENTS OR DISTRIBUTIONS MADE WITH RESPECT TO INVESTMENT PROPERTY COLLATERAL ARE PROCEEDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-9-309, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 28-9-312, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 28-1-105, AND 28-1-206, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 28-4-104, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 28-5-114, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 28-10-104, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE.

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

SECTION 1. That Chapter 8, Title 28, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 28, Idaho Code, and to read as follows:

CHAPTER 8
INVESTMENT SECURITIES

PART 1
SHORT TITLE AND GENERAL MATTERS

28-8-101. SHORT TITLE. This chapter may be cited as "Uniform Commercial Code -- Investment Securities."

28-8-102. DEFINITIONS. (1) In this chapter:

(a) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer or deal with the financial asset.

(b) "Bearer form," as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

(c) "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(d) "Certificated security" means a security that is represented by a certificate.

(e) "Clearing corporation" means:

(i) A person that is registered as a "clearing agency" under the federal securities laws;

(ii) A federal reserve bank; or

(iii) Any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

(f) "Communicate" means to:

(i) Send a signed writing; or

(ii) Transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(g) "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of section 28-8-501(2)(b) or (2)(c), that person is the entitlement holder.

(h) "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(i) "Financial asset," except as otherwise provided in section 28-8-103, means:

(i) A security;

(ii) An obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on

financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this chapter.

As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate or a security entitlement.

(j) "Good faith," for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this chapter, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(k) "Indorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring or redeeming the security or granting a power to assign, transfer, or redeem it.

(l) "Instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

(m) "Registered form," as applied to a certificated security, means a form in which:

(i) The security certificate specifies a person entitled to the security; and

(ii) A transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(n) "Securities intermediary" means:

(i) A clearing corporation; or

(ii) A person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(o) "Security," except as otherwise provided in section 28-8-103, means an obligation of an issuer or a share, participation or other interest in an issuer or in property or an enterprise of an issuer:

(i) Which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) Which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests or obligations; and

(iii) Which:

(A) Is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(B) Is a medium for investment and by its terms expressly provides that it is a security governed by this chapter.

(p) "Security certificate" means a certificate representing a

security.

(q) "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in part 5 of this chapter.

(r) "Uncertificated security" means a security that is not represented by a certificate.

(2) Other definitions applying to this chapter and the sections in which they appear are:

Appropriate person	Section 28-8-107
Control	Section 28-8-106
Delivery	Section 28-8-301
Investment company security	Section 28-8-103
Issuer	Section 28-8-201
Overissue	Section 28-8-210
Protected purchaser	Section 28-8-303
Securities account	Section 28-8-501

(3) In addition, chapter 1, title 28, contains general definitions and principles of construction and interpretation applicable throughout this chapter.

(4) The characterization of a person, business or transaction for purposes of this chapter does not determine the characterization of the person, business or transaction for purposes of any other law, regulation or rule.

28-8-103. RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS. (1) A share or similar equity interest issued by a corporation, business trust, joint stock company or similar entity is a security.

(2) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this chapter, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this chapter and not by chapter 3, title 28, even though it also meets the requirements of chapter 3, title 28. However, a negotiable instrument governed by chapter 3, title 28, is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in section 28-9-115, is not a security or a financial asset.

28-8-104. ACQUISITION OF SECURITY OR FINANCIAL ASSET OR INTEREST

THEREIN. (1) A person acquires a security or an interest therein, under this chapter, if:

(a) The person is a purchaser to whom a security is delivered pursuant to section 28-8-301; or

(b) The person acquires a security entitlement to the security pursuant to section 28-8-501.

(2) A person acquires a financial asset, other than a security, or an interest therein, under this chapter, if the person acquires a security entitlement to the financial asset.

(3) A person who acquires a security entitlement to a security or other financial asset has the rights specified in part 5 of this chapter, but is a purchaser of any security, security entitlement, or other financial asset held by the securities intermediary only to the extent provided in section 28-8-503.

(4) Unless the context shows that a different meaning is intended, a person who is required by other law, regulation, rule or agreement to transfer, deliver, present, surrender, exchange or otherwise put in the possession of another person a security or financial asset satisfies that requirement by causing the other person to acquire an interest in the security or financial asset pursuant to subsection (1) or (2) of this section.

28-8-105. NOTICE OF ADVERSE CLAIM. (1) A person has notice of an adverse claim if:

(a) The person knows of the adverse claim;

(b) The person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or

(c) The person has a duty, imposed by statute or rule, to investigate whether an adverse claim exists, and the investigation so required would establish the existence of the adverse claim.

(2) Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a transaction and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.

(3) An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than:

(a) One (1) year after a date set for presentment or surrender for redemption or exchange; or

(b) Six (6) months after a date set for payment of money against presentation or surrender of the certificate, if money was available for payment on that date.

(4) A purchaser of a certificated security has notice of an adverse claim if the security certificate:

(a) Whether in bearer or registered form, has been indorsed "for

collection" or "for surrender" or for some other purpose not involving transfer; or

(b) Is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

(5) Filing of a financing statement under chapter 9, title 28, is not notice of an adverse claim to a financial asset.

28-8-106. CONTROL. (1) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(2) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(a) The certificate is indorsed to the purchaser or in blank by an effective indorsement; or

(b) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(3) A purchaser has "control" of an uncertificated security if:

(a) The uncertificated security is delivered to the purchaser; or

(b) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(4) A purchaser has "control" of a security entitlement if:

(a) The purchaser becomes the entitlement holder; or

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder.

(5) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(6) A purchaser who has satisfied the requirements of subsection (3)(b) or (4)(b) of this section has control even if the registered owner in the case of subsection (3)(b) of this section, or the entitlement holder in the case of subsection (4)(b) of this section, retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(7) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (3)(b) or (4)(b) of this section without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

28-8-107. WHETHER INDORSEMENT, INSTRUCTION OR ENTITLEMENT ORDER IS EFFECTIVE. (1) "Appropriate person" means:

(a) With respect to an indorsement, the person specified by a security certificate or by an effective special indorsement to be

entitled to the security;

(b) With respect to an instruction, the registered owner of an uncertificated security;

(c) With respect to an entitlement order, the entitlement holder;

(d) If the person designated in paragraph (a), (b) or (c) of this subsection is deceased, the designated person's successor taking under other law or the designated person's personal representative acting for the estate of the decedent; or

(e) If the person designated in paragraph (a), (b) or (c) of this subsection lacks capacity, the designated person's guardian, conservator or other similar representative who has power under other law to transfer the security or financial asset.

(2) An indorsement, instruction, or entitlement order is effective if:

(a) It is made by the appropriate person;

(b) It is made by a person who has power under the law of agency to transfer the security or financial asset on behalf of the appropriate person, including, in the case of an instruction or entitlement order, a person who has control under section 28-8-106(3)(b) or (4)(b); or

(c) The appropriate person has ratified it or is otherwise precluded from asserting its ineffectiveness.

(3) An indorsement, instruction or entitlement order made by a representative is effective even if:

(a) The representative has failed to comply with a controlling instrument or with the law of the state having jurisdiction of the representative relationship, including any law requiring the representative to obtain court approval of the transaction; or

(b) The representative's action in making the indorsement, instruction or entitlement order or using the proceeds of the transaction is otherwise a breach of duty.

(4) If a security is registered in the name of or specially indorsed to a person described as a representative, or if a securities account is maintained in the name of a person described as a representative, an indorsement, instruction or entitlement order made by the person is effective even though the person is no longer serving in the described capacity.

(5) Effectiveness of an indorsement, instruction or entitlement order is determined as of the date the indorsement, instruction or entitlement order is made, and an indorsement, instruction or entitlement order does not become ineffective by reason of any later change of circumstances.

28-8-108. WARRANTIES IN DIRECT HOLDING. (1) A person who transfers a certificated security to a purchaser for value warrants to the purchaser, and an indorser, if the transfer is by indorsement, warrants to any subsequent purchaser, that:

(a) The certificate is genuine and has not been materially altered;

(b) The transferor or indorser does not know of any fact that might impair the validity of the security;

(c) There is no adverse claim to the security;

(d) The transfer does not violate any restriction on transfer;

(e) If the transfer is by indorsement, the indorsement is made by an appropriate person, or if the indorsement is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

(f) The transfer is otherwise effective and rightful.

(2) A person who originates an instruction for registration of transfer of an uncertificated security to a purchaser for value warrants to the purchaser that:

(a) The instruction is made by an appropriate person, or if the instruction is by an agent, the agent has actual authority to act on behalf of the appropriate person;

(b) The security is valid;

(c) There is no adverse claim to the security; and

(d) At the time the instruction is presented to the issuer:

(i) The purchaser will be entitled to the registration of transfer;

(ii) The transfer will be registered by the issuer free from all liens, security interests, restrictions and claims other than those specified in the instruction;

(iii) The transfer will not violate any restriction on transfer; and

(iv) The requested transfer will otherwise be effective and rightful.

(3) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants that:

(a) The uncertificated security is valid;

(b) There is no adverse claim to the security;

(c) The transfer does not violate any restriction on transfer; and

(d) The transfer is otherwise effective and rightful.

(4) A person who indorses a security certificate warrants to the issuer that:

(a) There is no adverse claim to the security; and

(b) The indorsement is effective.

(5) A person who originates an instruction for registration of transfer of an uncertificated security warrants to the issuer that:

(a) The instruction is effective; and

(b) At the time the instruction is presented to the issuer the purchaser will be entitled to the registration of transfer.

(6) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that the person is entitled to the registration, payment or exchange, but a purchaser for value and without notice of adverse claims to whom transfer is registered warrants only that the person has no knowledge of any unauthorized signature in a necessary indorsement.

(7) If a person acts as agent of another in delivering a certificated security to a purchaser, the identity of the principal was known to the person to whom the certificate was delivered, and the certificate delivered by the agent was received by the agent from the principal or received by the agent from another person at the direction of the principal, the person delivering the security certificate warrants only that the delivering person has authority to act for the principal

and does not know of any adverse claim to the certificated security.

(8) A secured party who redelivers a security certificate received, or after payment and on order of the debtor delivers the security certificate to another person, makes only the warranties of an agent under subsection (7) of this section.

(9) Except as otherwise provided in subsection (7) of this section, a broker acting for a customer makes to the issuer and a purchaser the warranties provided in subsections (1) through (6) of this section. A broker that delivers a security certificate to its customer, or causes its customer to be registered as the owner of an uncertificated security, makes to the customer the warranties provided in subsection (1) or (2) of this section, and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of the customer.

28-8-109. WARRANTIES IN INDIRECT HOLDING. (1) A person who originates an entitlement order to a securities intermediary warrants to the securities intermediary that:

(a) The entitlement order is made by an appropriate person, or if the entitlement order is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

(b) There is no adverse claim to the security entitlement.

(2) A person who delivers a security certificate to a securities intermediary for credit to a securities account or originates an instruction with respect to an uncertificated security directing that the uncertificated security be credited to a securities account makes to the securities intermediary the warranties specified in section 28-8-108(1) or (2).

(3) If a securities intermediary delivers a security certificate to its entitlement holder or causes its entitlement holder to be registered as the owner of an uncertificated security, the securities intermediary makes to the entitlement holder the warranties specified in section 28-8-108(1) or (2).

28-8-110. APPLICABILITY AND CHOICE OF LAW. (1) The local law of the issuer's jurisdiction, as specified in subsection (4) of this section, governs:

(a) The validity of a security;

(b) The rights and duties of the issuer with respect to registration of transfer;

(c) The effectiveness of registration of transfer by the issuer;

(d) Whether the issuer owes any duties to an adverse claimant to a security; and

(e) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(2) The local law of the securities intermediary's jurisdiction, as specified in subsection (5) of this section, governs:

(a) Acquisition of a security entitlement from the securities intermediary;

(b) The rights and duties of the securities intermediary and

entitlement holder arising out of a security entitlement;

(c) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(d) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(3) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(4) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsections (1)(b) through (1)(e) of this section.

(5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(b) If an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph (a) of this subsection, but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(c) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or (b) of this subsection, the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.

(d) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or (b) of this subsection, and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (c) of this subsection, the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.

(6) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

28-8-111. CLEARING CORPORATION RULES. A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with this act and affects another

party who does not consent to the rule.

28-8-112. CREDITOR'S LEGAL PROCESS. (1) The interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy, except as otherwise provided in subsection (4) of this section. However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer.

(2) The interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States, except as otherwise provided in subsection (4) of this section.

(3) The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except as otherwise provided in subsection (4) of this section.

(4) The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party, or in an uncertificated security registered in the name of a secured party, or a security entitlement maintained in the name of a secured party, may be reached by a creditor by legal process upon the secured party.

(5) A creditor whose debtor is the owner of a certificated security, uncertificated security or security entitlement is entitled to aid from a court of competent jurisdiction, by injunction or otherwise, in reaching the certificated security, uncertificated security, or security entitlement or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by other legal process.

28-8-113. STATUTE OF FRAUDS INAPPLICABLE. A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one (1) year of its making.

28-8-114. EVIDENTIARY RULES CONCERNING CERTIFICATED SECURITIES. The following rules apply in an action on a certificated security against the issuer:

(1) Unless specifically denied in the pleadings, each signature on a security certificate or in a necessary indorsement is admitted.

(2) If the effectiveness of a signature is put in issue, the burden of establishing effectiveness is on the party claiming under the signature, but the signature is presumed to be genuine or authorized.

(3) If signatures on a security certificate are admitted or established, production of the certificate entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security.

(4) If it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect cannot be asserted.

28-8-115. SECURITIES INTERMEDIARY AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT. A securities intermediary that has transferred a financial asset pursuant to an effective entitlement order, or a broker or other agent or bailee that has dealt with a financial asset at the direction of its customer or principal, is not liable to a person having an adverse claim to the financial asset, unless the securities intermediary, or broker or other agent or bailee:

(1) Took the action after it had been served with an injunction, restraining order, or other legal process enjoining it from doing so, issued by a court of competent jurisdiction, and had a reasonable opportunity to act on the injunction, restraining order or other legal process; or

(2) Acted in collusion with the wrongdoer in violating the rights of the adverse claimant; or

(3) In the case of a security certificate that has been stolen, acted with notice of the adverse claim.

28-8-116. SECURITIES INTERMEDIARY AS PURCHASER FOR VALUE. A securities intermediary that receives a financial asset and establishes a security entitlement to the financial asset in favor of an entitlement holder is a purchaser for value of the financial asset. A securities intermediary that acquires a security entitlement to a financial asset from another securities intermediary acquires the security entitlement for value if the securities intermediary acquiring the security entitlement establishes a security entitlement to the financial asset in favor of an entitlement holder.

28-8-117. SAVINGS CLAUSE. (1) This act does not affect an action or proceeding commenced before this act takes effect.

(2) If a security interest in a security is perfected at the date this act takes effect, and the action by which the security interest was perfected would suffice to perfect a security interest under this act, no further action is required to continue perfection. If a security interest in a security is perfected at the date this act takes effect but the action by which the security interest was perfected would not suffice to perfect a security interest under this act, the security interest remains perfected for a period of four (4) months after the effective date and continues perfected thereafter if appropriate action to perfect under this act is taken within that period. If a security interest is perfected at the date this act takes effect and the security interest can be perfected by filing under this act, a financing statement signed by the secured party instead of the debtor may be filed within that period to continue perfection or thereafter to perfect.

PART 2
ISSUE AND ISSUER

28-8-201. ISSUER. (1) With respect to an obligation on or a defense to a security, an "issuer" includes a person that:

(a) Places or authorizes the placing of its name on a security certificate, other than as authenticating trustee, registrar, transfer agent, or the like, to evidence a share, participation or

other interest in its property or in an enterprise, or to evidence its duty to perform an obligation represented by the certificate;

(b) Creates a share, participation or other interest in its property or in an enterprise, or undertakes an obligation, that is an uncertificated security;

(c) Directly or indirectly creates a fractional interest in its rights or property, if the fractional interest is represented by a security certificate; or

(d) Becomes responsible for, or in place of, another person described as an issuer in this section.

(2) With respect to an obligation on or defense to a security, a guarantor is an issuer to the extent of its guaranty, whether or not its obligation is noted on a security certificate.

(3) With respect to a registration of a transfer, issuer means a person on whose behalf transfer books are maintained.

28-8-202. ISSUER'S RESPONSIBILITY AND DEFENSES AND NOTICE OF DEFECT OR DEFENSE. (1) Even against a purchaser for value and without notice, the terms of a certificated security include terms stated on the certificate and terms made part of the security by reference on the certificate to another instrument, indenture or document or to a constitution, statute, ordinance, rule, regulation, order, or the like, to the extent the terms referred to do not conflict with terms stated on the certificate. A reference under this subsection does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even if the certificate expressly states that a person accepting it admits notice. The terms of an uncertificated security include those stated in any instrument, indenture, or document or in a constitution, statute, ordinance, rule, regulation, order, or the like, pursuant to which the security is issued.

(2) The following rules apply if an issuer asserts that a security is not valid:

(a) A security other than one issued by a government or governmental subdivision, agency, or instrumentality, even though issued with a defect going to its validity, is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of a constitutional provision. In that case, the security is valid in the hands of a purchaser for value and without notice of the defect, other than one who takes by original issue.

(b) Paragraph (a) of this subsection applies to an issuer that is a government or governmental subdivision, agency or instrumentality only if there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as otherwise provided in section 28-8-205, lack of genuineness of a certificated security is a complete defense, even against a purchaser for value and without notice.

(4) All other defenses of the issuer of a security, including nondelivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken the certifi-

cated security without notice of the particular defense.

(5) This section does not affect the right of a party to cancel a contract for a security "when, as and if issued" or "when distributed" in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement pursuant to which the security is to be issued or distributed.

(6) If a security is held by a securities intermediary against whom an entitlement holder has a security entitlement with respect to the security, the issuer may not assert any defense that the issuer could not assert if the entitlement holder held the security directly.

28-8-203. STALENESS AS NOTICE OF DEFECT OR DEFENSE. After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer, if the act or event:

(1) Requires the payment of money, the delivery of a certificated security, the registration of transfer of an uncertificated security, or any of them on presentation or surrender of the security certificate, the money or security is available on the date set for payment or exchange, and the purchaser takes the security more than one (1) year after that date; or

(2) Is not covered by subsection (1) of this section and the purchaser takes the security more than two (2) years after the date set for surrender or presentation or the date on which performance became due.

28-8-204. EFFECT OF ISSUER'S RESTRICTION ON TRANSFER. A restriction on transfer of a security imposed by the issuer, even if otherwise lawful, is ineffective against a person without knowledge of the restriction unless:

(1) Security is certificated and the restriction is noted conspicuously on the security certificate; or

(2) The security is uncertificated and the registered owner has been notified of the restriction.

28-8-205. EFFECT OF UNAUTHORIZED SIGNATURE ON SECURITY CERTIFICATE. An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by:

(1) An authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security certificate or of similar security certificates, or the immediate preparation for signing of any of them; or

(2) An employee of the issuer, or of any of the persons listed in subsection (1) of this section, entrusted with responsible handling of the security certificate.

28-8-206. COMPLETION OR ALTERATION OF SECURITY CERTIFICATE. (1)

If a security certificate contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

(a) Any person may complete it by filling in the blanks as authorized; and

(b) Even if the blanks are incorrectly filled in, the security certificate as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

(2) A complete security certificate that has been improperly altered, even if fraudulently, remains enforceable, but only according to its original terms.

28-8-207. RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO REGISTERED OWNERS. (1) Before due presentment for registration of transfer of a certificated security in registered form or of an instruction requesting registration of transfer of an uncertificated security, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, receive notifications, and otherwise exercise all the rights and powers of an owner.

(2) This chapter does not affect the liability of the registered owner of a security for a call, assessment or the like.

28-8-208. EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE, REGISTRAR OR TRANSFER AGENT. (1) A person signing a security certificate as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security, if the purchaser is without notice of a particular defect, that:

(a) The certificate is genuine;

(b) The person's own participation in the issue of the security is within the person's capacity and within the scope of the authority received by the person from the issuer; and

(c) The person has reasonable grounds to believe that the certificated security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person signing under subsection (1) of this section does not assume responsibility for the validity of the security in other respects.

28-8-209. ISSUER'S LIEN. A lien in favor of an issuer upon a certificated security is valid against a purchaser only if the right of the issuer to the lien is noted conspicuously on the security certificate.

28-8-210. OVERISSUE. (1) In this section, "overissue" means the issue of securities in excess of the amount the issuer has corporate power to issue, but an overissue does not occur if appropriate action has cured the overissue.

(2) Except as otherwise provided in subsections (3) and (4) of this section, the provisions of this chapter which validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue.

(3) If an identical security not constituting an overissue is reasonably available for purchase, a person entitled to issue or validation may compel the issuer to purchase the security and deliver it

if certificated or register its transfer if uncertificated, against surrender of any security certificate the person holds.

(4) If a security is not reasonably available for purchase, a person entitled to issue or validation may recover from the issuer the price the person or the last purchaser for value paid for it with interest from the date of the person's demand.

PART 3
TRANSFER OF CERTIFICATED
AND UNCERTIFICATED SECURITIES

28-8-301. DELIVERY. (1) Delivery of a certificated security to a purchaser occurs when:

(a) The purchaser acquires possession of the security certificate;

(b) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(c) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and has been specially indorsed to the purchaser by an effective indorsement.

(2) Delivery of an uncertificated security to a purchaser occurs when:

(a) The issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

(b) Another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

28-8-302. RIGHTS OF PURCHASER. (1) Except as otherwise provided in subsections (2) and (3) of this section, upon delivery of a certificated or uncertificated security to a purchaser, the purchaser acquires all rights in the security that the transferor had or had power to transfer.

(2) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

28-8-303. PROTECTED PURCHASER. (1) "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

(a) Gives value;

(b) Does not have notice of any adverse claim to the security; and

(c) Obtains control of the certificated or uncertificated security.

(2) In addition to acquiring the rights of a purchaser, a protected purchaser also acquires its interest in the security free of

any adverse claim.

28-8-304. INDORSEMENT. (1) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies to whom a security is to be transferred or who has power to transfer it. A holder may convert a blank indorsement to a special indorsement.

(2) An indorsement purporting to be only of part of a security certificate representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(3) An indorsement, whether special or in blank, does not constitute a transfer until delivery of the certificate on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificate.

(4) If a security certificate in registered form has been delivered to a purchaser without a necessary indorsement, the purchaser may become a protected purchaser only when the indorsement is supplied. However, against a transferor, a transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

(5) An indorsement of a security certificate in bearer form may give notice of an adverse claim to the certificate, but it does not otherwise affect a right to registration that the holder possesses.

(6) Unless otherwise agreed, a person making an indorsement assumes only the obligations provided in section 28-8-108 and not an obligation that the security will be honored by the issuer.

28-8-305. INSTRUCTION. (1) If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed, even though it has been completed incorrectly.

(2) Unless otherwise agreed, a person initiating an instruction assumes only the obligations imposed in section 28-8-108 and not an obligation that the security will be honored by the issuer.

28-8-306. EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT OR INSTRUCTION. (1) A person who guarantees a signature of an indorser of a security certificate warrants that at the time of signing:

(a) The signature was genuine;

(b) The signer was an appropriate person to indorse, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and

(c) The signer had legal capacity to sign.

(2) A person who guarantees a signature of the originator of an instruction warrants that at the time of signing:

(a) The signature was genuine;

(b) The signer was an appropriate person to originate the instruction, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person, if the person specified in the instruction as the registered owner was, in fact, the registered owner, as to which fact the signature guarantor does not make a warranty; and

(c) The signer had legal capacity to sign.

(3) A person who specially guarantees the signature of an originator of an instruction makes the warranties of a signature guarantor under subsection (2) of this section and also warrants that at the time the instruction is presented to the issuer:

(a) The person specified in the instruction as the registered owner of the uncertificated security will be the registered owner; and

(b) The transfer of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions and claims other than those specified in the instruction.

(4) A guarantor under subsections (1) and (2) of this section, or a special guarantor under subsection (3) of this section, does not otherwise warrant the rightfulness of the transfer.

(5) A person who guarantees an indorsement of a security certificate makes the warranties of a signature guarantor under subsection (1) of this section and also warrants the rightfulness of the transfer in all respects.

(6) A person who guarantees an instruction requesting the transfer of an uncertificated security makes the warranties of a special signature guarantor under subsection (3) of this section and also warrants the rightfulness of the transfer in all respects.

(7) An issuer may not require a special guaranty of signature, a guaranty of indorsement, or a guaranty of instruction as a condition to registration of transfer.

(8) The warranties under this section are made to a person taking or dealing with the security in reliance on the guaranty, and the guarantor is liable to the person for loss resulting from their breach. An indorser or originator of an instruction whose signature, indorsement, or instruction has been guaranteed is liable to a guarantor for any loss suffered by the guarantor as a result of breach of the warranties of the guarantor.

28-8-307. PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER. Unless otherwise agreed, the transferor of a security on due demand shall supply the purchaser with proof of authority to transfer or with any other requisite necessary to obtain registration of the transfer of the security, but if the transfer is not for value, a transferor need not comply unless the purchaser pays the necessary expenses. If the transferor fails within a reasonable time to comply with the demand, the purchaser may reject or rescind the transfer.

PART 4
REGISTRATION

28-8-401. DUTY OF ISSUER TO REGISTER TRANSFER. (1) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security, the issuer shall register the transfer as requested if:

(a) Under the terms of the security the person seeking registration of transfer is eligible to have the security registered in its name;

(b) The indorsement or instruction is made by the appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

(c) Reasonable assurance is given that the indorsement or instruction is genuine and authorized (section 28-8-402);

(d) Any applicable law relating to the collection of taxes has been complied with;

(e) The transfer does not violate any restriction on transfer imposed by the issuer in accordance with section 28-8-204;

(f) A demand that the issuer not register transfer has not become effective under section 28-8-403, or the issuer has complied with section 28-8-403(2), but no legal process or indemnity bond is obtained as provided in section 28-8-403(4); and

(g) The transfer is in fact rightful or is to a protected purchaser.

(2) If an issuer is under a duty to register a transfer of a security, the issuer is liable to a person presenting a certificated security or an instruction for registration or to the person's principal for loss resulting from unreasonable delay in registration or failure or refusal to register the transfer.

28-8-402. ASSURANCE THAT INDORSEMENT OR INSTRUCTION IS EFFECTIVE. (1) An issuer may require the following assurance that each necessary indorsement or each instruction is genuine and authorized:

(a) In all cases, a guaranty of the signature of the person making an indorsement or originating an instruction including, in the case of an instruction, reasonable assurance of identity;

(b) If the indorsement is made or the instruction is originated by an agent, appropriate assurance of actual authority to sign;

(c) If the indorsement is made or the instruction is originated by a fiduciary pursuant to section 28-8-107(1)(d) or (1)(e), appropriate evidence of appointment or incumbency;

(d) If there is more than one (1) fiduciary, reasonable assurance that all who are required to sign have done so; and

(e) If the indorsement is made or the instruction is originated by a person not covered by another provision of this subsection, assurance appropriate to the case corresponding as nearly as may be to the provisions of this subsection.

(2) An issuer may elect to require reasonable assurance beyond that specified in this section.

(3) In this section:

(a) "Guaranty of the signature" means a guaranty signed by or on behalf of a person reasonably believed by the issuer to be responsible. An issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable.

(b) "Appropropriate evidence of appointment or incumbency" means:

(i) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of the court or an officer thereof and dated within sixty (60) days before the date of presentation for transfer; or

(ii) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a per-

son reasonably believed by an issuer to be responsible or, in the absence of that document or certificate, other evidence the issuer reasonably considered appropriate.

28-8-403. DEMAND THAT ISSUER NOT REGISTER TRANSFER. (1) A person who is an appropriate person to make an indorsement or originate an instruction may demand that the issuer not register transfer of a security by communicating to the issuer a notification that identifies the registered owner and the issue of which the security is a part and provides an address for communications directed to the person making the demand. The demand is effective only if it is received by the issuer at a time and in a manner affording the issuer reasonable opportunity to act on it.

(2) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security after a demand that the issuer not register transfer has become effective, the issuer shall promptly communicate to (i) the person who initiated the demand at the address provided in the demand and (ii) the person who presented the security for registration of transfer or initiated the instruction requesting registration of transfer a notification stating that:

(a) The certificated security has been presented for registration of transfer or instruction for registration of transfer of uncertificated security has been received;

(b) A demand that the issuer not register transfer had previously been received; and

(c) The issuer will withhold registration of transfer for a period of time stated in the notification in order to provide the person who initiated the demand an opportunity to obtain legal process or an indemnity bond.

(3) The period described in subsection (2)(c) of this section may not exceed thirty (30) days after the date of communication of the notification. A shorter period may be specified by the issuer if it is not manifestly unreasonable.

(4) An issuer is not liable to a person who initiated a demand that the issuer not register transfer for any loss the person suffers as a result of registration of a transfer pursuant to an effective indorsement or instruction if the person who initiated the demand does not, within the time stated in the issuer's communication, either:

(a) Obtain an appropriate restraining order, injunction or other process from a court of competent jurisdiction enjoining the issuer from registering the transfer; or

(b) File with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar or other agent of the issuer involved from any loss it or they may suffer by refusing to register the transfer.

(5) This section does not relieve an issuer from liability for registering transfer pursuant to an indorsement or instruction that was not effective.

28-8-404. WRONGFUL REGISTRATION. (1) Except as otherwise provided in section 28-8-406, an issuer is liable for wrongful registration of

transfer if the issuer has registered a transfer of a security to a person not entitled to it, and the transfer was registered:

(a) Pursuant to an ineffective indorsement or instruction;

(b) After a demand that the issuer not register transfer became effective under section 28-8-403(1), and the issuer did not comply with section 28-8-403(2);

(c) After the issuer had been served with an injunction, restraining order, or other legal process enjoining it from registering the transfer, issued by a court of competent jurisdiction, and the issuer had a reasonable opportunity to act on the injunction, restraining order or other legal process; or

(d) By an issuer acting in collusion with the wrongdoer.

(2) An issuer that is liable for wrongful registration of transfer under subsection (1) of this section on demand shall provide the person entitled to the security with a like certificated or uncertificated security, and any payments or distributions that the person did not receive as a result of the wrongful registration. If an overissue would result, the issuer's liability to provide the person with a like security is governed by section 28-8-210.

(3) Except as otherwise provided in subsection (1) of this section or in a law relating to the collection of taxes, an issuer is not liable to an owner or other person suffering loss as a result of the registration of a transfer of a security if registration was made pursuant to an effective indorsement or instruction.

28-8-405. REPLACEMENT OF LOST, DESTROYED, OR WRONGFULLY TAKEN SECURITY CERTIFICATE. (1) If an owner of a certificated security, whether in registered or bearer form, claims that the certificate has been lost, destroyed or wrongfully taken, the issuer shall issue a new certificate if the owner:

(a) So requests before the issuer has notice that the certificate has been acquired by a protected purchaser;

(b) Files with the issuer a sufficient indemnity bond; and

(c) Satisfies other reasonable requirements imposed by the issuer.

(2) If, after the issue of a new security certificate, a protected purchaser of the original certificate presents it for registration of transfer, the issuer shall register the transfer unless an overissue would result. In that case, the issuer's liability is governed by section 28-8-210. In addition to any rights on the indemnity bond, an issuer may recover the new certificate from a person to whom it was issued or any person taking under that person, except a protected purchaser.

28-8-406. OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED OR WRONGFULLY TAKEN SECURITY CERTIFICATE. If a security certificate has been lost, apparently destroyed or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after the owner has notice of it and the issuer registers a transfer of the security before receiving notification, the owner may not assert against the issuer a claim for registering the transfer under section 28-8-404 or a claim to a new security certificate under section 28-8-405.

28-8-407. AUTHENTICATING TRUSTEE, TRANSFER AGENT, AND REGISTRAR. A person acting as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of a transfer of its securities, in the issue of new security certificates or uncertificated securities, or in the cancellation of surrendered security certificates has the same obligation to the holder or owner of a certificated or uncertificated security with regard to the particular functions performed as the issuer has in regard to those functions.

PART 5
SECURITY ENTITLEMENTS

28-8-501. SECURITIES ACCOUNT AND ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES INTERMEDIARY. (1) "Securities account" means an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

(2) Except as otherwise provided in subsections (4) and (5) of this section, a person acquires a security entitlement if a securities intermediary:

(a) Indicates by book entry that a financial asset has been credited to the person's securities account;

(b) Receives a financial asset from the person or acquires a financial asset for the person and, in either case, accepts it for credit to the person's securities account; or

(c) Becomes obligated under other law, regulation or rule to credit a financial asset to the person's securities account.

(3) If a condition of subsection (2) of this section has been met, a person has a security entitlement even though the securities intermediary does not itself hold the financial asset.

(4) If a securities intermediary holds a financial asset for another person, and the financial asset is registered in the name of, payable to the order of, or specially indorsed to the other person, and has not been indorsed to the securities intermediary or in blank, the other person is treated as holding the financial asset directly rather than as having a security entitlement with respect to the financial asset.

(5) Issuance of a security is not establishment of a security entitlement.

28-8-502. ASSERTION OF ADVERSE CLAIM AGAINST ENTITLEMENT HOLDER. An action based on an adverse claim to a financial asset, whether framed in conversion, replevin, constructive trust, equitable lien or other theory, may not be asserted against a person who acquires a security entitlement under section 28-8-501, for value and without notice of the adverse claim.

28-8-503. PROPERTY INTEREST OF ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES INTERMEDIARY. (1) To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securi-

ties intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in section 28-8-511.

(2) An entitlement holder's property interest with respect to a particular financial asset under subsection (1) of this section is a pro rata property interest in all interests in that financial asset held by the securities intermediary, without regard to the time the entitlement holder acquired the security entitlement or the time the securities intermediary acquired the interest in that financial asset.

(3) An entitlement holder's property interest with respect to a particular financial asset under subsection (1) of this section may be enforced against the securities intermediary only by exercise of the entitlement holder's rights under sections 28-8-505 through 28-8-508.

(4) An entitlement holder's property interest with respect to a particular financial asset under subsection (1) of this section may be enforced against a purchaser of the financial asset or interest therein only if:

(a) Insolvency proceedings have been initiated by or against the securities intermediary;

(b) The securities intermediary does not have sufficient interests in the financial asset to satisfy the security entitlements of all of its entitlement holders to that financial asset;

(c) The securities intermediary violated its obligations under section 28-8-504 by transferring the financial asset or interest therein to the purchaser; and

(d) The purchaser is not protected under subsection (5) of this section.

The trustee or other liquidator, acting on behalf of all entitlement holders having security entitlements with respect to a particular financial asset, may recover the financial asset, or interest therein, from the purchaser. If the trustee or other liquidator elects not to pursue that right, an entitlement holder whose security entitlement remains unsatisfied has the right to recover its interest in the financial asset from the purchaser.

(5) An action based on the entitlement holder's property interest with respect to a particular financial asset under subsection (1) of this section, whether framed in conversion, replevin, constructive trust, equitable lien or other theory, may not be asserted against any purchaser of a financial asset or interest therein who gives value, obtains control, and does not act in collusion with the securities intermediary in violating the securities intermediary's obligations under section 28-8-504.

28-8-504. DUTY OF SECURITIES INTERMEDIARY TO MAINTAIN FINANCIAL ASSET. (1) A securities intermediary shall promptly obtain and thereafter maintain a financial asset in a quantity corresponding to the aggregate of all security entitlements it has established in favor of its entitlement holders with respect to that financial asset. The securities intermediary may maintain those financial assets directly or through one (1) or more other securities intermediaries.

(2) Except to the extent otherwise agreed by its entitlement holder, a securities intermediary may not grant any security interests

in a financial asset it is obligated to maintain pursuant to subsection (1) of this section.

(3) A securities intermediary satisfies the duty in subsection (1) of this section if:

(a) The securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(b) In the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to obtain and maintain the financial asset.

(4) This section does not apply to a clearing corporation that is itself the obligor of an option or similar obligation to which its entitlement holders have security entitlements.

28-8-505. DUTY OF SECURITIES INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS. (1) A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset. A securities intermediary satisfies the duty if:

(a) The securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(b) In the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to attempt to obtain the payment or distribution.

(2) A securities intermediary is obligated to its entitlement holder for a payment or distribution made by the issuer of a financial asset if the payment or distribution is received by the securities intermediary.

28-8-506. DUTY OF SECURITIES INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT HOLDER. A securities intermediary shall exercise rights with respect to a financial asset if directed to do so by an entitlement holder. A securities intermediary satisfies the duty if:

(1) The securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) In the absence of agreement, the securities intermediary either places the entitlement holder in a position to exercise the rights directly or exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

28-8-507. DUTY OF SECURITIES INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER. (1) A securities intermediary shall comply with an entitlement order if the entitlement order is originated by the appropriate person, the securities intermediary has had reasonable opportunity to assure itself that the entitlement order is genuine and authorized, and the securities intermediary has had reasonable opportunity to comply with the entitlement order. A securities intermediary satisfies the duty if:

(a) The securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities interme-

diary; or

(b) In the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to comply with the entitlement order.

(2) If a securities intermediary transfers a financial asset pursuant to an ineffective entitlement order, the securities intermediary shall reestablish a security entitlement in favor of the person entitled to it, and pay or credit any payments or distributions that the person did not receive as a result of the wrongful transfer. If the securities intermediary does not reestablish a security entitlement, the securities intermediary is liable to the entitlement holder for damages.

28-8-508. DUTY OF SECURITIES INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER FORM OF SECURITY HOLDING. A securities intermediary shall act at the direction of an entitlement holder to change a security entitlement into another available form of holding for which the entitlement holder is eligible, or to cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary. A securities intermediary satisfies the duty if:

(1) The securities intermediary acts as agreed upon by the entitlement holder and the securities intermediary; or

(2) In the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

28-8-509. SPECIFICATION OF DUTIES OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION -- MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER. (1) If the substance of a duty imposed upon a securities intermediary by sections 28-8-504 through 28-8-508 is the subject of other statute, regulation or rule, compliance with that statute, regulation or rule satisfies the duty.

(2) To the extent that specific standards for the performance of the duties of a securities intermediary or the exercise of the rights of an entitlement holder are not specified by other statute, regulation, or rule or by agreement between the securities intermediary and entitlement holder, the securities intermediary shall perform its duties and the entitlement holder shall exercise its rights in a commercially reasonable manner.

(3) The obligation of a securities intermediary to perform the duties imposed by sections 28-8-504 through 28-8-508 is subject to:

(a) Rights of the securities intermediary arising out of a security interest under a security agreement with the entitlement holder or otherwise; and

(b) Rights of the securities intermediary under other law, regulation, rule, or agreement to withhold performance of its duties as a result of unfulfilled obligations of the entitlement holder to the securities intermediary.

(4) Sections 28-8-504 through 28-8-508 do not require a securities intermediary to take any action that is prohibited by other statute, regulation, or rule.

28-8-510. RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER. (1) An action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(2) If an adverse claim could not have been asserted against an entitlement holder under section 28-8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(3) In a case not covered by the priority rules in chapter 9, title 28, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Purchasers who have control rank equally, except that a securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

28-8-511. PRIORITY AMONG SECURITY INTERESTS AND ENTITLEMENT HOLDERS. (1) Except as otherwise provided in subsections (2) and (3) of this section, if a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

(2) A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.

(3) If a clearing corporation does not have sufficient financial assets to satisfy both its obligations to entitlement holders who have security entitlements with respect to a financial asset and its obligation to a creditor of the clearing corporation who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders.

SECTION 3. That Section 28-9-103, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-103. PERFECTION OF SECURITY INTERESTS IN MULTIPLE STATE TRANSACTIONS. (1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction

where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until thirty (30) days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty (30) day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by part 3 of this chapter to perfect the security interest,

(i) if the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four (4) months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) if the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii) for the purpose of priority over a buyer of consumer goods (subsection (2) of section 28-9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title. (a) This subsection applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four (4) months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subsection (1).

(d) If goods are brought into this state while a security inter-

est therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods. (a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles other than uncertified securities and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four (4) months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after

the change.

(4) Chattel paper. The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals. Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) ~~Uncertificated-securities.-The-law,-including-the-conflict-of-laws-rules,-of-the-jurisdiction-of-organization-of-the-issuer--governs-the--perfection--and--the--effect-of-perfection-or-non-perfection-of-a-security-interest-in-uncertificated-securities~~ Investment property.

(a) This subsection applies to investment property.

(b) Except as otherwise provided in paragraph (f), during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby are governed by the local law of that jurisdiction.

(c) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in section 28-8-110(4).

(d) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in section 28-8-110(5).

(e) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(i) If an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(ii) If an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subparagraph (i), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(iii) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account.

(iv) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii) and an account statement does not identify an office serving the commodity customer's account as provided in subparagraph (iii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

(f) Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located.

SECTION 4. That Section 28-9-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-105. DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this chapter unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the chapter dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of chapter 1 (section 28-1-201), and a receipt of the kind described in subsection (2) of section 28-7-201;

(g) "Encumbrance" includes real estate mortgages and other liens

on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (section 28-9-313), but does not include money, documents, instruments, investment property, commodity contracts, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

(i) "Instrument" means a negotiable instrument (defined in section 28-3-104), ~~or--a--certificated-security-(defined-in-section 28-8-102)~~ or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment. The term does not include investment property;

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "Security agreement" means an agreement which creates or provides for a security interest;

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service;

(o) "Photographic record" means images of documents stored in digital form on a medium which will not permit alteration of the image, as well as images of documents produced by a photochemical process on film.

(2) Other definitions applying to this chapter and the sections in which they appear are:

"Account."	Section 28-9-106.
"Attach."	Section 28-9-203.
"Commodity contract."	Section 28-9-115.
"Commodity customer."	Section 28-9-115.
"Commodity intermediary."	Section 28-9-115.
"Construction mortgage."	Section 28-9-313(1).
"Consumer goods."	Section 28-9-109(1).
"Control."	Section 28-9-115.
"Equipment."	Section 28-9-109(2).
"Farm products."	Section 28-9-109(3).

"Fixture."	Section 28-9-313(1).
"Fixture filing."	Section 28-9-313(1).
"General intangibles."	Section 28-9-106.
"Inventory."	Section 28-9-109(4).
"Investment property."	Section 28-9-115.
"Lien creditor."	Section 28-9-301(3).
"Proceeds."	Section 28-9-306(1).
"Purchase money security interest."	Section 28-9-107.
"United States."	Section 28-9-103.

(3) The following definitions in other chapters apply to this chapter:

"Broker."	Section 28-8-102.
"Certificated security."	Section 28-8-102.
"Check."	Section 28-3-104.
"Clearing corporation."	Section 28-8-102.
"Contract for sale."	Section 28-2-106.
"Control."	Section 28-8-106.
"Delivery."	Section 28-8-301.
"Entitlement holder."	Section 28-8-102.
"Financial asset."	Section 28-8-102.
"Holder in due course."	Section 28-3-302.
"Note."	Section 28-3-104.
"Sale."	Section 28-2-106.
"Securities intermediary."	Section 28-8-102.
"Security."	Section 28-8-102.
"Security certificate."	Section 28-8-102.
"Security entitlement."	Section 28-8-102.
"Uncertificated security."	Section 28-8-102.

(4) In addition, chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 5. That Section 28-9-106, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-106. DEFINITIONS -- "ACCOUNT" -- "GENERAL INTANGIBLES". "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, ~~and~~ instruments, investment property and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

SECTION 6. That Chapter 9, Part 1, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-9-115, Idaho Code, to read as follows:

28-9-115. INVESTMENT PROPERTY. (1) In this chapter:

(a) "Commodity account" means an account maintained by a commod-

ity intermediary in which a commodity contract is carried for a commodity customer.

(b) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or other contract that, in each case, is:

(i) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or

(ii) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(c) "Commodity customer" means a person for whom a commodity intermediary carries a commodity contract on its books.

(d) "Commodity intermediary" means:

(i) A person who is registered as a futures commission merchant under the federal commodities laws; or

(ii) A person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws.

(e) "Control," with respect to a certificated security, uncertificated security, or security entitlement has the meaning specified in section 28-8-106. A secured party has control over a commodity contract if by agreement among the commodity customer, the commodity intermediary, and the secured party, the commodity intermediary has agreed that it will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer. If a commodity customer grants a security interest in a commodity contract to its own commodity intermediary, the commodity intermediary as secured party has control. A secured party has control over a securities account or commodity account if the secured party has control over all security entitlements or commodity contracts carried in the securities account or commodity account.

(f) "Investment property" means:

(i) A security, whether certificated or uncertificated;

(ii) A security entitlement;

(iii) A securities account;

(iv) A commodity contract; or

(v) A commodity account.

(2) Attachment or perfection of a security interest in a securities account is also attachment or perfection of a security interest in all security entitlements carried in the securities account. Attachment or perfection of a security interest in a commodity account is also attachment or perfection of a security interest in all commodity contracts carried in the commodity account.

(3) A description of collateral in a security agreement or financing statement is sufficient to create or perfect a security interest in a certificated security, uncertificated security, security entitlement, securities account, commodity contract or commodity account whether it describes the collateral by those terms, or as investment property, or by description of the underlying security, financial asset or commodity contract. A description of investment

property collateral in a security agreement or financing statement is sufficient if it identifies the collateral by specific listing, by category, by quantity, by a computational or allocational formula or procedure, or by any other method, if the identity of the collateral is objectively determinable.

(4) Perfection of a security interest in investment property is governed by the following rules:

(a) A security interest in investment property may be perfected by control.

(b) Except as otherwise provided in paragraphs (c) and (d) of this subsection, a security interest in investment property may be perfected by filing.

(c) If the debtor is a broker or securities intermediary, a security interest in investment property is perfected when it attaches. The filing of a financing statement with respect to a security interest in investment property granted by a broker or securities intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(d) If a debtor is a commodity intermediary, a security interest in a commodity contract or a commodity account is perfected when it attaches. The filing of a financing statement with respect to a security interest in a commodity contract or a commodity account granted by a commodity intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(5) Priority between conflicting security interests in the same investment property is governed by the following rules:

(a) A security interest of a secured party who has control over investment property has priority over a security interest of a secured party who does not have control over the investment property.

(b) Except as otherwise provided in paragraphs (c) and (d) of this subsection, conflicting security interests of secured parties each of whom has control rank equally.

(c) Except as otherwise agreed by the securities intermediary, a security interest in a security entitlement or a securities account granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party.

(d) Except as otherwise agreed by the commodity intermediary, a security interest in a commodity contract or a commodity account granted to the debtor's own commodity intermediary has priority over any security interest granted by the debtor to another secured party.

(e) Conflicting security interests granted by a broker, a securities intermediary, or a commodity intermediary which are perfected without control rank equally.

(f) In all other cases, priority between conflicting security interests in investment property is governed by section 28-9-312(5), (6) and (7). Section 28-9-312(4) does not apply to investment property.

(6) If a security certificate in registered form is delivered to a secured party pursuant to agreement, a written security agreement is not required for attachment or enforceability of the security inter-

est, delivery suffices for perfection of the security interest, and the security interest has priority over a conflicting security interest perfected by means other than control, even if a necessary indorsement is lacking.

SECTION 7. That Chapter 9, Part 1, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-9-116, Idaho Code, to read as follows:

28-9-116. SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET. (1) If a person buys a financial asset through a securities intermediary in a transaction in which the buyer is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary, the securities intermediary has a security interest in the buyer's security entitlement securing the buyer's obligation to pay. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

(2) If a certificated security, or other financial asset represented by a writing which in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment is delivered pursuant to an agreement between persons in the business of dealing with such securities or financial assets and the agreement calls for delivery versus payment, the person delivering the certificate or other financial asset has a security interest in the certificated security or other financial asset securing the seller's right to receive payment. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

SECTION 8. That Section 28-9-203, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST -- PROCEEDS -- FORMAL REQUISITES. (1) Subject to the provisions of section 28-4-210 on the security interest of a collecting bank, sections ~~28-8-321~~ 28-9-115 and 28-9-116 on security interests in ~~securities~~ investment property, and section 28-9-113 on a security interest arising under the chapter on sales, a security interest is not enforceable against the debtor or third parties ~~(~~with respect to the collateral and does not attach~~)~~ unless:

(a) the collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) of this section have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by section 28-9-306.

(4) A transaction, although subject to this chapter, is also subject to the Uniform Consumer Credit Code and the credit unions statute, chapter 21, title 26, Idaho Code, and usury provisions, ~~(~~sections 28-22-105, 28-22-106 and 28-22-107~~)~~, and in the case of conflict between the provisions of this chapter and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

SECTION 9. That Section 28-9-301, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-301. PERSONS WHO TAKE PRIORITY OVER UNPERFECTED SECURITY INTERESTS -- RIGHT OF "LIEN CREDITOR." (1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of:

(a) persons entitled to priority under section 28-9-312;

(b) a person who becomes a lien creditor before the security interest is perfected;

(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business, or is a buyer of farm products in ordinary course of business, to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) in the case of accounts, ~~and~~ general intangibles, and investment property, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within twenty-one (21) days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within forty-five (45) days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

SECTION 10. That Section 28-9-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-302. WHEN FILING IS REQUIRED TO PERFECT SECURITY INTEREST -- SECURITY INTERESTS TO WHICH FILING PROVISIONS OF THIS CHAPTER DO NOT APPLY. (1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under section 28-9-305;

(b) a security interest temporarily perfected in instruments, certificated securities, or documents without delivery under section 28-9-304 or in proceeds for a ten (10) day period under section 28-9-306;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in section 28-9-313;

(e) an assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) a security interest of a collecting bank (section 28-4-208) ~~or--in--securities-(section-28-8-321)~~ or arising under the chapter on ~~S~~sales (see section 28-9-113) or covered in subsection (3) of this section~~.~~;

(g) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder~~.~~;

(h) a security interest in investment property which is perfected without filing under section 28-9-115 or section 28-9-116;

(i) ~~A~~a security interest in timber retained by the state of Idaho.

(2) If a secured party assigns a perfected security interest, no filing under this chapter is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this chapter is not necessary or effective to perfect a security interest in property subject to:

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this chapter for filing of the security interest; or

(b) chapter 5, title 49, Idaho Code, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of part 4, chapter 9, title 28, apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of section 28-9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this chapter, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in section 28-9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this chapter.

(5) The filing provisions of this chapter do not apply to a security interest in personal property or fixtures of any utility company, as hereinafter defined, which security interest is created by a mortgage, deed of trust or other security agreement which also covers real property situated in the state of Idaho and which has been filed for record in accordance with the laws of Idaho governing deeds of trust and mortgages on real property. Such security interest shall be perfected by such filing, whether such filing shall have been accomplished before or after the effective date set out in section 28-10-101; and such security interest shall be and remain effective, both as to the personal property or fixtures covered by the security interest at the time that it is perfected and as to personal property or fixtures which may subsequently be covered by the security interest under any after-acquired property provision of the mortgage, deed of trust, or other security agreement creating the security interest, as long as such mortgage, deed of trust or other security agreement shall remain in effect, without the necessity for any refiling under the provisions of this chapter 9.

Except as provided in the preceding paragraph of this subsection (5) notwithstanding anything in this chapter 9 or any other law to the contrary, the proper place to file a financing statement in order to perfect a security interest in personal property or fixtures of a utility company, as hereinafter defined, is in the office of the secretary of state; and the security interest covered by the financing statement shall continue perfected, both as to the personal property or fixtures covered by the security interest at the time that it is perfected and as to personal property or fixtures which may subsequently be covered by the security interest under any after-acquired property provision of the security agreement creating the security interest, without the necessity for any refiling or filing of a continuation statement under the provisions of this chapter 9, for as long as may be provided for in the security agreement creating the security interest. When the financing statement covers goods of a utility company as hereinafter defined, which goods are or are to become fixtures, no description of the real estate concerned or the name of the record owner or record lessee thereof is required.

A "utility company" shall mean any person, corporation, association, or other entity, foreign or domestic, primarily engaged in the railroad or street railway business; the ownership or operation of wires, or cables, used in the transmission or distribution of telephone, telegraph or television signals or any other information or data; the transmission or distribution of oil, gas or petroleum products by pipeline; or the generation, production, transmission or distribution of electric energy, steam, gas or water, whether its activi-

ties be interstate or intrastate.

SECTION 11. That Section 28-9-304, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-304. PERFECTION OF SECURITY INTEREST IN INSTRUMENTS, DOCUMENTS, AND GOODS COVERED BY DOCUMENTS -- PERFECTION BY PERMISSIVE FILING -- TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION. (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than ~~certificated--securities-or~~ instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of section 28-9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments, ~~other--than~~ certificated securities, or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one (21) days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of twenty-one (21) days without filing where a secured party having a perfected security interest in an instrument, ~~(other-than~~ a certificated security~~)~~, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor:

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subsection (3) of section 28-9-312; or

(b) delivers the instrument or certificated security to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the twenty-one (21) day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this chapter.

SECTION 12. That Section 28-9-305, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-305. WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY

INTEREST WITHOUT FILING. A security interest in letters of credit and advices of credit (subsection (2)(a) of section 28-5-116), goods, instruments, ~~(other--than-certificated-securities),~~ money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this chapter. The security interest may be otherwise perfected as provided in this chapter before or after the period of possession by the secured party.

SECTION 13. That Section 28-9-306, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-306. "PROCEEDS" -- SECURED PARTY'S RIGHTS ON DISPOSITION OF COLLATERAL. (1) "Proceeds" includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Any payments or distributions made with respect to investment property collateral are proceeds. Money, checks, deposit accounts, and the like are "cash proceeds." All other proceeds are "noncash proceeds."

(2) Except where this chapter otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten (10) days after receipt of the proceeds by the debtor unless:

(a) A filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds; or

(b) A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; ~~or~~

(c) The original collateral was investment property and the proceeds are identifiable cash proceeds; or

(d) The security interest in the proceeds is perfected before the expiration of the ten (10) day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this chapter for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in the following proceeds:

(a) In identifiable noncash proceeds and in separate deposit accounts containing only proceeds;

(b) In identifiable cash proceeds in the form of money which is neither commingled with other money nor deposited in a deposit account prior to the insolvency proceedings;

(c) In identifiable cash proceeds in the form of checks and the like which are not deposited in a deposit account prior to the insolvency proceedings; and

(d) In all cash and deposit accounts of the debtor in which proceeds have been commingled with other funds, but the perfected security interest under this paragraph (d) is:

(i) Subject to any right to set-off; and

(ii) Limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten (10) days before the institution of the insolvency proceedings less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such period and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a) through (c) of this subsection (4).

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under section 28-9-308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.

SECTION 14. That Section 28-9-309, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-309. PROTECTION OF PURCHASERS OF INSTRUMENTS, DOCUMENTS AND SECURITIES. Nothing in this chapter limits the rights of a holder in due course of a negotiable instrument (section 28-3-302) or a holder to whom a negotiable document of title has been duly negotiated (section 28-7-501) or a ~~bona-fide~~ protected purchaser of a security (section 28-8-30~~2~~3) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this chapter does not constitute notice of the security interest to such holders or purchasers.

SECTION 15. That Section 28-9-312, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-312. PRIORITIES AMONG CONFLICTING SECURITY INTEREST IN THE SAME COLLATERAL. (1) The rules of priority stated in other sections of this part and in the following sections shall govern when applicable: section 28-4-20~~8~~10 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 28-9-103 on security interests related to other jurisdictions; section 28-9-114 on consignments; section 28-9-115 on security interests in investment property.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three (3) months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six (6) months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if:

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one (21) day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of section 28-9-304); and

(c) the holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the

collateral or within twenty-one (21) days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) so long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security ~~interst~~ interest is perfected by filing, the taking of possession, or under section ~~28-8-321--on--securities~~ 28-9-115 or section 28-9-116 on investment property, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

SECTION 16. That Section 28-1-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-1-105. TERRITORIAL APPLICATION OF THE ACT -- PARTIES' POWER TO CHOOSE APPLICABLE LAW. (1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this act applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 28-2-402.

Applicability of the chapter on Leases. Sections 28-12-105 and 28-12-106.

Applicability of the chapter on Bank Deposits and Collections. Section 28-4-102.

Governing law in the part on Funds Transfers. Section 28-4-638.

Applicability of the chapter on Investment Securities. Section 28-8-1~~06~~10.

Policy and scope of the chapter on Secured Transactions. Sections 28-9-102 and 28-9-103.

SECTION 17. That Section 28-1-206, Idaho Code, be, and the same is hereby amended to read as follows:

28-1-206. STATUTE OF FRAUDS FOR KINDS OF PERSONAL PROPERTY NOT OTHERWISE COVERED. (1) Except in the cases described in subsection (2) of this section a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars ($5,000) in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.

(2) Subsection (1) of this section does not apply to contracts for the sale of goods (section 28-2-201) nor of securities (section 28-8-~~319~~113) nor to security agreements (section 28-9-203).

SECTION 18. That Section 28-4-104, Idaho Code, be, and the same is hereby amended to read as follows:

28-4-104. DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this chapter, unless the context otherwise requires:

(a) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit;

(b) "Afternoon" means the period of a day between noon and midnight;

(c) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions;

(d) "Clearing house" means an association of banks or other payors regularly clearing items;

(e) "Customer" means any person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank;

(f) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (section 28-8-102) or instructions for uncertificated securities (section 28-8-~~308~~102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft;

(g) "Draft" means a draft as defined in section 28-3-104 or an item, other than an instrument, that is an order;

(h) "Drawee" means a person ordered in a draft to make payment;

(i) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by part 6 of chapter 4 or a credit or debit card slip;

(j) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(k) "Settle" means to pay in cash, by clearing-house settlement,

in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final;

(1) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(2) Other definitions applying to this chapter and the sections in which they appear are:

"Agreement for electronic presentment"	Section 28-4-110.
"Bank"	Section 28-4-105.
"Collecting bank"	Section 28-4-105.
"Depositary bank"	Section 28-4-105.
"Intermediary bank"	Section 28-4-105.
"Payor bank"	Section 28-4-105.
"Presenting bank"	Section 28-4-105.
"Presentment notice"	Section 28-4-110.

(3) The following definitions in other chapters apply to this chapter:

"Acceptance"	Section 28-3-409.
"Alteration"	Section 28-3-407.
"Cashier's check"	Section 28-3-104.
"Certificate of deposit"	Section 28-3-104.
"Certified check"	Section 28-3-409.
"Check"	Section 28-3-104.
"Draft"	Section 28-3-104.
"Good faith"	Section 28-3-103.
"Holder in due course"	Section 28-3-302.
"Instrument"	Section 28-3-104.
"Notice of dishonor"	Section 28-3-503.
"Order"	Section 28-3-103.
"Ordinary ~~C~~care"	Section 28-3-103.
"Person entitled to enforce"	Section 28-3-301.
"Presentment"	Section 28-3-501.
"Promise"	Section 28-3-103.
"Prove"	Section 28-3-103.
"Teller's check"	Section 28-3-104.
"Unauthorized signature"	Section 28-3-403.

(4) In addition chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 19. That Section 28-5-114, Idaho Code, be, and the same is hereby amended to read as follows:

28-5-114. ISSUER'S DUTY AND PRIVILEGE TO HONOR -- RIGHT TO REIMBURSEMENT. (1) An issuer must honor a draft or demand for payment which ~~compiles~~ complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (section 28-7-507) or of a security (section 28-8-~~306~~108) or is forged or fraudulent or there is fraud in the transaction:

(a) the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (section 28-3-302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (section 28-7-502) or a bona fide purchaser of a security (section 28-8-302); and

(b) in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

(4) When a credit provides for payment by the issuer on receipt of notice that the required documents are in the possession of a correspondent or other agent of the issuer:

(a) any payment made on receipt of such notice is conditional; and

(b) the issuer may reject documents which do not comply with the credit if it does so within three (3) banking days following its receipt of the documents; and

(c) in the event of such rejection, the issuer is entitled by charge-back or otherwise to return of the payment made.

(5) In the case covered by subsection (4) failure to reject documents within the time specified in subparagraph (b) constitutes acceptance of the documents and makes the payment final in favor of the beneficiary.

SECTION 20. That Section 28-10-104, Idaho Code, be, and the same is hereby amended to read as follows:

28-10-104. LAWS NOT REPEALED. (1) The chapter on Documents of Title (chapter 7) does not repeal or modify any laws prescribing the form or contents of documents of title or the services or facilities to be afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with herein; but the fact that such laws are violated does not affect the status of a document of title which otherwise complies with the definition of a document of title (section 28-1-201).

(2) ~~This act does not repeal chapter 9 of title 68, Idaho Code, cited as the Uniform Act for the Simplification of Fiduciary Security Transfers, and if in any respect there is any inconsistency between~~

~~that act and the chapter of this act on Investment Securities (chapter 8) the provisions of the former act shall control.~~

~~(3)~~ This act does not repeal section 38-911, Idaho Code.

Approved March 20, 1995.

CHAPTER 273
(S.B. No. 1121)

AN ACT

RELATING TO THE GROUND WATER QUALITY PLAN; PROVIDING LEGISLATIVE ADOPTION OF THE IDAHO AGRICULTURAL GROUND WATER QUALITY PROTECTION PROGRAM.

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

SECTION 1. Pursuant to the requirements of Section 39-124, Idaho Code, and the Idaho Ground Water Quality Plan adopted in Section 1, Chapter 310, Laws of 1992, the Legislature of the State of Idaho hereby adopts the Idaho Agricultural Ground Water Quality Protection Program finally adopted by the Ground Water Quality Council on February 1, 1994, and amended on June 15, 1994, as provided in Section 39-123, Idaho Code.

Approved March 20, 1995.

CHAPTER 274
(S.B. No. 1094)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1814, IDAHO CODE, TO PROVIDE THAT RESTITUTION ORDERED BY THE COURT TO BE PAID BY THE PARENTS, THE JUVENILE, OR BOTH, TO A VICTIM FOR ECONOMIC LOSSES CAUSED BY A JUVENILE'S CONDUCT SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION 6-210, IDAHO CODE.

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

SECTION 1. That Section 16-1814, Idaho Code, be, and the same is hereby amended to read as follows:

16-1814. DISPOSITION HEARING. (1) Upon the entry of an order finding the child is within the purview of the act, the court shall then hold a disposition hearing in the manner prescribed by the Idaho juvenile rules to determine the treatment, rehabilitation or detention sentence that will best serve the needs of the child and the public interest. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court shall request and shall receive a report containing the results of an inquiry into the

home environment, past history, rehabilitation or prevention of out of home placement services provided, social, physical and mental condition of the child. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to the disposition of the case as follows:

1. Place the child on formal probation for a period not to exceed three (3) years from the date of the order;
2. Commit the child to a period of detention, pursuant to this act, for a period of time not to exceed thirty (30) days for each unlawful or criminal act the child is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the child has been adjudicated as an habitual status offender;
3. If the child has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the child to detention for a period not to exceed thirty (30) days with up to ninety (90) additional days detention suspended for each unlawful or criminal act. If the child violates conditions of probation, the court may commit the child to detention for all or a portion of the period originally suspended;
4. If the child has committed an unlawful or criminal act which would be a felony if committed by an adult and if the child has previously been found by a court to be within the purview of this chapter and has had all or a portion of the sentence suspended, the court may commit the child to detention for a period not to exceed one hundred twenty (120) days. Whenever a court commits a child to a period of detention it shall notify the school district where the detention facility is located. No child who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless such an adjudication has been made that the child is an habitual status offender;
5. Commit the child to detention and suspend the sentence on specific probationary conditions;
6. Commit the child to the legal custody of the department of health and welfare for an indeterminate period of time not to exceed his or her twenty-first birthday, unless extended jurisdiction is necessary to complete the rehabilitation goals of the department;
7. The court shall encourage the development of employment, work or community service programs, to enable children to fulfill their obligations under subsection (3) of this section and for other purposes when deemed desirable by the court;
8. The court may suspend the child's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the child's driver license. The child may request restricted driving privileges during the period of suspension, which the court may allow if the child shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;
9. The court may order that the child be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he

receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the child in a hospital or other suitable facility;

10. In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the child, his legal guardian or custodian, or any other person who has been made a party to the proceedings including, but not limited to restrictions of visitation by the parents or one (1) parent, restrictions on the child's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

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

12. The court may make any other reasonable order which is in the best interest of the child or is required for the protection of the public, except that no person under the age of eighteen (18) may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 16-1812A, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to sections 16-1806 and 16-1806A, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

13. An order under the provisions of this section for probation or placement of a child with an individual or an agency shall include a date certain for a review of the case by the court, with a new date to be set upon each review;

14. Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

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

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

17. The court shall assess a ten dollar ($10.00) charge against the child for every petition filed where there has been an adjudication that the child is within the purview of this chapter. All moneys raised pursuant to this subsection shall be transmitted by the court for deposit in the youth corrections account which is created in section 16-1849, Idaho Code.

18. Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the child for every petition filed where there has been an adjudication that the child is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter.

19. Notwithstanding any other provision of this section, a court

may not commit a youth offender under the age of ten (10) years to a period of detention or to the custody of the department of health and welfare for placement in secure confinement.

(2) When an order is entered pursuant to this section, the child shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the child resides or is committed, or by an appointed agent. Any order of commitment to the department to a program other than a secure facility shall be subject to review at least once every six (6) months. When committing a child to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the child or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the child's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code.

Approved March 20, 1995.

CHAPTER 275
(S.B. No. 1068)

AN ACT

RELATING TO CHILD ABUSE; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-717C, IDAHO CODE, TO PROVIDE FOR AN INVESTIGATION WHEN, IN DIVORCE PROCEEDINGS OR PROCEEDINGS FOR MODIFICATION OF A DIVORCE DECREE, AN ALLEGATION OF CHILD ABUSE OR CHILD SEXUAL ABUSE IS MADE; AND AMENDING CHAPTER 54, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-5413, IDAHO CODE, TO PROVIDE CRIMINAL PENALTIES IF A PERSON KNOWINGLY PROVIDES FALSE INFORMATION TO LAW ENFORCEMENT OFFICERS, GOVERNMENT AGENCIES OR SPECIFIED PROFESSIONALS REGARDING THE COMMISSION OF AN OFFENSE.

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 32-717C, Idaho Code, and to read as follows:

32-717C. ALLEGATIONS OF ABUSE -- INVESTIGATION. When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court shall order that an investigation be conducted by the department of health and welfare. A final award of custody or visitation may not be rendered until a report on that investigation is received by the court. That investigation shall be

conducted by the department within thirty (30) days of the court's notice and request for investigation.

SECTION 2. That Chapter 54, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-5413, Idaho Code, and to read as follows:

18-5413. PROVIDING FALSE INFORMATION TO LAW ENFORCEMENT OFFICERS, GOVERNMENT AGENCIES, OR SPECIFIED PROFESSIONALS. A person is guilty of a misdemeanor if he knowingly gives or causes to be given false information to any law enforcement officer, any state or local government agency or personnel, or to any person licensed in this state to practice social work, psychology or counseling, concerning the commission of an offense, knowing that the offense did not occur or knowing that he has no information relating to the offense or danger.

Approved March 20, 1995.

CHAPTER 276
(S.B. No. 1064, As Amended)

AN ACT

RELATING TO CHILD ABUSE; AMENDING CHAPTER 16, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1620A, IDAHO CODE, TO PROVIDE FOR CIVIL DAMAGES WHEN A PERSON REPORTS OR ALLEGES CHILD ABUSE, ABANDONMENT OR NEGLECT WHEN THE PERSON KNOWS THE SAME TO BE FALSE OR ALLEGES IN BAD FAITH OR WITH MALICE.

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

SECTION 1. That Chapter 16, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1620A, Idaho Code, and to read as follows:

16-1620A. REPORTING IN BAD FAITH -- CIVIL DAMAGES. Any person who makes a report or allegation of child abuse, abandonment or neglect knowing the same to be false or who reports or alleges the same in bad faith or with malice shall be liable to the party or parties against whom the report was made for the amount of actual damages sustained or statutory damages of five hundred dollars ($500), whichever is greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

Approved March 20, 1995.

CHAPTER 277
(S.B. No. 1253)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-502, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE FOR COMMUNITY-BASED PROGRAMS OPERATED BY THE COUNTY, TO REDEFINE JUVENILE, TO INCLUDE A REFERENCE TO THE JUVENILE CORRECTIONS CENTER IN NAMPA, IDAHO AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 20-503, IDAHO CODE, AS ADDED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE FOR TRANSFER TO THE DEPARTMENT OF JUVENILE CORRECTIONS OF JUVENILES COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 20-504, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO DELETE AN INAPPROPRIATE REFERENCE, TO DELETE REFERENCE TO THE LIMITATION ON COUNTY COMMITMENTS TO STATE FACILITIES AND TO PROVIDE THAT CONTRACTS BY THE DEPARTMENT OF JUVENILE CORRECTIONS FOR INSPECTION AND LICENSURE OF DETENTION FACILITIES AND PLACEMENT OF JUVENILES COMMITTED TO ITS CUSTODY SHALL BE SUBJECT TO ANY COMPETITIVE BIDDING REQUIREMENTS OTHERWISE PROVIDED BY LAW; AMENDING SECTION 20-508, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 20-516, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98 AND AS AMENDED BY SENATE BILL 1020, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE FOR COURT ISSUANCE OF AN ORDER OR WARRANT TO TAKE CUSTODY OF A JUVENILE UPON REASONABLE CAUSE TO BELIEVE THAT THE JUVENILE COMES WITHIN THE PURVIEW OF THE CHAPTER AND TO PROVIDE THAT FINGERPRINTS AND PHOTOGRAPHS OF A JUVENILE TAKEN INTO DETENTION SHALL BE FILED WITH THE IDAHO BUREAU OF CRIMINAL IDENTIFICATION; AMENDING SECTION 20-520, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO DELETE OBSOLETE LANGUAGE AND TO PROVIDE THAT THE COURT MAY PROVIDE A SCHEDULE FOR REVIEW OF THE CASE WHERE THE JUVENILE HAS BEEN PLACED ON PROBATION OR WITH AN INDIVIDUAL OR AGENCY; AMENDING SECTION 20-522, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE FOR COURT JURISDICTION OVER PARENTS WHETHER OR NOT ANY PORTION OF A JUVENILE'S SENTENCE HAS BEEN SUSPENDED AND TO REMOVE ANY REQUIREMENT THAT THE MONETARY PENALTY WHICH MAY BE IMPOSED AGAINST PARENTS FOR BREACH OF A PROBATIONARY CONTRACT TAKE INTO CONSIDERATION THE IMPACT OF THE BREACH ON THE JUVENILE CORRECTIONS SYSTEM; AMENDING SECTION 20-523, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE THAT THE RECOMMENDATION OF A SCREENING TEAM SHALL PROVIDE OPTIONS FOR DISPOSITION; AMENDING SECTION 16-1816A, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE PROPER NOMENCLATURE, TO MAKE TECH-

NICAL CORRECTIONS AND TO PROVIDE GROUNDS TO BE CONSIDERED BY THE COURT UPON A PETITION FOR RECORD EXPUNGEMENT; REPEALING SECTION 20-544, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE; AMENDING SECTION 20-546, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO REMOVE AUTHORITY OF THE DEPARTMENT TO INDEPENDENTLY EMPLOY OR LET CONTRACTS FOR THE CONSTRUCTION, REMODELING OR REPAIR OF BUILDINGS; AMENDING SECTION 20-547, IDAHO CODE, AS AMENDED AND REDESIGNATED BY HOUSE BILL 98, ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE, TO PROVIDE FOR CONSTRUCTION OF CITATIONS IN THE IDAHO CODE TO CHAPTER 18, TITLE 16, IDAHO CODE; DECLARING AN EMERGENCY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 20-502, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

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

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

(2) "Commit" means to transfer legal custody.

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

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

(5) "Department" means the state department of juvenile corrections.

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

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

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

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

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

(11) "Juvenile" means a person less than eighteen (18) years of age <u>or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of this chapter.</u>

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

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

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

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

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

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

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

SECTION 2. That Section 20-503, Idaho Code, as added by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

20-503. DEPARTMENT OF JUVENILE CORRECTIONS CREATED -- APPOINTMENT OF DIRECTOR -- POWERS AND DUTIES OF DEPARTMENT. (1) The department of juvenile corrections is hereby created. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall be under the control and supervision of a director, who shall be appointed by the governor, with the advice and consent of the senate. The director shall exercise all of the powers and duties necessary to carry out the proper administration of the department and may delegate duties to employees and officers of the department. The director shall have the authority to employ an attorney or attorneys to provide legal services to the department and such managers, assistants, clerical staff and other employees necessary to the proper functioning and administration of the department.

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

an administrator for each administrative unit within the department.

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

(5) Effective October 1, 1995, all existing commitments to the department of health and welfare made pursuant to section 16-1814(1)6., Idaho Code, are hereby transferred to the department of juvenile corrections. All powers, duties and functions with respect to those commitments are hereby transferred from the department of health and welfare to the department of juvenile corrections. The director of the department of juvenile corrections shall have all the powers and duties as may have been or could have been exercised by his predecessors in law pursuant to these commitments and he shall be the successor in law to those commitment duties without regard to the language of individual judicial orders of commitment for the juveniles.

SECTION 3. That Section 20-504, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

20-504. DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS. (1) The department shall have jurisdiction over all juveniles committed to it pursuant to chapter 5, title 20, Idaho Code.

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

(3) The department shall establish and administer all secure residential facilities including the state juvenile corrections center.

(4) The department shall place juvenile offenders committed to it in the most appropriate program for supervision and treatment.

(5) The department shall establish an observation and assessment process for juvenile offenders committed to it by a court.

(6) The department shall establish liaison services with the counties.

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

(8) The department is hereby authorized and may place juveniles committed to it pursuant to this chapter on a ranch, in a forestry

camp or similar facility for care and for work, if possible; provided, that person, agency or association operating the facility has been approved and has otherwise complied with all applicable state and local laws. A juvenile placed in a forestry camp or similar facility may be required to work on fire prevention, forestation and reforestation, recreational works, forest roads and on other works on or off the grounds of such facility and may be paid wages.

(9) The department shall establish minimum standards for the operation of all private residential and nonresidential facilities and programs which provide services to juvenile offenders. The standards shall be no more stringent than standards imposed for facilities operated by the department or for detention facilities operated by counties.

(10) The department shall assist counties in establishing meaningful programs for juveniles ~~offenders~~ who either have been found to come under the purview of this chapter or who have had their case informally diverted pursuant to section 20-511, Idaho Code, and who have not been committed to the legal custody of the department.

(11) ~~In order to prevent over utilization of its facilities for juvenile offenders, the department shall prescribe by rule the maximum number of commitments pursuant to this chapter, to the department that may originate from a county during a calendar year based on the number of juveniles residing in the county who are below the age of eighteen (18). If a county exceeds its quota during a year, the director of the department may issue a waiver in writing on a case by case basis to allow additional commitments to the department from that county.~~

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

(13~~2~~) Subject to any competitive bidding requirements otherwise provided by law, t~~T~~he department shall have authority to enter into contracts with a private association or organization or other public agency or organization for the inspection and licensure of detention facilities.

(14~~3~~) Subject to any competitive bidding requirements otherwise provided by law, t~~T~~he department shall have authority to enter into contracts with private providers or local governmental agencies for the confinement or other permanent or temporary placement of juveniles committed to its custody.

(15~~4~~) The department shall have authority to apply for, receive and expend federal funds, subject to appropriation by the legislature. The department shall have authority to establish guidelines for and administer the distribution of state block grant funds to counties for the employment and training of county probation officers, the establishment of secure and nonsecure residential or nonresidential facilities and programs for juvenile offenders. The department may require that a county provide matching funds as a condition of receiving a block grant. The department, by rule, in cooperation with the courts and the counties, shall establish uniform standards, criteria and operating procedures for county juvenile probation services, as well as qualifications for and standards for the training of juvenile pro-

bation officers.

(16~~5~~) All of the powers and duties imposed upon or granted to the director of the department of health and welfare or the board of health and welfare pursuant to chapter 18, title 16, Idaho Code, are hereby transferred to the director of the department of juvenile corrections. The director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law with respect to chapter 18, title 16, Idaho Code, and shall be the successor in law to all contractual obligations entered into by his predecessor in law.

SECTION 4. That Section 20-508, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the juvenile corrections act over the juvenile and order that the juvenile be held for adult criminal proceedings when:

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

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

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

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

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

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

Service of the notice shall be made in the manner prescribed for service of a summons under section 20-512, Idaho Code.

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

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

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

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

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

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

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

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

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

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

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

(9) If the court does not waive jurisdiction and order a juvenile or adult held for criminal proceedings, the court in a county other than the juvenile's or adult's home county, after entering a decree that the juvenile or adult is within the purview of this chapter, may certify the case for ~~disposition~~ sentencing to the court of the county in which the juvenile or adult resides upon being notified that the

receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the juvenile or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

SECTION 5. That Section 20-516, Idaho Code, as amended and redesignated by House Bill 98 and as amended by Senate Bill 1020, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

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

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

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

(c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements.

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

(2) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to

determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include but are not limited to the following:

(a) Parents of the juvenile;

(b) Relatives of the juvenile;

(c) Foster care;

(d) Group care;

(e) A juvenile detention facility; or

(f) Community-based diversion programs.

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

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

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

(6) A juvenile taken into detention for an offense shall be fingerprinted and photographed. Fingerprints and photographs taken of juveniles at a detention facility by staff of the facility shall be forwarded to the appropriate law enforcement agency and filed with the bureau of criminal identification of the Idaho department of law enforcement which shall create a juvenile file, separate and apart from any adult file, in a records system. If the court finds a juvenile's detention for an offense to be unlawful, the court shall order the fingerprints and photographs of the juvenile taken pursuant to that detention expunged, unless the court, after a hearing, orders otherwise.

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

SECTION 6. That Section 20-520, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court shall request and shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the

juvenile as follows:

(a) Place the juvenile on formal probation for a period not to exceed three (3) years from the date of the order;

(b) Commit the juvenile to a period of detention, pursuant to this act, for a period of time not to exceed thirty (30) days for each unlawful or criminal act the juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile has been adjudicated as an habitual status offender;

(c) If the juvenile has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the juvenile to detention for a period not to exceed thirty (30) days with up to ninety (90) additional days detention suspended for each unlawful or criminal act. If the juvenile violates conditions of probation, the court may commit the juvenile to detention for all or a portion of the period originally suspended;

(d) If the juvenile has committed an unlawful or criminal act which would be a felony if committed by an adult and if the juvenile has previously been found by a court to be within the purview of this chapter and has had all or a portion of the sentence suspended, the court may commit the juvenile to detention for a period not to exceed one hundred twenty (120) days. Whenever a court commits a juvenile to a period of detention it shall notify the school district where the detention facility is located. No juvenile who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless an adjudication has been made that the juvenile is an habitual status offender;

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

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

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

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

(~~i~~h) The court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a hospital or other suitable facility;

(~~j~~i) In support of an order under the provisions of this sec-

tion, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

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

(~~l~~k) The court may make any other reasonable order which is in the best interest of the juvenile or is required for the protection of the public, except that no person under the age of eighteen (18) may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to sections 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(~~m~~l) An order under the provisions of this section for probation or placement of a juvenile with an individual or an agency ~~shall include--a-date-certain-for-a~~ may provide a schedule for review of the case by the court~~,-with-a-new-date-to-be-set-upon-each-review~~;

(~~n~~m) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

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

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

(~~q~~p) The court shall assess a ten dollar ($10.00) charge against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter. All moneys raised pursuant to this subsection shall be transmitted by the court for deposit in the juvenile corrections account which is created in section 20-542, Idaho Code.

(~~r~~q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile for every petition filed where there has been an adjudication that the juvenile is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter.

(~~s~~r) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the juvenile shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the juvenile resides or is committed, or by an appointed agent. Any order of commitment to the department to a program other than a secure facility shall be subject to review at least once every six (6) months. When committing a juvenile to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the juvenile or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code.

SECTION 7. That Section 20-522, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

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

SECTION 8. That Section 20-523, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

20-523. SCREENING TEAMS TO PROVIDE ASSISTANCE TO COURT. In order to provide assistance to a court in making a disposition pursuant to section 20-520, Idaho Code, a screening team composed of a county probation officer or other investigation officer or agency designated by the court may meet and provide a written recommendation delineating

options to the court for disposition of the case pursuant to this chapter.

SECTION 9. That Section 16-1816A, Idaho Code, be, and the same is hereby amended to read as follows:

~~16-1816A~~20-525A. EXPUNGEMENT OF RECORD ~~--~~ HEARING -- FINDINGS NECESSARY -- SPECIAL INDEX -- EFFECT OF ORDER. Any person who has been adjudicated in a case under this act may, after the expiration of five (5) years from the date of termination of the continuing jurisdiction of the court, or, in case ~~he~~ the juvenile was committed to the ~~youth training~~ juvenile corrections center, five (5) years from the date of his ~~unconditional~~ release from the ~~youth-training~~ juvenile corrections center, or after reaching age eighteen (18), whichever ~~is-the-soonest~~ occurs first, petition the court for the expungement of his record ~~in the-court~~. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and of the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

If the court finds ~~upon-the~~ after hearing that the petitioner has not been adjudicated ~~on-a-cause-amounting-to~~ for a felony or a misdemeanor involving moral turpitude if committed by an adult, and has not been convicted of a felony or of a misdemeanor involving moral turpitude since the termination of the court's jurisdiction or his ~~unconditional~~ release from the ~~youth-training~~ juvenile corrections center, and that no proceeding involving such felony or misdemeanor is pending or being instituted against him, and if the court further finds to its satisfaction that ~~the--rehabilitation--of~~ the petitioner has ~~been attained--to--the--satisfaction-of-the-court~~ been held accountable, is developing life skills necessary to become a contributing member of the community and that the expungement of the petitioner's record will not compromise public safety, it shall order ~~sealed~~ all records in the petitioner's case in the custody of the court and all such records in the custody of any other agency or official sealed; and shall further order all references to said adjudication removed from all indices and from all other records available to the public. However, a special index of ~~such~~ the expungement proceedings and records shall be kept by the court ordering expungement, which ~~said~~ index shall not be available to the public and ~~which~~ shall be revealed only upon order of a court of competent jurisdiction. Copies of ~~such~~ the order shall be sent to each agency or official named in the order. Upon the entry of ~~such~~ the order the proceedings in the petitioner's case shall be deemed never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of ~~such~~ the records may thereafter be permitted only by the court upon petition by the person who is the subject of ~~such~~ the records or by any other court of competent jurisdiction, and only to persons named in ~~such~~ the petition.

SECTION 10. That Section 20-544, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby

repealed.

SECTION 11. That Section 20-546, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

20-546. POWERS OF DIRECTOR OF DEPARTMENT OF JUVENILE CORRECTIONS. The director of the department of juvenile corrections shall have the power:

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

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

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

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

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

SECTION 12. That Section 20-547, Idaho Code, as amended and redesignated by House Bill 98, enacted by the First Regular Session of the Fifty-third Idaho Legislature, be, and the same is hereby amended to read as follows:

20-547. CONSTRUCTION OF ACT -- CITATION OF ACT -- OTHER CODE REFERENCES CONSTRUED. This act shall be liberally construed to the end that the legislative policy expressed herein is achieved. This act may be cited as the "Juvenile Corrections Act of 1995." On and after the effective date of this act, any citation in the Idaho Code to chapter 18, title 16, Idaho Code, shall be understood and construed as a citation to chapter 5, title 20, Idaho Code, unless the context otherwise requires.

SECTION 13. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval.

SECTION 14. All remaining sections of this act shall be in full force and effect on and after October 1, 1995.

Approved March 21, 1995.

CHAPTER 278
(S.B. No. 1288)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 231, LAWS OF 1994 AND IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, SENATE BILL 1220, AS ENACTED BY THE FIRST REGULAR SESSION OF THE FIFTY-THIRD IDAHO LEGISLATURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 231, Laws of 1994, and in addition to the appropriation made in Section 1, Senate Bill 1220, as enacted by the First Regular Session of the Fifty-third Idaho Legislature, there is hereby appropriated to the Idaho Transportation Department, the following amount, to be expended for the Contract Construction Program for pavement rehabilitation according to the designated expense class from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Capital Outlay	$5,000,000
FROM:	
State Highway Fund	$5,000,000

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

Approved March 21, 1995.

CHAPTER 279
(S.B. No. 1078)

AN ACT

RELATING TO DRIVER TRAINING COURSES; AMENDING SECTION 33-1707, IDAHO CODE, TO INCREASE THE FACTOR BY WHICH A SCHOOL DISTRICT IS REIMBURSED FOR COSTS OF CONDUCTING A DRIVER TRAINING PROGRAM.

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

SECTION 1. That Section 33-1707, Idaho Code, be, and the same is hereby amended to read as follows:

33-1707. REIMBURSEMENT -- DETERMINATION -- CERTIFICATION. a. From the data provided by the school district, as required by section 33-1706, Idaho Code, the state department of education shall compute the average of the number of pupils enrolling in the course and those completing the same, and determine for such average number, the per-pupil cost thereof.

The amount due the district from the driver training fund in the state treasury shall be the total cost of operating the program, or the average of the number enrolling in the course and those completing the same, multiplied by one hundred ten dollars ($110~~0~~), whichever is the lesser.

b. On or before the fifteenth day of March, and the fifteenth day of August, and the fifteenth day of October in each year, the state superintendent of public instruction shall certify to the state controller a list of school districts having submitted the reports required in section 33-1706, Idaho Code, and the amount of money due to each as computed under the provisions of subsection a. of this section. The state controller shall draw his warrants against the driver training account in the state treasury, in favor of the several districts entitled thereto, in the amount so certified. Annually, not later than the first day of September in each year, the state superintendent of public instruction shall cause the supervisor of driver training to prepare a report listing the names of the school districts having submitted the reports as required in section 33-1706, Idaho Code, and the amounts of money paid each as computed under the provisions of subsection a. of this section.

Approved March 21, 1995.

CHAPTER 280
(H.B. No. 231)

AN ACT

RELATING TO REVOCATION OF FISH AND GAME HUNTING LICENSES; AMENDING CHAPTER 15, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-1511, IDAHO CODE, TO PROVIDE FOR THE REVOCATION OF A FISH AND GAME HUNTING LICENSE FOR THE TAKING OF ANIMALS WITHIN THE BOUNDARIES OF A NATIONAL PARK AND TO SPECIFY THE PERIOD OF REVOCATION.

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

SECTION 1. That Chapter 15, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-1511, Idaho Code, and to read as follows:

36-1511. REVOCATION OF LICENSE FOR TAKING OF ANIMALS WITHIN BOUNDARIES OF A NATIONAL PARK. (1) The director of the Idaho department of fish and game may revoke the hunting license of any person, and deny him the right to secure any hunting license, for conviction of any violation of any state or federal fish and game law relating to the taking of animals within the boundaries of a national park.

(2) For the purposes of this section, the term "conviction" shall mean a finding of guilt; an entry of a guilty plea by a defendant and its acceptance by the court; a forfeiture of a bail bond or collateral deposited to secure a defendant's appearance; a suspended sentence; probation; or a withheld judgment.

(3) The director or a referee he may appoint, shall have authority to hold a hearing in the same manner as set forth in sections 36-1501 and 36-1502, Idaho Code. Upon proof of conviction, the director may revoke the hunting license of the offender and deny him the right to hunt in Idaho for a period to be fixed by the director, with or without the recommendation of his referee, not to exceed twenty (20) years.

Approved March 21, 1995.

CHAPTER 281
(H.B. No. 197)

AN ACT

RELATING TO FOREST PRACTICES; AMENDING SECTION 38-1306, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF LANDS NOT ACCEPT A NEW FOREST PRACTICE NOTIFICATION FROM AN OPERATOR WHO HAS AN OUTSTANDING NOTICE OF VIOLATION; AMENDING CHAPTER 13, TITLE 38, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 38-1306B, IDAHO CODE, TO PROVIDE THAT OPERATORS WHO REGULARLY AND HABITUALLY VIOLATE THE FOREST PRACTICES ACT AND RULES PROMULGATED THEREUNDER BE REQUIRED TO POST A BOND.

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

SECTION 1. That Section 38-1306, Idaho Code, be, and the same is hereby amended to read as follows:

38-1306. NOTIFICATION OF FOREST PRACTICE. (1) Before commencing a forest practice, the department shall be notified as required in subsection (2) of this section. The notice shall be given by the operator; however, the timber owner or landowner satisfies the responsibility of the operator under this subsection. When more than one (1) forest practice is to be conducted in relation to harvesting of forest tree species, one (1) notice including each forest practice to be conducted shall be filed with the department. A woodland management plan prepared by the woodland foresters of the department or approved by the board of supervisors of a soil conservation district shall constitute suitable notification of a forest practice when filed with the department, provided the woodland management plan contains the information required in subsection (2) of this section.

(2) The notification required in subsection (1) of this section shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner, the legal description of the area in which the forest practice is to be conducted, whether the forest practice borders a stream segment of concern and other information the department considers necessary for the administration of the rules adopted by the board under section 38-1304, Idaho Code.

(3) All notifications must be formally accepted by the department before any forest practice may begin.

(a) If the forest practice will be conducted in an area bordering a stream segment of concern, this notice must be received by the department no less than ten (10) business days before the commencement of the forest practice.

(b) If there is no written agreement between the landowner and/or the operator and the department concerning implementation of site specific BMPs which the department has determined are necessary to protect water quality in the affected stream segment of concern, the department shall not accept the notification until temporary rules have been enacted establishing the site-specific BMPs.

(4) The director shall have the authority to adopt temporary rules pursuant to chapter 52, title 67, Idaho Code.

(5) The initial purchaser of ties, logs, posts, cordwood, pulpwood and other similar forest products which have been cut from lands within the state of Idaho shall make no such purchase from anyone not having a proper acceptance of forest practice notice.

(6) Promptly upon formal acceptance of the notice, but not more than fifteen (15) days from formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, the timber owner, and landowner a copy of the rules.

(~~3~~7) An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notification within thirty (30) days of the change. Promptly upon receipt of notice of change, but not to exceed fifteen (15) days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change.

(~~4~~8) The notification is valid for the same period as set forth in the certificate of compliance under section 38-122, Idaho Code. At the expiration of the notification, if the forest practice is continuing, the notification shall be renewed using the same procedures provided for in this section.

(~~5~~9) If the notification required by subsection (1) of this section indicates that at the expiration of the notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) days prior to the expiration of the notification, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fifteen (15) days from receipt of the request, the department shall mail a copy of the renewed notification to whichever of the operator, timber owner, or landowner that did not submit the request for renewal.

(10) The department shall not accept a new forest practices notification from any operator having an outstanding notice of violation until the repairs specified pursuant to section 38-1307(2)(a), Idaho Code, have been completed to the satisfaction of the department.

SECTION 2. That Chapter 13, Title 38, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 38-1306B, Idaho Code, and to read as

follows:

38-1306B. REQUIREMENT FOR OPERATING BONDS. (1) At the direction of the board, the department shall require submission of an operating bond, before accepting a forest practices notification, from any operator who has repeatedly or habitually:

(a) Operated without a valid forest practices notification as required in section 38-1306, Idaho Code;

(b) Violated the terms of a stop work order issued pursuant to section 38-1307(2)(b), Idaho Code;

(c) Failed to apply best management practices as required by law and the rules promulgated under this chapter;

(d) Willfully caused degradation to forest soils, air, or water resources; or

(e) Failed to comply with the rules promulgated under this chapter as determined by the board.

(2) The bond shall be in a form, acceptable to the board, to insure the performance of the duties of the operator under this chapter and any rules promulgated thereunder, in the amount of two hundred dollars ($200) per acre for each acre in the contract area included in a forest practices notification, with a minimum bond of five thousand dollars ($5,000) and a maximum bond of fifteen thousand dollars ($15,000).

(3) If the operator is a nonresident operator this bond shall be in addition to the nonresident bond required pursuant to section 38-1306A, Idaho Code.

Approved March 21, 1995.

CHAPTER 282
(H.B. No. 385)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service Program the following amounts from the listed funds, to be expended according to the designated standard classifications for the period July 1, 1995, through June 30, 1996:

FROM:

General Fund	$19,233,000
Equine Education Fund	135,000
Hatch Fund	1,352,800
Regional Research Fund	561,900

Farm Safety Fund	20,000
Smith-Lever Fund	2,338,400
Miscellaneous Revenue Fund	181,900
TOTAL	$23,823,000
FOR:	
Personnel Costs	$20,906,700
Operating Expenditures	2,718,600
Capital Outlay	197,700
TOTAL	$23,823,000

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than four hundred fifteen and seventeen hundredths (415.17) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 283
(H.B. No. 83)

AN ACT

RELATING TO EMERGENCY REPAIRS OF DAMS; AMENDING SECTION 42-1718, IDAHO CODE, TO PROVIDE THAT THE BOARD OF EXAMINERS MAY ISSUE DEFICIENCY WARRANTS FOR THE COST OF EMERGENCY REMEDIAL WORK NECESSARY TO PROTECT LIFE AND PROPERTY.

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

SECTION 1. That Section 42-1718, Idaho Code, be, and the same is hereby amended to read as follows:

42-1718. REMEDIAL MEANS FOR PROTECTION OF LIFE AND PROPERTY. The director shall immediately employ any remedial means necessary to protect life and property if either:

(a) The condition of any dam, reservoir or mine tailings impoundment structure is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of an order relative to maintenance or operation.

(b) Passing or imminent floods threaten the safety of any dam, reservoir or mine tailings impoundment structure.

In applying the remedial means provided for in this act, the department may in emergency do any of the following:

(a) Lower the water level by releasing water from the reservoir or lower mine tailings slurry level by releasing slurry from the mine tailings impoundment structure.

(b) Completely empty the reservoir.

(c) Take such other steps as may be essential to safeguard life and property.

The director shall continue in full charge and control of such dam or reservoir, or both, or mine tailings impoundment structure, or all, and its appurtenances, until they are rendered safe or the emergency occasioning the action has ceased.

If the cost of the emergency remedial action by the director for the protection of life and property exceeds the amount of money appropriated from the general fund specifically for that purpose, the additional costs may be defrayed by the issuance of deficiency warrants as may be authorized by the board of examiners. When so authorized, the state controller shall, after notice to the state treasurer, draw deficiency warrants against the general fund.

The cost and expenses of the remedial means provided in this act, including cost of any work done to render a dam, reservoir or mine tailings impoundment structure or its appurtenances safe, shall be recoverable by the state from the owner. If not paid within sixty (60) days of invoice, action may be brought by the director in the district court of the district wherein the dam, reservoir or mine tailings impoundment structure or any part thereof is situated. The funds recovered shall be returned to the general fund to offset the amount of the deficiency warrant.

No action shall be brought by the state against the owner for pollution which may occur in the event that the director orders emergency dumping or bypassing.

Approved March 21, 1995.

CHAPTER 284
(H.B. No. 386)

AN ACT

APPROPRIATING MONEYS FROM THE PUBLIC SCHOOL INCOME FUND FOR THE IDAHO SUBSTANCE ABUSE PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE DISTRIBUTION OF FUNDS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO FEATURES OF THE IDAHO SUBSTANCE ABUSE PROGRAM; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the Public School Income Fund to the Superintendent of Public Instruction for the Idaho Substance Abuse Program for the period from the effective date of this act through June 30, 1996, $7,000,000 of the moneys accruing pursuant to Section 63-2506, Idaho Code.

SECTION 2. It is legislative intent that the funds appropriated in Section 1 of this act shall be distributed as follows: $100,000 may be utilized by the Superintendent of Public Instruction for program administration, technical assistance and evaluation; with regard to the remainder, ten percent ($690,000) shall be used to make discretionary grants as determined by the Drug-Free Schools and Communities Advisory Board, forty-five percent ($3,105,000) shall be distributed

to the districts on the basis of fall student enrollment, and forty-five percent ($3,105,000) shall be distributed on the same basis as the Chapter I federal funding formula.

SECTION 3. It is legislative intent that the Idaho Substance Abuse Program shall include the following features:

(1) Districts will develop a policy and plan which will provide a guide for their substance abuse program.

(2) Districts will have an advisory board to assist each district in making decisions relating to the program.

(3) The districts' substance abuse programs will be comprehensive to meet the needs of all students. This will include prevention programs, student assistance programs that address early identification and referral, and aftercare.

(4) Districts will submit an annual evaluation of their program to the State Department of Education as to the effectiveness of their programs.

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

Approved March 21, 1995.

CHAPTER 285
(H.B. No. 373)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1996; EXPRESSING LEGISLATIVE INTENT; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR THE POST ACADEMY IN ADDITION TO THE APPROPRIATION MADE IN SECTION 2, CHAPTER 257, LAWS OF 1994; AND DECLARING AN EMERGENCY FOR SECTION 5 OF THIS ACT.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Law Enforcement not exceed the following amounts for the period July 1, 1995, through June 30, 1996:

FROM:

General Fund	$12,981,000
Idaho Law Enforcement Fund	11,927,600
Idaho Law Enforcement Telecommunications Fund	435,300
Drug Donation Fund	267,500
Federal Grant Fund	4,606,400
Hazardous Materials/Waste Enforcement Fund	291,800
Idaho State Racing Commission Fund	810,100
Pari-mutuel Distributions Fund	375,000
Indirect Cost Recovery Fund	56,400

State Brand Board Fund	2,034,900
Miscellaneous Revenue Fund	587,700
Peace Officers Fund	1,068,200
TOTAL	$35,441,900

SECTION 2. There is hereby appropriated to the Department of Law Enforcement the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Fund	$ 1,294,500	$ 403,100	$ 20,000		$ 1,717,600
Idaho Law Enforcement Fund		35,900			35,900
Peace Officers Fund		22,700			22,700
Hazardous Materials/ Waste Enforcement Fund		800			800
Idaho Law Enforcement Telecommunications Fund		1,200			1,200
Indirect Cost Recovery Fund	50,400	6,000			56,400
TOTAL	$ 1,344,900	$ 469,700	$ 20,000		$ 1,834,600
II. POLICE SERVICES:					
FROM:					
General Fund	$ 5,195,000	$1,959,900	$ 200,000		$ 7,354,900
Idaho Law Enforcement Telecommunications Fund	172,500	261,600			434,100
Drug Donation Fund		267,500			267,500
Federal Grant Fund	604,700	348,500		$1,870,000	2,823,200
Miscellaneous Revenue Fund	217,000	348,800			565,800
TOTAL	$ 6,189,200	$3,186,300	$ 200,000	$1,870,000	$11,445,500
III. IDAHO STATE POLICE:					
FROM:					
General Fund	$ 1,736,300	$ 29,100	$1,331,000		$ 3,096,400
Idaho Law Enforcement Fund	9,459,800	2,431,900			11,891,700
Hazardous Materials/ Waste Enforcement Fund	163,100	61,100		$ 66,800	291,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	529,900	1,003,300	250,000		1,783,200
TOTAL	$11,889,100	$3,525,400	$1,581,000	$ 66,800	$17,062,300
IV. BRAND INSPECTION:					
FROM:					
State Brand Board Fund	$ 1,728,300	$ 246,600	$ 60,000		$ 2,034,900
V. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission Fund	$ 341,300	$ 459,300	$ 9,500		$ 810,100
Pari-mutuel Distributions Fund				$ 375,000	375,000
TOTAL	$ 341,300	$ 459,300	$ 9,500	$ 375,000	$ 1,185,100
VI. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Fund	$ 660,800	$ 127,300	$ 24,000		$ 812,100
Miscellaneous Revenue Fund		1,000			1,000
TOTAL	$ 660,800	$ 128,300	$ 24,000		$ 813,100
VII. POST ACADEMY:					
FROM:					
Peace Officers Fund	$ 418,200	$ 515,600	$ 43,500	$ 68,200	$ 1,045,500
Miscellaneous Revenue Fund		5,000	15,900		20,900
TOTAL	$ 418,200	$ 520,600	$ 59,400	$ 68,200	$ 1,066,400
GRAND TOTAL	$22,571,800	$8,536,200	$1,953,900	$2,380,000	$35,441,900

SECTION 3. It is legislative intent that all state funds appropriated for the Idaho State Police be used for traffic enforcement, accident investigation, and motorist assistance on highways in Idaho, and to assist other law enforcement agencies when requested, except for those moneys necessary for administrative and dispatch services.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Law Enforcement is authorized no more than four hundred thirty-seven and twenty-three one hundredths (437.23) full-time equivalent positions for the programs specified in Section 2 of this act; the Brand Inspection Program is authorized no more than forty-four and fifty-seven one hundredths (44.57) full-time equivalent positions; and the Racing Commission is authorized no more than five (5) full-time equivalent positions, at any point during the period July 1, 1995, through June 30, 1996, unless specifically authorized by the Governor.

The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. In addition to the appropriation made in Section 2, Chapter 257, Laws of 1994, there is hereby appropriated to the Department of Law Enforcement for the POST Academy the following amount to be expended according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Operating Expenditures	$120,000
FROM:	
Peace Officers Fund	$120,000

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 5 of this act shall be in full force and effect on and after its passage and approval.

Approved March 21, 1995.

CHAPTER 286
(H.B. No. 73)

AN ACT

RELATING TO MANAGEMENT OF WATER WITHIN A CRITICAL GROUND WATER AREA; AMENDING SECTION 42-233a, IDAHO CODE, TO PROVIDE AUTHORITY TO REQUIRE THE REPORTING OF GROUND WATER WITHDRAWALS WITHIN CRITICAL GROUND WATER AREAS, TO PROVIDE AUTHORITY TO REDUCE WITHDRAWAL OR TO CEASE DIVERSION OF GROUND WATER WHEN THE GROUND WATER IS INSUFFICIENT TO MEET THE DEMANDS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-233a, Idaho Code, be, and the same is hereby amended to read as follows:

42-233a. "CRITICAL GROUND WATER AREA" DEFINED -- PUBLIC HEARINGS -- PUBLICATION OF NOTICE -- GRANTING OR DENIAL OF APPLICATION -- APPEAL. "Critical ground water area" is defined as any ground water basin, or designated part thereof, not having sufficient ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin at the then current rates of withdrawal, or rates of withdrawal projected by consideration of valid and outstanding applications and permits, as may be determined and designated, from time to time, by the director of the department of water resources.

Upon the designation of a "critical ground water area" it shall be the duty of the director of the department of water resources to conduct a public hearing in the area concerned to apprise the public of such designation and the reasons therefor. Notice of the hearing shall be published in two (2) consecutive weekly issues of a newspaper of general circulation in the area immediately prior to the date set for hearing.

In the event an area has been designated as a "critical ground water area" and the director of the department of water resources desires to remove such designation or modify the boundaries thereof, he shall likewise conduct a public hearing following similar publication of notice prior to taking such action.

In the event the application for permit is made with respect to an area that has not been designated as a critical ground water area the director of the department of water resources shall forthwith issue a permit in accordance with the provisions of section 42-203 and section 42-204, Idaho Code, provided said application otherwise meets the requirements of such sections; and further provided that if the applicant proposes to appropriate water from a ground water basin or basins in an amount which exceeds ten thousand (10,000) acre-feet per year either from a single or a combination of diversion points, and the director determines that the withdrawal of such amount will substantially and adversely affect existing pumping levels of appropriators pumping from such basin or basins, or will substantially and adversely affect the amount of water available for withdrawal from such basin or basins under existing water rights, the director may require that the applicant undertake such recharge of the ground water basin or basins as will offset that withdrawal adversely affecting existing pumping levels or water rights.

In the event the application for permit is made in an area which has been designated as a critical ground water area, if the director of the department of water resources from the investigation made by him on said application as herein provided, or from the investigation made by him in determining the area to be critical, or from other information that has come officially to his attention, has reason to believe that there is insufficient water available subject to appropriation at the location of the proposed well described in the application, the director of the department of water resources may forthwith deny said application; provided, however, that if ground water at such location is available in a lesser amount than that applied for the director of the department of water resources may issue a permit for the use of such water to the extent that such water is available for such appropriation.

The director may require all water right holders within a critical ground water area to report withdrawals of ground water and other necessary information for the purpose of assisting him in determining available ground water supplies and their usage.

The director, upon determination that the ground water supply is insufficient to meet the demands of water rights within all or portions of a critical ground water area, shall order those water right holders on a time priority basis, within the area determined by the director, to cease or reduce withdrawal of water until such time as the director determines there is sufficient ground water. Such order shall be given only before September 1 and shall be effective for the growing season during the year following the date the order is given.

Any applicant dissatisfied with the decision of the director of the department of water resources may appeal to the district court in the manner provided for in section 42-237e, Idaho Code.

Approved March 21, 1995.

CHAPTER 287
(H.B. No. 46, As Amended)

AN ACT

RELATING TO A FISH AND GAME COMPUTERIZED LICENSING SYSTEM; AMENDING SECTION 36-202, IDAHO CODE, TO DEFINE ADDITIONAL TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-301, IDAHO CODE, TO AUTHORIZE A COMPUTERIZED LICENSING SYSTEM, TO ESTABLISH RULEMAKING AUTHORITY AND TO DELETE REFERENCE TO TAGS AND PERMITS; AMENDING SECTION 36-303, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF COMPUTER LICENSING EQUIPMENT TO LICENSE VENDORS AND TO DELETE REFERENCE TO TAGS AND PERMITS; AMENDING SECTION 36-304, IDAHO CODE, TO DELETE REFERENCE TO TAGS AND PERMITS; AMENDING SECTION 36-305, IDAHO CODE, TO DELETE REFERENCE TO A PERMIT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 36-306, IDAHO CODE, TO SUBSTITUTE THE TERM "VENDOR FEE" FOR "COMMISSION ON SALES," TO INCREASE THE VENDOR FEE BY FIFTY CENTS, TO CLARIFY THE VENDOR FEE ON THE EIGHTH CLASS LICENSE AND ON THE DEER, ELK AND BEAR "PAK" AND TO ALLOW DISTRIBUTION OF THE VENDOR FEE BETWEEN THE VENDOR AND THE DEPARTMENT; AMENDING SECTION 36-307, IDAHO CODE, TO PROVIDE THAT VENDOR REPORTING REQUIREMENTS ARE SET BY CONTRACT AND TO PROVIDE FOR DEPOSIT OF MONEYS; AMENDING SECTION 36-308, IDAHO CODE, TO DELETE A REFERENCE TO BLANK LICENSES; AMENDING SECTION 36-309, IDAHO CODE, TO PROVIDE FOR THE DISPOSITION OF BLANK LICENSE STOCK, MUTILATED, VOIDED OR UNSOLD LICENSES AND TO DELETE REFERENCE TO TAGS AND PERMITS; AMENDING SECTION 36-310, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION AND DELETE A REFERENCE TO TAGS AND PERMITS; AMENDING SECTION 36-405, IDAHO CODE, TO DELETE THE REQUIREMENT FOR A WRITTEN APPLICATION, TO REQUIRE THE APPLICANT'S DATE OF BIRTH AND TO DELETE REFERENCE TO TAGS AND PERMITS; AMENDING SECTION 36-406, IDAHO CODE, TO DELETE A REFERENCE TO A SELLER'S COMMISSION, TO DELETE MINOR LICENSE TYPES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-407, IDAHO CODE, TO DELETE MINOR LICENSE TYPES, TO MODIFY THE DAILY FISHING LICENSE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 36-408, IDAHO CODE, TO ALLOW OUTFITTERS TO PURCHASE SET-ASIDE TAGS FROM LICENSE VENDORS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 36-414, IDAHO CODE, TO DELETE THE REQUIREMENT FOR SIGNING THE WATERFOWL STAMP AND TO DELETE A REFERENCE TO A SELLER'S COMMISSION; DECLARING AN EMERGENCY, PROVIDING EFFECTIVE DATES AND AUTHORIZING ADMINISTRATIVE DECLARATIONS IN ORDER TO EFFECT AN ORDERLY IMPLEMENTATION OF THE COMPUTERIZED LICENSING SYSTEM.

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

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

36-202. DEFINITIONS. Whenever the following words appear in title 36, Idaho Code, and orders~~,~~ and rules ~~and regulations~~ promulgated by the Idaho fish and game commission or the director of the Idaho department of fish and game, they shall be deemed to have the same

meaning and terms of reference as hereinafter set forth. The present tense includes the past and future tenses, and the future, the present.

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

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

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

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

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

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

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

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

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

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

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

(l) "Possession" shall mean both actual and constructive possession, and any control of the object or objects referred to; provided that wildlife taken accidentally and in a manner not contrary to the provisions of this title shall not be deemed to be in possession while being immediately released live back to the wild.

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

or storage.

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

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

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

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

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

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

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

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

4. Any person enrolled as a corpsman at a job corps center in Idaho shall be eligible, as long as he is so enrolled, to obtain a

resident fishing license irrespective of his length of residence in this state.

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

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

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

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

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

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

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

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

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

(z) "License" shall mean any license, tag, permit or stamp.

(aa) "License vendor" shall mean any person authorized to issue or sell licenses.

SECTION 2. That Section 36-301, Idaho Code, be, and the same is hereby amended to read as follows:

36-301. FORMS OF LICENSES~~,--TAGS--AND--PERMITS~~ -- PRINTING -- CHARGEABLE TO DIRECTOR. (a) Computerized licensing system. The fish and game commission shall prescribe by rule:

1. The procedures for the issuance of licenses and applications by a computerized licensing system.

2. The criteria for authorizing a person as a license vendor. In developing the criteria, the commission shall consider the cost to the state to install and maintain a license vendor and the public's need to be able to reasonably obtain the necessary license. The criteria should include, but are not limited to, the remoteness of the location; availability of licenses in the area; angling and hunting supplies and services at the location; distance to the next closest license vendor; and the number of licenses issued at the location.

(b) Forms. The forms of the various fishing, hunting and trapping licenses~~,--tags--and--permits~~ and related applications shall be determined by the director. The director shall cause to be printed such number of blank licenses~~,-tags,-permits~~ and related applications as may be required from time to time and shall supervise the selling of same throughout the state.

(c) Accountability. It is hereby made the duty of the state controller to keep and maintain a record of the number of such licenses~~,-tags--and-permits~~ so printed, and to hold the director accountable for same and for moneys received therefor.

SECTION 3. That Section 36-303, Idaho Code, be, and the same is hereby amended to read as follows:

36-303. DISTRIBUTION, ISSUANCE, AND SALE OF LICENSES~~,-TAGS-AND PERMITS~~ -- BONDING OF VENDORS. The director shall distribute such ~~licenses,--tags--and-permits~~ computerized licensing equipment and supplies to any person he may select as a license vendor for the purpose of license sale, issuance and distribution. ~~Provided-that-a~~All resident licenses shall be ~~sold~~ issued only within the state of Idaho. ~~Any person-to-whom-licenses,-tags--and--permits--are--consigned--shall--be charged-with-the-full-value-thereof,-less-the-authorized-sales-commission-therefor-as-provided-in-section-36-306,-Idaho-Code,-and-such-persons~~ All computerized licensing equipment and unused supplies shall remain the property of the department. License vendors shall be responsible for all sums received by them from the sale of such licenses~~,-tags-and-permits~~ less the authorized vendor fee as provided for in section 36-306, Idaho Code, and shall be liable upon their official bonds, if any, and should any person fail to account for the same, any sum remaining due by reason of such failure may be recovered from such person or his bondsman in a civil action. Provided, that any and all ~~persons-to-whom-licenses,-tags-and-permits-are-consigned-for sale~~ license vendors, other than employees of the department of fish and game of the state of Idaho, ~~shall~~ may be required to furnish to the director, before entering upon the sale of said licenses, ~~tags-and permits,~~ a good and sufficient surety bond to the state of Idaho in an amount ~~sufficient-to-cover-all-licenses,-tags-and-permits-so-consigned~~ designated by the director. Provided further that when a surety bond is furnished by a surety company authorized to do business in the state of Idaho, said bond shall be approved and accepted by the director and filed in the state office of the department of fish and game. All bonds executed by any person required to furnish the same shall cover a period of two (2) years and said bond shall be in a form prescribed by said director.

The director may at his discretion furnish a scheduled bond sufficient to cover ~~all-licenses,-tags-and-permits-to-be-consigned-for-sale~~ the amount designated by the director. All or any part of said bond may be paid for out of the fish and game ~~fund~~ account and shall be in lieu of any other bond requirement for the sale of licenses~~,-tags-or permits~~.

Any bond given in accordance with this section of the statute is declared to be an official bond of the state of Idaho.

Provided further that no person except an employee of the depart-

ment shall be authorized to issue and sell such licenses~~,--tags--and permits~~ until ~~the~~ any required bond as hereinbefore provided for shall have been properly signed, approved and filed with the director. All moneys collected by any person for the sale of such licenses~~,-tags-and permits~~ in the state of Idaho, with the exception of ~~any-commission-on said-amount-that-may-be-due-any-person--selling--the--same--as--vendor thereof~~ the vendor fee to be retained by them, shall be and remain the property of the department. Any person appropriating any of said funds of the department of fish and game for his own use shall be guilty of a felony.

SECTION 4. That Section 36-304, Idaho Code, be, and the same is hereby amended to read as follows:

36-304. RECEIPT CANNOT BE ISSUED IN LIEU NOR ALTERATIONS MADE. No person authorized to sell licenses~~,-tags-or-permits,~~ shall issue a receipt in lieu of a license~~,-tag-or-permit~~ or to alter any license~~,-tag-or-permit~~ as to its fee, type, class or privileges.

SECTION 5. That Section 36-305, Idaho Code, be, and the same is hereby amended to read as follows:

36-305. HONORARY OR TEMPORARY LICENSES OR PERMITS -- ISSUANCE UNLAWFUL -- PENALTY. No person including the director, any employee of the department or vendor or agent thereof shall at any time or under any circumstances issue any honorary license or any temporary ~~permit or~~ license permitting any person to hunt, fish or trap in the state of Idaho. Nothing in this section shall preclude the director from issuing scientific collecting permits when such permits are issued in accordance with the provisions of ~~s~~subsection 36-106(e)5, Idaho Code.

SECTION 6. That Section 36-306, Idaho Code, be, and the same is hereby amended to read as follows:

36-306. ~~COMMISSION-ON-SALES----WRITTEN-APPLICATION--OF--PURCHASER~~ VENDOR FEE. All persons authorized to ~~sell~~ issue licenses shall charge a ~~commission~~ vendor issuance fee of one dollar and fifty cents ($1.0~~5~~50) upon all licenses~~,-tags-and-permits-for-which-there-is-a-fee,~~ issued, not less than one-half (1/2) to be retained by them as compensation for the ~~sale~~ issuance of such licenses~~,-tags-or-permits~~ as may be specified by contract between the license vendor and the department for license issuance services performed by the vendor; provided that the vendor fee for an eighth class license as provided for in section 36-406(f), Idaho Code, or the deer, elk and bear "pak" as provided for in section 36-409(c), Idaho Code, shall be equal to one-half (1/2) the total vendor fee had each license, tag, permit or stamp been separately issued. The amount of the vendor fee retained by the department shall be deposited in the fish and game account and shall be used to help offset the cost of the computerized licensing system. S~~s~~uch ~~commission~~ vendor fee shall be charged in addition to the regular cost of the license~~,-tag-or-permit~~. However, in the case of crayfish or minnow traps, beaver, bobcat or lynx tags the ~~commission~~ vendor fee shall be charged for each ~~purchase~~ issuance of tags for each species regardless

of the number of tags ~~purchased~~ issued in said transaction. Proceeds from department issued licenses may be set aside for the department's special operations program, including citizens against poaching. ~~Be it further provided that no resident or duplicate license shall be issued without taking the written application of the purchaser in the manner prescribed by section 36-405(a), Idaho Code.~~

SECTION 7. That Section 36-307, Idaho Code, be, and the same is hereby amended to read as follows:

36-307. REPORTS OF SALES. ~~Any person authorized to issue licenses, tags and permits shall make a report on or before the fifteenth day of each month to the director stating the number of each type sold by him during the preceding month, and shall deposit at the same time with the director all moneys reportable from such sales.~~

The director is hereby authorized to establish contractual terms and provisions, including reporting requirements, with which license vendors must comply. Failure of any license vendor to comply with the terms of said contract ~~or to make the required monthly reports of sales and remittances,~~ shall be cause for the director to ~~suspend such license vendorship for the balance of the calendar year and to~~ terminate any such vendorship ~~following two (2) such suspensions in any three (3) year period~~ in accordance with commission rules. All moneys collected by license vendors from point of sale issuance other than the vendor issuance fees retained by the vendor shall be deposited weekly with the state treasurer into a separate trust fund established under the name of "State Treasurer -- Fish and Game Trust Fund."

SECTION 8. That Section 36-308, Idaho Code, be, and the same is hereby amended to read as follows:

36-308. MONTHLY REPORTS. On or about the first day of each month, the director shall make a report to the state controller showing the ~~number of blank licenses received from the controller and the~~ total number of each type of license sold. All moneys from such sales received by the director shall be deposited with the state treasurer and credited to the state fish and game fund.

SECTION 9. That Section 36-309, Idaho Code, be, and the same is hereby amended to read as follows:

36-309. DISPOSITION OF BLANK LICENSE STOCK AND MUTILATED, VOIDED OR UNSOLD LICENSES~~, TAGS OR PERMITS~~. All persons to whom blank licenses~~, tags or permits have~~ stock has been ~~consigned~~ issued as herein provided, shall turn over and deliver to said director all mutilated, voided and unused license stock and unsold licenses~~, tags or permits, and the director shall then turn over and deliver forthwith to the state controller all said mutilated and unsold licenses, tags and permits,~~ and each of said persons authorized to handle licenses shall be held accountable for all unused license stock and all mutilated, voided or unsold licenses~~, tags and permits~~ not so turned over and delivered to the director.

Provided, that when satisfactory proof is presented to the board

of examiners, of unavoidable loss or destruction of ~~blank licenses, tags or permits,~~ the above the said board may relieve the person charged with accountability therefor, and order repaid to him any moneys already paid by him into the treasury on said account.

SECTION 10. That Section 36-310, Idaho Code, be, and the same is hereby amended to read as follows:

36-310. VENDORS NEGLECTING TO ACCOUNT -- PENALTY. Any person who shall refuse or neglect to turn over, as herein provided, any moneys collected or authorized to be collected under the provisions of this act, or who shall fail, neglect or refuse to turn over and deliver all unused license stock and all mutilated, voided and unsold licenses~~, tags--and--permits,~~ shall be guilty of a felony, and upon conviction shall be immediately removed from office.

SECTION 11. That Section 36-405, Idaho Code, be, and the same is hereby amended to read as follows:

36-405. APPLICATION FOR LICENSE -- DUPLICATE LICENSE -- UNLAWFUL PURCHASE, POSSESSION, AND USE OF LICENSE~~, TAGS OR PERMITS~~. (a) Application Required.

1. Any person making application for a senior resident license or permit, or resident license shall produce his Idaho driver's license as proof of residence, or in the case of nondrivers, other suitable proof of residency, and ~~shall make--and--sign--a--written application--stating~~ state the class of license applied for, the name of the applicant, the age of the applicant, his date of birth, his length of residence, his current address, and such other information as may be required by the director.

2. Any person making application for a duplicate license ~~or--tag~~ shall ~~make--and--sign--a--written--application--stating~~ state the type and class of license or tag originally purchased and such other information as may be required by the director.

3. No person shall willfully make a false statement as to:

(A) Name, age, his date of birth, length of residence or current address when such statement is made for the purpose of obtaining a license~~, tag or permit~~ of a type or class he is not entitled to.

(B) Type and class of original license ~~or tag~~ purchased when applying for a duplicate license ~~or tag~~.

(b) Loss of License -- New One Required. In case of loss of a license ~~or tag~~, a new one shall be required to entitle the person who lost the same to hunt, fish or trap. Such person may upon application:

1. Purchase a new license ~~or tag~~ at the regular fee; or

2. Replace a lost license ~~or tag~~ with a duplicate license ~~or--tag~~ for which a fee of two dollars ($2.00) shall be charged.

3. When a duplicate ~~tag or~~ license has been issued the original license ~~or tag~~ shall become null and void.

(c) Unlawful Purchase, Possession and Use of License~~, --Tag--and Permit~~.

1. Every person buying a license~~, --tag--or--permit~~ must buy a license~~, tag or permit~~ of the proper type or class according to

his residence and age. No person shall purchase or possess a license~~, tag or permit~~ of the wrong class and such license~~, tag or permit~~ shall be void and of no effect from the date of issuance.

2. No person shall:

(A) Acquire more than one (1) regular controlled hunt permit per species or more tags per species than the commission has set a bag limit for that species except as provided in subsection (b) of this section or to have said permits or tags in his possession.

(B) Transfer any fishing, hunting, or trapping license~~, permit or tag~~ to any other person or for any person to make use of such license~~, permit or tag~~ issued to any other person.

SECTION 12. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of twenty dollars ($20.00) for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, unprotected and predatory animals and fish of the state, fifteen dollars ($15.00) for a fishing license entitling the purchaser to fish in the public waters of the state, six dollars ($6.00) for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory animals of the state, and twenty-five dollars ($25.00) for a trapping license entitling the purchaser to trap furbearers, unprotected and predatory animals of the state.

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

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

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of four dollars ($4.00) for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

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

before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of sixty-nine dollars ($69.00) entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory animals of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a bear tag, a turkey tag, a mountain lion tag, an archery hunt permit, a muzzleloader permit, an upland game permit, a migratory waterfowl stamp, a steelhead trout permit and an anadromous salmon permit. ~~All persons authorized to sell such license shall charge a commission of one dollar ($1.00) for each license sold, to be retained by them as compensation for sale of the license. This shall be in addition to the sixty-nine dollar ($69.00) charge.~~ The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

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

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

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

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

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

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

All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules ~~and regulations~~ of the commission regarding the fish and wildlife of the state.

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

~~(g) Resident Two Day Upland Game Hunting License. A license of the first class may be had by a person possessing the qualifications therein described on payment of five dollars ($5.00) entitling the purchaser to hunt upland game birds (to include turkeys), doves, cottontail rabbits, and pygmy rabbits for any two (2) days during established seasons. A person holding this license is exempt from the requirement to purchase a separate upland game permit as required in section 36-409(h), Idaho Code. Notwithstanding the requirement of section 36-107(c), Idaho Code, the director shall set aside the entire amount of this license for the purposes specified in section 36-409(h), Idaho Code.~~

~~(h) Resident Two Day Deer Hunting License. A license of the first class may be had by a person possessing the qualifications therein described on payment of ten dollars ($10.00) entitling the purchaser to hunt deer for any two (2) days during established seasons. With payment of the required fee, a person shall receive a deer tag.~~

SECTION 13. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Nonresident Hunting License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game birds, small game animals, unprotected birds and animals and predatory birds and animals and to purchase game tags as provided in section 36-409(b), Idaho Code. A license of this kind may be had upon payment of one hundred dollars ($100).

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

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

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

(e) ~~Nonresident--Ten--Day--Fishing-License.-A-license-entitling-a person-to-fish-in-the-waters-of-the-state-for-a--period--of--ten--(10) consecutive--days-only.-A-license-of-this-kind-may-be-had-upon-payment of-thirty-dollars-($30.00).~~

~~(f)--Nonresident-Three-Day-Fishing-License.-A-license-entitling--a person--to--fish--in-the-waters-of-the-state-for-a-period-of-three-(3) consecutive-days-only.-A-license-of-this-kind-may-be-had-upon--payment of-fifteen-dollars-($15.00).~~

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

(~~h~~f) ~~Nonresident~~ Falconry ~~Hunting-License.-A-license-entitling-a person-possessing-a-valid-falconry-permit-in-a-state-or-province-other than-Idaho,-to-pursue,-hunt,-or-kill-game-birds,-small--game--animals, unprotected-birds-and-animals,-migratory-waterfowl-and-to-purchase-any tags--or--stamps-required,-may-be-had-upon-payment-of-one-hundred-dol-~~

~~lars-($100)~~ Meet Permit. The director may issue a special permit for a regulated meet scheduled for a specific number of days upon payment of ten dollars ($10.00). Only trained raptors may be used under ~~a-license or~~ the special permit issued under the provisions of this subsection.

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

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

SECTION 14. That Section 36-408, Idaho Code, be, and the same is hereby amended to read as follows:

36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS LIMITED -- OUTFITTERS SET-ASIDE. (a) Tags and Permits -- Method of Use. The commission is hereby authorized to prescribe the number and kind of wildlife that may be taken under authority of the several types of tags and permits provided for in this title, and the manner in which said tags and permits shall be used and validated.

(b) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commission is hereby authorized to establish a limit annually as to the number of each kind and class of licenses, tags, or permits to be sold or issued and is further authorized to limit the number or prohibit entirely, the participation by nonresidents in controlled hunts.

(c) Outfitters Set-aside. When the commission establishes a limit as to the number of nonresident deer tags and nonresident elk tags, it shall set aside annually a maximum of twenty-five per cent (25%) of the nonresident deer tag and nonresident elk tag limit. The set-aside tags shall be sold on a first-come, first-served basis, only to persons that have entered into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

In order for a person to purchase any set-aside nonresident deer tag or nonresident elk tag, that person's outfitter must submit an application with the proper fees ~~to-the-department-of-fish-and-game~~ as required by the director. If any nonresident deer tags or nonresident elk tags set aside pursuant to this subsection are unsold by July 1 of the year in which they were set aside, they may be sold by the depart-

ment to the general public who are nonresidents. The commission may promulgate all necessary rules ~~and regulations~~ to implement the provisions of this subsection.

(d) Special Game Tags. The commission is hereby authorized to issue two (2) special bighorn sheep tags per year. One special bighorn sheep tag shall be auctioned off by an incorporated nonprofit organization dedicated to wildlife conservation, selected by the commission. The tag shall be issued by the department of fish and game to the highest eligible bidder. No more than five per cent (5%) of the successful bid for the tag may be retained by the organization. The commission is also authorized to issue one (1) special bighorn sheep tag which will be disposed of by lottery. The lottery permit can be marketed by the department of fish and game or a nonprofit organization dedicated to wildlife conservation selected by the commission. The tag will be issued by the department of fish and game to an eligible person drawn from the lottery provided in this subsection. No more than twenty-five per cent (25%) of gross revenue can be retained for administrative costs by the organization. All net proceeds for the tag disposed of by lottery pursuant to this subsection shall be remitted to the bighorn sheep account which is hereby created in the dedicated fund. Moneys in the account shall be utilized by the department in solving problems between bighorn sheep and domestic sheep, solving problems between wildlife and domestic animals or improving relationships between sportsmen and private landowners by being utilized in the veterinarian program established in subsection (e)9 of section 36-106, Idaho Code, and may be expended pursuant to appropriation. The tags to be issued pursuant to this subsection shall be taken from the nonresident bighorn sheep tag quota. The net proceeds shall be forwarded to the director for deposit in the fish and game trust account and shall be used for bighorn sheep research and management purposes only from the special bighorn sheep tag auctioned off by an incorporated nonprofit association. Moneys raised pursuant to this subsection may not be used to transplant additional bighorn sheep into that portion of southwest Idaho south of the Snake river and west of U.S. highway no. 93, nor for litigation or environmental impact statements involving bighorn sheep. No transplants of bighorn sheep accomplished with moneys raised pursuant to this subsection shall occur in any area until hearings are conducted in the area.

SECTION 15. That Section 36-414, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(d) "Prints and artwork" mean replicas of the original stamp design that are sold to the general public. Prints and artwork

are not to be construed to be the migratory waterfowl stamp that is required pursuant to this section. Artwork may be any facsimile of the original stamp design, including color renditions, metal duplications or any other kind of design.

(2) A state migratory waterfowl stamp is required to hunt migratory waterfowl. The fee for the stamp is five dollars ($5.00). The migratory waterfowl stamp shall be required in the hunting season starting not later than the fall of 1987. ~~The migratory waterfowl stamp shall be validated by the signature of the licensee written across the face of the stamp.~~ The stamp shall be sold pursuant to the procedures contained in chapter 3, title 36, Idaho Code. ~~All persons authorized to sell migratory waterfowl stamps may charge a commission of fifty cents (50¢) upon each stamp, to be retained by them as compensation for the sale of the migratory waterfowl stamp. This shall be in addition to the five dollar ($5.00) charge.~~

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

(4) The migratory waterfowl stamp to be produced by the department shall use the design as provided by the migratory waterfowl art committee. All revenue derived from the sale of the stamps by the department shall be deposited in the fish and game set-aside account and shall be used only for the cost of printing and production of the stamp and for those migratory waterfowl projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state. Acquisition shall include, but not be limited to, the acceptance of gifts of real property or any interest therein or the rental, lease or purchase of real property or any interest therein. If the department acquires any fee interest, leasehold or rental interest in real property under this section, it shall allow the general public reasonable access to that property and shall, if appropriate, insure that the deed or other instrument creating the interest allows this access to the general public. If the department obtains a covenant in real property in its favor or an easement or any other interest in real property under this section, it shall exercise its best efforts to insure that the deed or other instrument creating the interest grants to the general public in the form of a covenant running with the land reasonable access to the property. The private landowner from whom the department obtains such a covenant or easement shall retain the right of granting access to the lands by written permission.

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

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

department of agriculture shall represent statewide farming interest. The members appointed by the governor and the director of the department shall be knowledgeable about waterfowl and waterfowl management. The four (4) members appointed by the director of the department shall also represent respectively:

(a) A northern Idaho sports group;

(b) A southern Idaho sports group;

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

(d) A statewide conservation organization.

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

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

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

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

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

(c) The migratory waterfowl art committee shall have a periodic

audit of its finances conducted by the legislative council or its successor agency and shall furnish a copy of the audit to the fish and game commission and the senate resources and environment committee and the house of representatives resources and conservation committee.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval. Section 1 of this act shall be in full force and effect on and after July 1, 1995. Additionally, the Fish and Game Commission is authorized to declare such other sections of this act in full force and effect as is necessary to effect an orderly implementation of the computerized licensing system as soon after July 1, 1995, as possible and the Fish and Game Commission files notification with the Secretary of State of adoption of a motion authorizing such action.

Approved March 21, 1995.

CHAPTER 288
(H.B. No. 307, As Amended)

AN ACT

RELATING TO TAXATION OF AERIAL TRAMWAYS AND SNOWGROOMING AND SNOWMAKING EQUIPMENT; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622Y, IDAHO CODE, TO PROVIDE THAT PARTS, MATERIALS OR EQUIPMENT THAT WILL BECOME A COMPONENT OF AN AERIAL PASSENGER TRAMWAY AND SNOWGROOMING AND SNOWMAKING EQUIPMENT PURCHASED BY THE OWNER AND OPERATOR OF A DOWNHILL SKI AREA TO PREPARE AND MAINTAIN THE DOWNHILL SKI SLOPES ACCESSED BY AERIAL TRAMWAYS ARE EXEMPT FROM THE SALES AND USE TAXES IMPOSED IN CHAPTER 36, TITLE 63, IDAHO CODE.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622Y, Idaho Code, and to read as follows:

63-3622Y. TAXATION OF AERIAL PASSENGER TRAMWAYS AND SNOWGROOMING AND SNOWMAKING EQUIPMENT. There is hereby exempted from the taxes imposed in this chapter the sale, storage, use or other consumption of tangible personal property which is parts, material or equipment that will become a component of an aerial passenger tramway as defined in section 6-1102, Idaho Code, and snowgrooming and snowmaking equipment purchased and used by the owner or operator of a downhill ski area to prepare and maintain the downhill ski slopes accessed by aerial tramways.

Approved March 21, 1995.

CHAPTER 289
(H.B. No. 340)

AN ACT

RELATING TO REGULATION OF INSURANCE; AMENDING SECTION 41-316, IDAHO CODE, TO PROVIDE FOREIGN OR ALIEN INSURERS TRANSACTING INSURANCE IN IDAHO A TWO YEAR PERIOD TO COMPLY WITH INCREASES IN DEPOSIT REQUIREMENTS; AMENDING SECTION 41-335, IDAHO CODE, TO PROVIDE THAT THE ANNUAL STATEMENTS OF INSURERS SHALL BE SUBMITTED ON THE NAIC FORM AND TO PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION; AMENDING SECTION 41-514, IDAHO CODE, TO PROVIDE THAT SECTION 41-514(1)(f), IDAHO CODE, IS NOT INTENDED TO CONFLICT WITH THE OBLIGATION OF THE PARTIES TO A REINSURANCE AGREEMENT TO ARBITRATE THEIR DISPUTES IF SUCH AN OBLIGATION IS CREATED IN THE AGREEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-812, IDAHO CODE, TO PROVIDE FOR THE RELEASE OF AN INSURER'S DEPOSIT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-813, IDAHO CODE, TO PROVIDE FOR ADDITIONAL STATEMENTS BEFORE THE RELEASE OF A DEPOSIT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-911, IDAHO CODE, TO PROVIDE THAT A THIRD PARTY ADMINISTRATOR SHALL MAINTAIN A BOND IN FAVOR OF THE DIRECTOR TO BE HELD IN TRUST FOR THE BENEFIT AND PROTECTION OF INSUREDS AND THE INSURER IN THE AMOUNT OF TWENTY THOUSAND DOLLARS; AMENDING SECTION 41-1029, IDAHO CODE, TO PROVIDE THAT PARTNERSHIPS AND LIMITED LIABILITY COMPANIES ARE FIRMS FOR THE PURPOSE OF AGENT LICENSING; AMENDING SECTION 41-1036, IDAHO CODE, TO ELIMINATE A POTENTIAL DUPLICATE LICENSING FEE; AMENDING SECTION 41-1037, IDAHO CODE, TO PROVIDE FOR CERTAIN INFORMATION CONCERNING THE SPOUSE OF AN APPLICANT FOR LICENSURE AND CERTAIN INFORMATION FROM AN APPLICANT'S EMPLOYER; AMENDING SECTION 41-1046, IDAHO CODE, TO PROVIDE THAT A VERIFIED CONTINUING EDUCATION STATEMENT MUST ACCOMPANY A REQUEST FOR LICENSE CONTINUATION, TO PROVIDE FOR FORMS, TO PROVIDE A CROSS-REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTIONS 41-1047 AND 41-1049, IDAHO CODE, TO PROVIDE FOR AN AGENT'S TERMINATION OF HIS APPOINTMENT AND FOR NOTICE THEREOF; AMENDING CHAPTER 10, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1080, IDAHO CODE, TO PROVIDE FOR INACTIVE AGENT STATUS; AND AMENDING SECTION 41-2801, IDAHO CODE, TO DELETE THE APPLICATION OF SECTION 41-2818, IDAHO CODE, AS TO FOREIGN AND RECIPROCAL INSURANCE CARRIERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-316, Idaho Code, be, and the same is hereby amended to read as follows:

41-316. DEPOSIT -- FOREIGN OR ALIEN INSURERS. (1) This section shall apply as to all foreign and alien insurers.

(2) The director shall not authorize any foreign or alien insurer to transact insurance in this state unless it makes and thereafter maintains in trust in this state through the director for the protection of all its policyholders or of all its policyholders and credi-

tors, a deposit of cash or securities eligible for deposit under section 41-803, Idaho Code, in the amount of one million dollars ($1,000,000), except that:

(a) As to foreign insurers, in lieu of such Idaho deposit, the director shall accept the certificate in proper form of the public official having supervision over insurers in any other state that:

(i) A like deposit by such insurer is being maintained in public custody or control for the protection generally of the insurer's policyholders or its policyholders and creditors; and

(ii) The insurer is a member in good standing of such state's insurance guaranty association or other legal entity created for the same purpose; or if a life or health insurer, the insurer is a member in good standing of such state's insurance guaranty association or other legal entity created for the same purpose, and such guaranty association does and shall provide protection for its own state's residents.

(b) As to alien insurers, in lieu of such deposit or part thereof in this state, the director shall accept evidence satisfactory to him that the insurer maintains within the United States by way of trust deposits with public depositaries, or in trust institutions acceptable to the director, assets available for discharge of its United States insurance obligations, which assets shall be in an amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States together with a surplus equal to the larger of the following sums:

(i) The largest deposit required by this code to be made by a foreign insurer transacting like kinds of insurance; or

(ii) One million dollars ($1,000,000). Such surplus shall for all purposes under this code be deemed to be the "capital" or "surplus" of the insurer.

(3) Deposits of foreign or alien insurers in another state shall be in cash and/or securities of substantially as high quality as those eligible for deposit in this state under section 41-803, Idaho Code.

(4) All such deposits in this state are subject to the applicable provisions of chapter 8 (administration of deposits), title 41, Idaho Code, except that the release and return of deposits brought about by changes to section 41-316(2), Idaho Code, effective July 1, 1987, shall not require a hearing thereon as required under section 41-812(2), Idaho Code.

(5) Any foreign or alien insurer which requires that its agents maintain a separate trust account for transactions involving that insurer shall make and thereafter maintain in trust in this state, through the director, for the protection of all its policyholders and agents, a deposit of cash or securities eligible for deposit under section 41-803, Idaho Code, in the amount of twenty per cent (20%) of its gross written premiums, upon which such insurer is subject to the premium tax of this state under section 41-402, Idaho Code.

(6) A foreign or alien insurer holding a valid certificate of authority to transact insurance in this state immediately prior to January 1, 1995, shall have a period of two (2) years from and after that date within which to comply with any increase in deposit requirements.

SECTION 2. That Section 41-335, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

SECTION 3. That Section 41-514, Idaho Code, be, and the same is hereby amended to read as follows:

41-514. CREDIT FOR REINSURANCE. (1) Credit for reinsurance shall

be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (a) or (b) or (c) or (d) or (e) of this subsection. If meeting the requirements of paragraph (c) or (d) of this subsection, the requirements of paragraph (f) must also be met.

(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which:

(i) Files with the director evidence of its submission to this state's jurisdiction;

(ii) Submits to this state's authority to examine its books and records;

(iii) Is licensed to transact insurance or reinsurance in at least one (1) state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one (1) state;

(iv) Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and either

A. Maintains a surplus as regards policyholders in an amount which is not less than twenty million dollars ($20,000,000) and whose accreditation has not been denied by the director within ninety (90) days of its submission; or

B. Maintains a surplus as regards policyholders in an amount less than twenty million dollars ($20,000,000) and whose accreditation has been approved by the director.

No credit shall be allowed a domestic ceding insurer, if the assuming insurers' accreditation has been revoked by the director after notice and hearing.

(c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(i) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars ($20,000,000); and

(ii) Submits to the authority of this state to examine its books and records.

Provided, however, that the requirement of paragraph (c)(i) of this subsection does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(d) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in subsection (3) of this section for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director information substantially the same as that required to be reported on the NAIC annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars ($20,000,000). In the case of a group which includes incorporated and individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group; the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the director an annual certification of the solvency of each underwriter by the groups domiciliary regulator and its independent public accountants.

(ii) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in the previous paragraph, and which is under the supervision of the department of trade and industry of the United Kingdom and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of ten billion dollars ($10,000,000,000); the trust shall be in an amount equal to the group's several liabilities attributable to business written in the United States plus the group shall maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group, and each member of the group shall make available to the director an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountants.

(iii) Such trust shall be established in a form approved by the director of insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets

in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(iv) No later than February 28 of each year the trustees of the trust shall report to the director in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(e) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), (b), (c) or (d) of this section but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

(f) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted in paragraphs (c) and (d) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(i) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal; and

(ii) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company.

<u>This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.</u>

(2) A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements in subsection (1) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer; including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution, as defined in subsection (4) of this section. This security may be in the form of:

(a) Cash.

(b) Securities listed by the securities valuation office of the national association of insurance commissioners and qualifying as admitted assets.

(c) Clean, irrevocable, unconditional letters of credit, as defined in subsection (3)(a) of this section, issued or confirmed by a qualified United States institution no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the date of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment whichever first occurs.

(d) Any other form of security acceptable to the director.

(3) For purposes of subsection (2)(c) of this section a "qualified United States financial institution" means an institution that:

(a) Is organized or (in the case of a United States office of a foreign banking organization) licensed, under the laws of the United States or any state thereof;

(b) Is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the director or the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(4) A "qualified United States financial institution" means, for purposes of the provisions of this statute specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is an organization, or (in the case of a United States branch or agency office of a foreign banking organization) licensed, under the laws of the United States or any thereof and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

(5) The provisions of this section shall apply to all sessions after the effective date of this act under reinsurance agreements which have had an inception, anniversary, or renewal date not less than six (6) months after the effective date of this act.

SECTION 4. That Section 41-812, Idaho Code, be, and the same is hereby amended to read as follows:

41-812. DURATION AND RELEASE OF DEPOSIT. (1) Every deposit made in this state by an insurer pursuant to this code shall be so held as long as there is outstanding any liability of the insurer as to which

the deposit was required; or, if the deposit was required under the retaliatory provision, section 41-340, Idaho Code, the deposit shall be held for so long as the basis of such retaliation exists.

(2) Except for good cause found by the director after a hearing thereon, any such deposit shall be released and returned:

(a) To the insurer upon extinguishment by reinsurance or otherwise of all liability of the insurer for the security of which the deposit is held. If by reinsurance, the assuming insurer shall be one authorized to transact such insurance in this state.

(b) To the insurer, during solvency, to the extent such deposit is in excess of the amount required.

(c) To a depositing foreign or alien insurer, during its solvency, which has made a similar deposit in another state and has filed with the director the certificate or evidence thereof, under the conditions provided for in section 41-316(2)(b) or 41-316(2)(c), Idaho Code.

(d) To the resulting or surviving corporation or to such person as it may designate for the purpose, upon effectuation of a merger or consolidation of the depositing insurer, and upon the resulting or surviving corporation being or becoming authorized to transact insurance in this state.

(e) Upon order of a court of competent jurisdiction, to the receiver, conservator, rehabilitator, or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets pursuant to delinquency proceedings brought against the insurer under chapter 33 of this code.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the director, in his discretion, may release a deposit made in this state by an insurer pursuant to this code if the insurance regulatory body in the insurer's state has been appointed the liquidator of the insurer by a court in that state and either of the following applies:

(a) The director has no information or belief that there are any outstanding claims against the insurer by policyholders or creditors of the insurer in Idaho; or

(b) The director believes that any claims by Idaho policyholders or creditors will be adequately protected pursuant to the liquidation proceedings in the insurer's domestic state.

SECTION 5. That Section 41-813, Idaho Code, be, and the same is hereby amended to read as follows:

41-813. PROOFS FOR RELEASE OF DEPOSIT TO INSURER -- DIRECTOR'S RESPONSIBILITY. (1) Before authorizing or permitting the release of any deposit or excess portion thereof to the insurer, as provided in section 41-812, Idaho Code, the director shall require the insurer, the applicable insurance regulatory official in the insurer's domestic state, or other appropriate entity to file with him a written statement in such form and with such verification as he deems advisable setting forth the facts upon which it bases its entitlement to such release.

(2) If release of the deposit is claimed by the insurer upon the

ground that all its liabilities, as to which the deposit was held, have been assumed by another insurer authorized to transact insurance in this state, the insurer shall file with the director a copy of the contract or agreement of such reinsurance duly attested under the oath of an officer of each of the insurers parties thereto.

(3) If release of the deposit is claimed by a domestic insurer upon the ground that all its liabilities, as to which the deposit was held, have been terminated other than by reinsurance, the director shall make an examination of the affairs of the insurer for determination of the actuality of such termination.

(4) Upon being satisfied by such statement and reinsurance contract, or examination of the insurer if required under subsection (3) above, and by such other examination if any, of the affairs of the insurer as he deems advisable to make, that the insurer is entitled to the release of its deposit or excess portion thereof as provided in section 41-812, Idaho Code, the director shall release the deposit or excess portion thereof to the insurer or its authorized representative.

(5) If the director wilfully fails faithfully to keep, deposit, account for or surrender any such assets or securities deposited through him, in the manner as authorized or required under this chapter, he shall be liable therefor upon his official bond, and suit may be brought upon the bond by any person injured by such failure. The director shall not, however, have any liability as to any assets or securities of an insurer released by him in good faith pursuant to the authority vested in him under this chapter.

SECTION 6. That Section 41-911, Idaho Code, be, and the same is hereby amended to read as follows:

41-911. BONDING OF ADMINISTRATORS -- PURPOSE. Every administrator shall be bonded. The amount of the bond shall ~~not~~ be ~~less than ten per cent (10%) of the amount of total funds handled, except that in no case shall such bond be less than five~~ twenty thousand dollars ($520,000). ~~For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the total funds handled by the administrator during the preceding year, or if no funds were handled during the preceding year, the amount of funds reasonably estimated to be handled during the current calendar year by the administrator.~~ Such bond shall ~~provide~~ be in favor of the director to be held in trust for the benefit and protection ~~to~~ of insureds and the insurer or insurers against loss by reason of acts of fraud or dishonesty and may include individual bonds or schedule or blanket forms of bonds. Only one (1) such bond shall be required of the administrator for all insureds which utilize the services of the administrator, unless provided otherwise in the written agreement between the insurer and the administrator.

SECTION 7. That Section 41-1029, Idaho Code, be, and the same is hereby amended to read as follows:

41-1029. "FIRM" DEFINED. A "firm" is a ~~copartnership~~ or limited liability company.

SECTION 8. That Section 41-1036, Idaho Code, be, and the same is hereby amended to read as follows:

41-1036. LICENSING OF FIRMS, CORPORATIONS. (1) A firm or a corporation shall be licensed only as an agent, broker, or consultant, resident or nonresident.

(2) Each general partner, member and individual to act for the firm, and each individual to act for the corporation, shall be named in the license ~~or~~ and registered with the director as to the license, and shall ~~qualify as though he were an individual licensee. The director shall charge and there shall be paid as to the licensee a full license fee for each respective individual in excess of one (1) named in the license or registered with the director as to the~~ also hold a separate individual license.

(3) An individual who is not a resident of this state or otherwise excepted from the residence requirement, all as provided in section 41-1034(3), Idaho Code, shall not be named or registered as to the license of a resident agent or resident broker and shall not exercise the license powers thereof unless the individual is licensed as a nonresident agent or nonresident broker as provided in sections 41-1065 and 41-1066, Idaho Code, and maintains an office in Idaho that is the individual's principal place of doing business.

(4) License as a resident agent or resident broker shall not be issued to a firm or corporation unless it is organized under the laws of and maintains its principal place of business in this state, and the transaction of business under the license is specifically authorized in the firm's partnership agreement or the corporation's articles.

(5) The licensee shall promptly notify the director of all changes among its members, directors, and officers, and among individuals designated in or registered as to the license.

SECTION 9. That Section 41-1037, Idaho Code, be, and the same is hereby amended to read as follows:

41-1037. APPLICATION FOR LICENSE. (1) Written application for an agent, broker, solicitor, or consultant license shall be made to the director by the applicant on forms prepared and furnished by the director, accompanied by the applicable license application and examination application fees shown in section 41-401, Idaho Code (fee schedule). If the same are not already on file with the director in connection with a previous application, the application shall also be accompanied by the applicant's fingerprints on a standard police form as used for fingerprint purposes, and by a recent photograph of the applicant. The application shall be signed and duly sworn to by the applicant before a notary public or other person authorized by law to take acknowledgements of deeds.

(2) The application form shall require the applicant to state:

(a) His full name;

(b) His residences, occupations, and places of business during the five (5) years next preceding date of the application;

(c) If for an agent, broker, or consultant license, the kind or kinds of insurance to be covered by the license;

(d) Whether he has ever held a license to transact or advise with respect to any kind of insurance in any state; and whether any such license has been refused, suspended or revoked;
(e) What insurance experience, if any, he has had;
(f) What instruction in the kinds of insurance or contracts proposed to be solicited or concerned with, and in the insurance laws of this state, he has had or expects to have;
(g) Whether any insurer or general agent or consultant client claims that he is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim and the applicant's defense thereto;
(h) Whether he has had a general agency contract or agency contract cancelled and if so when, by what insurer or general agent and the reasons therefor;
(i) Whether he will devote all or part of his efforts to acting as such agent, broker, solicitor, or consultant, and if part only, how much time he will devote to such work, and in what other business or businesses he expects to be engaged or employed;
(j) Whether, if applicant is ~~a~~ married, ~~woman,--her--husband~~ the applicant's spouse has ever applied for or held a license to transact any kind of insurance in any state and whether such license has been refused, suspended, or revoked; and
(k) Such other information as the director may reasonably require.

(3) If for an agent license, the application shall be accompanied by written appointment by an authorized insurer of the applicant as agent for a kind or kinds of insurance to be transacted under the license, subject to issuance of the license.

(4) If for a solicitor license, the application shall be accompanied by written appointment of applicant as solicitor by a licensed resident general lines agent or licensed resident general lines broker, subject to issuance of the license.

(5) If the applicant is a firm or corporation, as provided in section 41-1036, Idaho Code, the application shall show, in addition, the names and residence addresses of all members, officers and directors, and shall designate the name and residence address of each individual who is to exercise the license powers; and each such individual shall furnish information with respect to himself as though for an individual license.

(6) If for agent or solicitor license, the application shall also be accompanied by the certificate (on a form designated and furnished by the director) of an officer or representative of the insurer proposed to be represented or of the applicant's employer, (in the case of applicants for agent license), or of the proposed employing agent or broker (in the case of applicants for solicitor license) ~~as--to whether-the-applicant-is-known-to-him,-whether~~ that the insurer, agent or broker has investigated, or caused an investigation to be made of, the character and business record of the applicant and the uses to be made of the license, if granted, and the findings of such investigation as to applicant's trustworthiness, integrity, financial responsibility, competence and other qualifications for the license, and whether the applicant will use the license principally for the purpose of writing controlled business, as referred to in section 41-1033,

Idaho Code. In lieu of, or in addition to, the certificate of the insurer, agent, or broker provided for in this subsection, the director may, in his discretion, cause an investigation to be made of the applicant by an independent established reporting agency; and in such event the applicant, insurer, agent, or broker, as the case may be, shall pay to the director in advance an amount equal to the cost of such investigation as determined by the director.

(7) No applicant for any license under this chapter shall wilfully withhold or misrepresent any fact or information called for in the application form or otherwise by the director. Violation of this provision shall be a misdemeanor.

SECTION 10. That Section 41-1046, Idaho Code, be, and the same is hereby amended to read as follows:

41-1046. CONTINUATION, EXPIRATION OF LICENSE. (1) All agent, broker, solicitor, consultant, limited agent, adjuster, and surplus line broker licenses issued under this code shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment of the applicable continuation fee to the director at his office in Boise no less often than biennially on or before the expiration date referred to in subsection (2) of this section, accompanied by written request for such continuation and a continuing education statement verifying that the licensee has completed any continuing education requirements imposed by the director of insurance. An application for renewal is not complete and sufficient unless it is submitted with both the applicable fee and the completed continuing education statement. The continuation fees as stated in section 41-401, Idaho Code (fee schedule), are for a one (1) year continuation; and licenses continued for two (2) years shall be subject to payment of a two (2) year continuation fee. Request for continuation shall be made ~~as follows:~~

~~(a) As to broker, consultant, adjuster, and surplus line broker licenses, request for continuation shall be made and signed by the licensee.~~

~~(b) As to solicitor licenses, request for continuation shall be made and signed by the appointing general lines agent or broker.~~

~~(c) As to agent licenses, request for continuation shall be made and signed by the licensee~~ in writing on forms to be supplied by the director.

(2) The director may, in his discretion, fix the dates of expiration of respective licenses and appointments in such manner as is deemed by him to be advisable for an efficient distribution of the work load of his office. If as to a particular license or appointment the expiration date so fixed would upon first occurrence shorten the period for which license or appointment continuation fee has theretofore been paid, no refund of unearned fee shall be made; and if the expiration date so fixed as to a particular license or appointment would upon first occurrence lengthen the period for which license or appointment continuation fee had theretofore been paid, the director shall charge no additional fee for such lengthened period. If another date is not so fixed by the director, each such license shall, unless continued as hereinabove provided, expire at midnight on March 31.

(3) Any license referred to in subsection (1) of this section as to which request for continuation, ~~and~~ fee and completed continuing education statement is not so received by the director shall be deemed to have expired at midnight on the applicable expiration date. Request for continuation of any such license or payment of the continuation fee therefor which is received by the director within thirty (30) days after such expiration date may be accepted and effectuated by the director, in his discretion, if accompanied by a continuation fee of two (2) times the amount otherwise required.

(4) Subject to continuation as above provided, the license of an agent shall continue in force as long as there is in effect as to such agent, as shown by the director's records, an appointment or appointments as agent of authorized insurers covering collectively all of the kinds of insurance or classifications thereof included in the agent's license. Upon termination of all of such licensee's agency appointments as to a particular kind of insurance or classification thereof and failure to replace such appointment within sixty (60) days thereafter, the licensee's license as agent shall automatically thereupon expire and terminate as to such kind of insurance or classification and the licensee shall promptly deliver his license to the director for reissuance, without fee or charge, as to the kinds of insurance or classifications thereof, if any, covered by the licensee's remaining agency appointments. Upon termination of all of the licensee's agency appointments the license shall forthwith terminate.

(5) As a condition to or in connection with the continuation of any agent, broker or solicitor license the director may require the licensee to file with him information relative to use made of the license during the next preceding two (2) calendar years, and especially showing whether the license has been used principally for the writing of controlled business, as defined in section 41-1033, Idaho Code.

(6) All sums tendered as fee for continuation of license as agent, broker, solicitor, consultant, limited agent, adjuster and surplus line broker shall be deemed earned when paid and shall not be subject to refund; except that the director shall refund any duplicate payment of any such fee.

(7) (a) For the protection of the people of this state the director shall, by rule ~~and--regulation~~, establish additional educational requirements designed to maintain and improve the insurance skills and knowledge of agents, brokers, solicitors, and consultants after being duly licensed by the department of insurance. The director shall also, by rule ~~and-regulation~~, establish an advisory committee, comprised of representatives from each segment of the insurance industry, to assist the director in prescribing additional educational requirements and fulfilling the purposes of this legislation.

(b) Subject to subsection (3) above, t~~T~~he director shall not permit to be continued the license of any agent, broker, solicitor, or consultant who is licensed pursuant to section 41-1030, Idaho Code, and who is a resident of this state, unless such person has demonstrated to the satisfaction of the director that in addition to meeting the standards contained in section 41-1034, Idaho Code (qualifications for agents, brokers, and solicitors), or section

41-1035, Idaho Code (qualifications for consultants), as may be applicable, all the additional educational requirements as the director may prescribe by ~~regulation~~ rule adopted pursuant to this subsection have been met. The provisions of this paragraph shall not apply to employees or owners of travel agencies if the employee's or owner's license allows the sale of travel or trip insurance to customers booking travel plans with the travel agency, or to a limited agent who is licensed pursuant to section 41-1045, Idaho Code, or to persons regulated or licensed by the department of finance pursuant to chapter 46, title 28, Idaho Code, national or state chartered banks, federal or state chartered savings and loan associations, or federal or state chartered credit unions dealing with insurance licensed pursuant to section 41-1045, Idaho Code (limited agent's license).

SECTION 11. That Section 41-1047, Idaho Code, be, and the same is hereby amended to read as follows:

41-1047. APPOINTMENT OF AGENTS -- CONTINUATION. (1) Each insurer appointing an agent in this state shall file with the director the appointment in writing, specifying the kinds of insurance or classifications thereof, as specified in section 41-1038(2)(a), Idaho Code, or annuity business, to be transacted by the agent for the insurer, and pay the appointment fee as specified in section 41-401, Idaho Code (fee schedule). The appointment fees as stated in section 41-401, Idaho Code, are for a one (1) year continuation, and appointments continued for two (2) years shall be subject to payment of a two (2) year continuation fee. One (1) appointment fee shall cover all of the kinds of insurance and annuity business so to be transacted by the agent for the one (1) insurer.

(2) Subject to continuation by the insurer and payment of the continuation of appointment fee as provided in section 41-401, Idaho Code, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer or agent earlier terminates the appointment as provided in section 41-1049, Idaho Code. Any appointment not so continued or otherwise expressly terminated shall be deemed to have expired at midnight on March 31, or on such other date fixed therefor by the director pursuant to section 41-1046(2), Idaho Code.

(3) If the insurer notifies the director within thirty (30) days after the due date of the appointments to be continued, the director may, in his discretion, accept and renew such appointments if they are accompanied by continuation of appointment fees of two (2) times the amount otherwise required.

(4) All sums tendered as fee for appointment or continuation of appointment of an agent shall be deemed earned when paid and shall not be subject to refund; except, that the director shall refund any duplicate payment of any such fee.

SECTION 12. That Section 41-1049, Idaho Code, be, and the same is hereby amended to read as follows:

41-1049. TERMINATION OF APPOINTMENT. (1) Subject to the agent's

contract rights, if any, an insurer or agent may terminate an agent appointment at any time. The insurer shall promptly give written notice of such termination and the date thereof to the director, and to the agent where reasonably possible. If terminated by the agent, the agent shall promptly give written notice and the date thereof to the insurer and the director.

(2) As part of the notice of termination given the director, the insurer shall file with the director a statement of the facts relative to such termination or noncontinuance and the cause thereof. Any information, document, record or statement so disclosed or furnished to the director shall be subject to disclosure according to chapter 3, title 9, Idaho Code.

SECTION 13. That Chapter 10, 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 41-1080, Idaho Code, and to read as follows:

41-1080. INACTIVE AGENT STATUS. (1) Any individual resident agent, broker, or consultant who desires not to actively continue in the business of insurance may apply for inactive status of his resident license on forms prescribed by the director. The director, in his discretion, may grant or deny the application for inactive status and shall notify the licensee of his decision in writing. Inactive status of such resident license, once granted, shall apply to all licenses held by the licensee and shall continue in force:

(a) Until reactivated pursuant to this section; or

(b) Until the license is suspended or revoked pursuant to chapter 10, title 41, Idaho Code.

(2) During the period that a licensee remains on inactive status, the licensee may not transact the business of insurance in this state, or engage in any other insurance activities, in which an active licensee may engage. A licensee on inactive status may continue, subject to the terms of an insurer's contract with the licensee, to receive commissions or other compensation relative to business written by such licensee during active license status pursuant to section 41-1063, Idaho Code.

(3) Any individual resident agent, broker or consultant whose license is placed on inactive status shall be exempt from compliance with section 41-1046(7)(a), Idaho Code, as to continuing education.

(4) An individual resident agent, broker or consultant whose license is placed on inactive status shall be subject to payment of the applicable continuation fees pursuant to section 41-1046, Idaho Code.

(5) An individual resident agent, broker or consultant whose license is on inactive status may apply for reactivation of such license on forms prescribed by the director. The director, in his discretion, may grant or deny the application for reactivation. The agent shall not be required to meet examination requirements as to any line or kind of insurance to be transacted under the reactivated license. However, the request shall include a company appointment as required in chapter 10, title 41, Idaho Code, along with proof of ten (10) hours of continuing education in the three (3) months prior to

reactivation.

SECTION 14. That Section 41-2801, Idaho Code, be, and the same is hereby amended to read as follows:

41-2801. SCOPE OF CHAPTER. This chapter shall apply only to domestic stock insurers and domestic mutual insurers, except that sections 41-2806 through 41-2817 and section 41-2819, Idaho Code, relative to sale of securities or other financing of insurers or insurance operations, shall apply also as to reciprocal insurers and foreign insurers, and section 41-2849, Idaho Code, (nonassessable policies, mutual insurers) shall also apply as to foreign insurers.

Approved March 21, 1995.

CHAPTER 290
(H.B. No. 323, As Amended)

AN ACT

RELATING TO GROUND WATER DISTRICTS; AMENDING TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 52, TITLE 42, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE TITLE OF DISTRICTS AND TO DEFINE TERMS, TO PROVIDE FOR ESTABLISHMENT OF GROUND WATER DISTRICTS, TO PROVIDE FOR A PETITION FOR ORGANIZATION, TO PROVIDE FOR NOTICE OF PRESENTATION TO COUNTY COMMISSION, TO PROVIDE A NOTICE OF HEARING, TO PROVIDE FOR EXAMINATION BY THE DEPARTMENT OF WATER RESOURCES AND A REPORT TO THE COUNTY COMMISSION, TO PROVIDE FOR A HEARING BEFORE THE BOARD OF COUNTY COMMISSIONERS, TO PROVIDE FOR DIVISIONS OF DISTRICT FOR ELECTION OF DIRECTORS, TO PROVIDE FOR NOTICE OF ELECTION, TO PROVIDE QUALIFICATIONS OF VOTERS FOR DISTRICT ELECTIONS, TO PROVIDE CONDUCT OF ELECTIONS, TO PROVIDE THAT REGISTRATION SHALL NOT BE REQUIRED, TO PROVIDE FOR A CANVASS OF VOTES, TO PROVIDE FOR INCLUSION IN THE DISTRICT, TO PROVIDE FOR A LIMITATION ON PROCEEDINGS AFFECTING VALIDITY, TO PROVIDE AN ORGANIZATIONAL MEETING OF THE BOARD, TO PROVIDE FOR A BOND FOR THE TREASURER, TO PROVIDE FOR AN ELECTION AND TERMS OF OFFICE OF DIRECTORS, TO PROVIDE WHEN AN ELECTION IS NOT REQUIRED, TO PROVIDE NOTICE OF ELECTION, TO PROVIDE FOR CONDUCT OF ELECTIONS, TO PROVIDE FOR A CANVASS OF RETURNS, TO PROVIDE FOR OFFICERS, MEETINGS, COMPENSATION AND VACANCIES ON THE BOARD OF DIRECTORS, TO PROVIDE POWERS AND DUTIES OF THE BOARD OF DIRECTORS, TO PROVIDE AUTHORITY TO CONSTRUCT AND OPERATE GROUND WATER RECHARGE OR STORAGE PROJECTS, TO PROVIDE INTERSECTIONS WITH STREETS, RAILROADS AND WATERCOURSES, TO PROVIDE THAT OFFICERS SHALL NOT BE INTERESTED IN CONTRACTS, TO PROVIDE FOR INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, TO PROVIDE FOR A REPORT TO THE DEPARTMENT OF WATER RESOURCES, TO PROVIDE FOR FINANCIAL STATEMENTS, TO PROVIDE FOR ACCESS TO THE DISTRICT'S BOOKS, TO PROVIDE FOR LEVY OF ASSESSMENTS, TO PROVIDE FOR THE POWER TO INCUR INDEBTEDNESS AND ASSESSMENTS TO SECURE REPAYMENT, TO PROVIDE FOR WARRANTS, TO PROVIDE FOR AN ELECTION FOR INDEBTEDNESS AND A REFERENDUM PETITION, TO PROVIDE FOR JUDICIAL

EXAMINATION, TO PROVIDE FOR JUDICIAL PROCEEDINGS TO TEST VALIDITY, TO PROVIDE A TAX EXEMPTION, TO PROVIDE FOR LIBERAL CONSTRUCTION, TO PROVIDE A MECHANISM TO ALLOW LENDING INSTITUTIONS WITH THE RIGHT TO COMPEL ASSESSMENTS AND TO PROVIDE OTHER ALTERNATIVE REMEDIES, TO PROVIDE FOR A LIEN OF ASSESSMENT, TO PROVIDE FOR PAYMENT OF ASSESSMENTS, TO PROVIDE WHEN THEY ARE DELINQUENT AND TO PROVIDE FOR INTEREST AND PENALTIES, TO PROVIDE FOR ENTRY OF DELINQUENT ASSESSMENTS AND A FILING OF THE DELINQUENCY LIST, TO PROVIDE FOR REDEMPTION AND SALE OF PROPERTY SUBJECT TO DELINQUENT ASSESSMENTS, TO PROVIDE A PROHIBITION AGAINST PARTICIPATION IN A MITIGATION PLAN WHEN SUBJECT TO DELINQUENT ASSESSMENT, TO PROVIDE A PETITION FOR ANNEXATION OF LAND, TO PROVIDE A NOTICE OF PETITION, TO PROVIDE A HEARING ON THE PETITION, TO PROVIDE FOR ASSESSMENTS AGAINST ANNEXED LANDS, TO PROVIDE AN ORDER ACCEPTING OR REJECTING A PETITION, TO PROVIDE FOR RECORDING AN ORDER, TO PROVIDE FOR A PETITION FOR EXCLUSION OF LANDS AND TO PROVIDE THAT LANDS MAY REMAIN IN THE DISTRICT FOR MITIGATION PURPOSES, TO PROVIDE CONTENTS OF A PETITION AND ITS EFFECT, TO PROVIDE AN ORDER OF EXCLUSION, TO PROVIDE FOR A SURVEY OF LAND TO BE EXCLUDED, TO PROVIDE FOR COSTS OF EXCLUSION, TO PROVIDE FOR FILING OF CHANGES, TO PROVIDE THE EFFECT OF EXCLUSION, TO PROVIDE FOR REINSTATEMENT OF LANDS, TO PROVIDE FOR PARTICIPATION BY A NONMEMBER IN A DISTRICT'S MITIGATION PLAN, TO PROVIDE FOR A PETITION TO ANNEX STATE LANDS, TO PROVIDE FOR A PETITION FOR DISSOLUTION OF A DISTRICT, TO PROVIDE FOR AN ELECTION ON THE DISSOLUTION PETITION, TO PROVIDE FOR NOTICE AND CONDUCT OF A DISSOLUTION ELECTION, TO PROVIDE FOR A CANVASS OF RETURNS, TO PROVIDE FOR A PETITION FOR CONFIRMATION BY DISTRICT COURT, TO PROVIDE THE CHARACTER OF PROCEEDINGS FOR CONFIRMATION, TO PROVIDE A DECREE OF CONFIRMATION, TO PROVIDE A PROCEDURE FOR DISSOLUTION WITHOUT AN ELECTION, TO PROVIDE PARTIES TO THE PROCEEDINGS OF DISSOLUTION WITHOUT AN ELECTION, TO PROVIDE FOR THE APPOINTMENT OF AN OFFICER TO MARSHAL ASSETS AND TO PROVIDE A DECREE, TO PROVIDE FOR AN APPEAL, TO PROVIDE FOR CONSOLIDATION OF DISTRICTS, TO PROVIDE A PROCEDURE FOR CONSOLIDATING DISTRICTS WHEN ONE HAS SUBSTANTIALLY LARGER DIVERSIONS, TO PROVIDE FOR EXERCISE OF POWERS BY IRRIGATION DISTRICTS AND TO PROVIDE FOR INCLUSION OF IRRIGATION DISTRICTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 42, 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 42, Idaho Code, and to read as follows:

CHAPTER 52
GROUND WATER DISTRICTS

42-5201. SHORT TITLE -- TITLE OF DISTRICTS -- DEFINITIONS. This chapter is known as the "Ground Water District Act"; the districts created hereunder may be termed "ground water districts." When used in this chapter, and unless otherwise specified, the following terms shall be defined as follows:

(1) "Board" means the board of directors of a ground water dis-

trict organized pursuant to this chapter.

(2) "Corporation" means a corporation or limited liability company.

(3) "County commission" means the board of county commissioners or any other governing board or authority for a county, as provided by law.

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

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

(6) "District" means a ground water district established, or to be established, pursuant to this chapter.

(7) "Ground water" when used in this chapter means water under the surface of the ground whatever may be the geologic structure in which it is standing or moving, as provided in section 42-230(a), Idaho Code.

(8) "Ground water user" means the legal or beneficial owner of a ground water right, or the user of a ground water right pursuant to lease or contract of a ground water right to divert ground water of the state for a beneficial use or purpose, except for those diverting under rights used solely for domestic or stock use as defined by sections 42-111 and 42-1401A(12), Idaho Code. A ground water user is within the boundary of a ground water district if the well or other point of diversion used by that ground water user is within the boundary. A husband and wife together diverting ground water pursuant to right shall constitute one (1) ground water user. Ground water user includes both a ground water irrigator and a nonirrigator as defined in this chapter.

(9) "Ground water irrigator" means a ground water user holding a ground water right for irrigation purposes within a ground water district.

(10) "Land" or "lands," when used in the context of the property of a ground water user subject to district assessment under this chapter, means the real property where ground water is diverted or placed to beneficial use, including the facilities in or through which a ground water user makes beneficial use of ground waters.

(11) "Nonirrigator" means a ground water user holding a ground water right for commercial, municipal, or industrial purposes within a ground water district. A ground water user will be deemed a nonirrigator for purposes of this chapter even though: (a) some component of the user's ground water use is for irrigation; or (b) the user holds a ground water right for irrigation that is incidental to, or normally associated with, the user's commercial, municipal or industrial purpose.

(12) "Member" means a ground water user whose lands, facilities and/or water rights are included in and subject to a ground water district and its policies.

(13) "Mitigation plan" means a plan to prevent or compensate for material injury to holders of senior water rights caused by the diversion and use of water by the holders of junior priority ground water rights who are participants in the mitigation plan.

(14) "Person" means an individual, partnership, trust, estate, association, corporation, municipal corporation, the state of Idaho and any of its agencies, the United States, an Indian tribe, a public

corporation, or any other public or private entity.

(15) "Public corporation" means counties, city and counties, cities, school districts, municipal water districts, irrigation districts, recharge districts, water districts, park districts, subdistricts, and all other governmental agencies of this state, having the power of levying or providing for the levy of general or special taxes or special assessments, and any political subdivision of another state of the United States.

(16) "Water right" means the legal right to divert and beneficially use the public waters of the state of Idaho where such right is evidenced by a decree, a permit or a license issued by the department, a beneficial or constitutional use right evidenced by an adjudication claim or claim based on section 42-243, Idaho Code, or a right based on federal law.

42-5202. ESTABLISHMENT OF GROUND WATER DISTRICTS. Whenever fifty (50) or a majority, whichever is less, of the ground water users in a particular geographic area desire to organize a ground water district, they may propose the organization of a district and the election of its initial board of directors under this chapter.

42-5203. PETITION FOR ORGANIZATION -- MAP -- BOND. (1) A petition shall be first presented to the county commission of the county in which the greatest proportion of cubic feet per second of ground water rights of the proposed district is situated, which petition shall:

(a) Be signed by the required number of ground water users in such proposed district;

(b) State that the petitioners desire to have their lands included within and subject to the assessments of the district for purposes consistent with this chapter;

(c) Set forth and describe by township, range and section, with the degree of certainty required by law in a tax roll, the boundary of the area where, if a ground water user is located within that boundary, that ground water user would be included in a ground water district, and shall request that the area described be organized into a ground water district;

(d) Propose a name for the district;

(e) Be accompanied by a list, identifying the ground water users within such proposed district by name, address, ground water right number, point of diversion, and cubic feet per second per ground water right, certified by the director of the department of water resources as accurately reflecting the records of the department;

(f) Be accompanied by a map which shall indicate the proposed boundaries of the district, and which may propose division boundaries as specified in section 42-5208, Idaho Code;

(g) Propose between three (3) and seven (7) divisions and division boundaries;

(h) Include nominations for a director for each division, each of which shall be signed by not less than six (6) ground water users in the proposed district;

(i) Be accompanied by bond, to be approved by the county commission, in double the amount of the probable cost to the county and the department of organizing such district, conditioned that the

bondsmen will pay all said costs, in case organization of the district is unsuccessful.

(2) The petition, together with all maps and papers filed therewith, shall, during the county's office hours, be open to public inspection at the office of the county clerk between the date of filing and the date of the final hearing thereon. The boundaries specified in the petition shall be proposed in such manner that the greatest distance between two (2) wells in the district shall be no more than thirty (30) miles unless good cause is shown to the county commission for including a larger area.

(3) Lands of ground water users do not have to be contiguous within a ground water district, and such district may be organized even though its boundaries may overlap with other districts formed pursuant to title 43, Idaho Code, or other titles of the Idaho Code.

(4) If the district is organized, the costs of organization shall be assessed against the members of the district.

42-5204. NOTICE OF PRESENTATION TO COUNTY COMMISSION. The petition may be filed with the county clerk, upon verifying with the county assessment roll or other evidence of entitlement whether the petition is valid, at any time, and upon such filing the clerk forthwith shall cause a notice to be published in a newspaper printed within the county (counties) within the boundaries specified in the petition, or if no newspaper is printed in any of the affected counties, then in newspapers of general circulation in the affected county (counties). The notice shall state that (giving the first name on the petition) and others have filed a petition for the organization of a ground water district. The notice shall state the numbers of the townships, ranges, and sections where, if a ground water user is within those townships, ranges, and sections, that ground water user would be within the proposed district. The notice shall further state the time at which such petition will be presented to the county commission, which time shall be during a regular meeting of the commission or a special meeting called for that purpose, and the notice shall be published at least once a week for two (2) consecutive weeks before the day on which the petition is to be presented.

42-5205. NOTICE OF COUNTY COMMISSION HEARING. When the petition is presented, the county commission shall set a time for a hearing on the petition, which shall not be less than four (4) nor more than eight (8) weeks from the date of presentation, unless extended by the county commission for good cause. A notice of the time of such hearing shall be published by the county clerk, at the direction of the commission, at least three (3) weeks before the time of such hearing, in a newspaper or newspapers as required in section 42-5204, Idaho Code.

42-5206. EXAMINATION BY DEPARTMENT OF WATER RESOURCES -- REPORT TO COUNTY COMMISSION -- AMENDMENT OF PLAN. (1) A copy of the petition and all maps and other papers filed with the county commission shall be filed with the department on the same day the petition is filed with the county commission.

(2) The department shall examine the petition, maps and other papers submitted in support of it, and, taking into account

hydrological factors, patterns of ground water use, or other attributes of the area that may aid the county commission, prepare a report upon the boundaries proposed for the district and submit the report to the county commission at least two (2) weeks before the meeting set for the commission to hear the petition.

42-5207. ORGANIZATION HEARING BEFORE COUNTY COMMISSION -- ORDER OF COUNTY COMMISSION. (1) After receiving the report of the department of water resources, the county commission shall conduct a hearing on the petition. If the county commission determines that the requisite number of signatures were not gathered on the petition, the board shall adjourn the hearings for two (2) weeks for the purpose of enabling the petitioners to gather additional signatures. The petitioners may amend the boundaries of the proposed district at the hearing to include or exclude lands of those ground water irrigators who provide written notice or who appear at the hearing requesting that their lands be either included or excluded, to meet the recommendations of the department, or as they may find advisable to achieve suitable district boundaries. The county commission shall accept any additional nominations of persons to be directors at the hearing or the nominations may be filed with the county clerk. The nominations must be signed by at least six (6) ground water users from the proposed district.

(2) When the county commission has determined to proceed with the petition, it may adjourn the hearing from time to time, not exceeding four (4) weeks in all, and on final hearing, the county commission:

(a) May make such other changes in the proposed boundaries of the district and divisions within the district as it may find proper; and

(b) Shall make an order on its records describing the area which it shall have determined to include in the district, and stating that lands of ground water users within such area will be organized into a ground water district if the vote of the electors accepts organization of the district.

(3) The county commission shall notify the department of the final action by mailing or faxing a copy of the order to the department within seven (7) days of the board's decision. If the boundaries of the proposed ground water district differ from the boundaries contained in the department's original report, the department shall prepare a revised list of the ground water users within such proposed district by name, address, ground water right number, point of diversion, and cubic feet per second per ground water right and return it to the county commission.

42-5208. DIVISIONS OF DISTRICT FOR ELECTION OF DIRECTORS. The county commission shall also make an order dividing the district into not less than three (3) nor more than seven (7) divisions, each division to contain approximately the same amount, measured in cubic feet per second, of ground water rights as each other division. The divisions shall be numbered first, second, third, etc., and one (1) director, who shall be a ground water user in the division, shall be elected from each division of the district at large. The number of divisions into which the district shall be divided shall be specified

in the petition for the organization of the district, and if not otherwise specified shall be three (3).

42-5209. NOTICE OF ELECTION. The county commission shall give notice of an election to be held in accordance with section 34-106, Idaho Code, in the proposed district for the purpose of determining whether the district shall be organized under this chapter, and, if so, who shall be its initial directors. The notice shall describe the area, with the certainty required in an ordinary deed, where, if a ground water user is located within that area, that ground water user would be included in the district and shall state the name of the proposed district as designated by the commission, and shall state that a map showing the area of the district is on file in the office of the county clerk, which map, if not previously made, shall be made by the petitioners after the determination of the commissioners of the boundary of the proposed district, and shall state the names of those individuals who have been nominated for director's positions. The notice shall be published for four (4) weeks prior to such election, in a newspaper or newspapers as required in section 42-5204, Idaho Code. The notice shall require the electors to cast ballots which shall contain the words "ground water district--yes," or "ground water district--no," and also to cast ballots for at least one (1) person from each division for director of the district.

42-5210. QUALIFICATIONS OF VOTERS FOR DISTRICT ELECTIONS. (1) Any ground water irrigator, and any nonirrigator who is a member for all purposes, within the proposed district shall be entitled to vote at any election held under the provisions of this chapter. The production of documentation of a water right as described in section 42-5201(16), Idaho Code, shall be sufficient evidence of ground water use for purposes of acting as an elector under this chapter. A representative of a ground water user shall be so designated by written proxy signed by the ground water user except that the vote of a state or county government may be cast by an elected or appointed official of the agency, or his designee. A corporation or partnership shall vote or otherwise act by a single individual who is authorized by the corporation or partnership to act on its behalf. A corporation or partnership must furnish the election officials a written designation stating the name of the individual who is authorized to vote and otherwise act for the corporation or partnership.

(2) Any ground water user who becomes a member of a district solely for mitigation purposes:

(a) Shall be entitled to vote only in those district elections concerning whether to incur indebtedness as specified in section 42-5234, Idaho Code; and

(b) Shall be ineligible to nominate directors or officers of the district, to serve in such capacities, or otherwise to participate in the governance of the district.

(3) A nonirrigator may participate in the election to determine whether a district will be formed only according to the following provisions:

(a) The nonirrigator shall notify the judges of election in writing at least ten (10) working days prior to the date of the elec-

tion that such person supports the formation of the district, elects to become either a member for all purposes, or a member only for mitigation purposes as described in section 42-5214, Idaho Code, should it be formed, and, by such notice, casts its vote(s) in favor of formation.

(b) The notification shall contain a legal description of the land through which the nonirrigator places ground waters to beneficial use, a statement of the amount of such person's ground water right in cubic feet per second of diversions, and a copy of the ground water right documentation described in section 42-5201(16), Idaho Code.

(c) Once the judges of election have accepted the notification described in subsection (3)(b) of this section, they shall duly record the nonirrigator's vote(s) in favor of district formation in the canvassing of votes carried out pursuant to section 42-5213, Idaho Code.

(d) If the voting results in the formation of the district, the nonirrigator who provided such notification thereafter shall be a full member or member for mitigation purposes of such district, whichever the case may be, and shall have all obligations, rights, and limitations attaching thereto.

(4) Each ground water user shall have one (1) vote for each cubic foot per second, or proportion thereof (rounded to the nearest tenth of a cubic foot per second), for which such ground water user holds a ground water right.

42-5211. CONDUCT OF ELECTIONS. (1) Elections shall be conducted as nearly as practicable in accordance with the general laws of the state; provided, no particular form of ballot shall be required, and that the provisions of the election laws as to the form and distribution of ballots shall not apply.

(2) The county commission shall establish one (1) or more election precincts, not exceeding seven (7), as may be necessary, and define the boundaries thereof, which boundaries, when the district is divided into precincts, shall be the same as the division boundaries above-provided for and which said precincts may thereafter be changed by the board of directors of such district as may be necessary; provided, that districts shall have not less than three (3), nor more than seven (7) voting precincts.

(3) The county commission shall also appoint three (3) judges of election for each such election precinct, who shall perform the same duties as near as may be as judges of election, under the general laws of the state.

42-5212. REGISTRATION NOT REQUIRED. No registration shall be required in any ground water district election, but in lieu thereof the judges of election shall require every elector to subscribe to an elector's oath as prerequisite to casting his vote, and such oath shall be the usual elector's oath with the following words added thereto, "I am a resident of ..... county, and I am a ground water user within the ..... (proposed) ground water district, or I am a representative of a ground water user within the ..... (proposed) ground water district" and present evidence of such ground

water use pursuant to 42-5201(16), Idaho Code, if they do not appear on the department's list as provided in section 42-5206, Idaho Code.

42-5213. CANVASS OF VOTES -- COMPLETION OF ORGANIZATION. (1) Immediately after any election for voting upon the organization of a ground water district, the judges of the election shall forward the official results of said election to the county clerk. The county commission shall meet within ten (10) days after the election returns are received, and canvass the votes cast. If it appears that two-thirds (2/3) of the votes cast are "ground water district--yes," the commission shall, by order entered on its minutes, declare such territory duly organized as a ground water district, under the name designated, shall declare that a map showing the area of the district is on file in the office of the county clerk and shall declare the persons receiving respectively the highest number of votes for director from each division to be duly elected as directors. The county commission shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of each county in which any portion of such district is situated, and shall mail a certified copy of the order to the director.

(2) If it shall appear, however, that more than one-third (1/3) of the votes cast are "ground water district--no," then a record of that fact shall be duly entered upon the minutes of the board, and all proceedings in regard to the organization of the district shall be void, and the expenses properly incurred thereunder may be collected on the bond provided for in section 42-5203, Idaho Code.

42-5214. GROUND WATER USERS INCLUDED WITHIN THE DISTRICT. (1) All ground water irrigators within the boundaries of the district are members of the district and subject to assessments, rights and responsibilities established by the district as set forth in this chapter, notwithstanding any change in the ownership or control of the property of the water user, whether by way of transfer, exchange, conveyance, assignment, lease, or otherwise, to which the water right or rights used to determine assessments are appurtenant, unless excluded from the district pursuant to sections 42-5251 through 42-5257, Idaho Code.

(2) All nonirrigators within the boundaries of the district who voted according to notice as provided in section 42-5210(3), Idaho Code, are members of the district as specified in such notice.

(3) A nonirrigator also may become a member of a district by providing, within sixty (60) days after the date on which the district is formed, written notice to the district board that the nonirrigator wishes to join the district either as a member for all purposes or as a member for mitigation purposes only. Upon providing such notice, the nonirrigator shall be either a member for all purposes or a member for mitigation purposes only, as specified in the notice, and shall be subject to assessment accordingly as provided in this chapter.

(4) Except as provided for municipal, commercial, industrial, federal and tribal ground water users in subsection (1) of this section, any person whose permit to appropriate ground water was acquired after the formation of the district, or who appropriates ground water for uses not requiring a permit after the formation of the district, but qualifies as a ground water user under subsection (10) of section

42-5201, Idaho Code, within the area of the district in all other respects, shall be deemed included within and subject to assessment by the district, if benefitted either directly or indirectly by the district.

42-5215. LIMITATION ON PROCEEDINGS AFFECTING VALIDITY. No action shall be commenced or maintained, or defense made affecting the validity or organization of the district, more than two (2) years from and after the county commission enters on its minutes the order directing the formation of the district.

42-5216. ORGANIZATIONAL MEETING OF BOARD. From and after the date the county commission files its order declaring the district to be formed by election, the organization of the district shall be complete and those ground water users specified in section 42-5214, Idaho Code, shall be included within the district. The officers and directors of the district shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying according to law, and shall hold such offices respectively, until their successors are elected and qualified. The board of directors so elected shall meet within thirty (30) days after their election and elect a president, and appoint a secretary and treasurer, who shall perform the duties imposed upon such officers under this chapter.

42-5217. TREASURER'S OFFICIAL BONDS. The treasurer shall on his appointment execute and file with the secretary an official bond in such amount as may be fixed by the district board of directors, which shall not be less than five thousand dollars ($5,000); and shall thereafter from time to time execute and file such further bonds as may be required by the board in amounts fixed by it, which amounts shall be of at least fifty percent (50%) of the maximum probable amount of money in the treasurer's hands at any one (1) time. All such official bonds shall be executed by a lawfully qualified surety company.

42-5218. ELECTION, TERM OF OFFICE, NOMINATIONS AND QUALIFICATIONS. Following the organization of the district, an election shall be held in accordance with section 34-106, Idaho Code, at which shall be elected one (1) director for each division of the district by the electors of the district at large. Following the election, the term of office of the directors shall be selected by lot so that as nearly as may be, one-third (1/3) of the number shall hold office for the term of one (1) year, one-third (1/3) for the term of two (2) years, and the balance for the term of three (3) years. An election shall be held in the district in accordance with section 34-106, Idaho Code, for each year thereafter, at which directors shall be elected to succeed those whose terms expire, to hold office for a term of three (3) years, or until their successors are elected and qualified. Every director must be a ground water user and a member of the district in the division of the director whom he is to succeed in office. Written nominations for the office of director must be signed by at least six (6) members in districts having less than one hundred (100) members and by at least twelve (12) members in districts having more than one

hundred (100) members, and filed with the secretary of the district not less than twenty (20) days nor more than forty (40) days before the date of election; and the names of the persons so nominated shall be placed upon official ballot to be furnished by the district.

42-5219. WHEN ELECTION NOT REQUIRED. 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 thereby for each position to be filled, it shall not be necessary to hold an election, and the board of directors shall, within five (5) days after expiration of the date for filing written nominations, declare such candidate elected as director. The procedure set forth in this section shall not apply to any other district election.

42-5220. NOTICE OF ELECTION. The secretary of the district shall give notice of all elections in the district by posting the same in five (5) public places in each county in which a part of the district is situated and in the office of the board of directors at least four (4) weeks before the day of such election, or by publication of the notice once a week for four (4) successive weeks in a newspaper or newspapers published in each of said counties or in a newspaper of general circulation therein. Notices shall state the time of the election and the location of polling places within the district and the directors to be elected or other question to be voted upon, as the case may be.

42-5221. CONDUCT OF ELECTIONS. The election shall be conducted as nearly as practicable in accordance with the general laws of the state; provided that no particular form of ballot shall be required and the provisions of the election laws as to the form and distribution of ballots shall not apply and each ballot must indicate the number of cubic feet per second associated with the ballot cast. The board of directors shall designate polling places in such number as it may deem necessary. At least ten (10) days before the holding of any election, the board shall appoint three (3) electors to serve as judges of election at each polling place. The judges shall perform the same duties as near as may be, as judges of election under the general laws of the state. Immediately after the election, the judges of election shall forward the official results to the secretary of the district.

42-5222. CANVASS OF RETURNS -- DECLARATION OF WINNERS. On the first Monday after each election, or at a time designated by the board of directors, the board shall meet at its usual place of meeting and proceed to canvass the returns. By order entered on its minutes, the board shall declare elected the person or persons having the highest number of votes for each office.

42-5223. BOARD OF DIRECTORS -- OFFICERS -- MEETINGS -- COMPENSATION -- VACANCIES. (1) The board of directors annually shall elect a chairman from their number and shall appoint a secretary and a treasurer to hold office at the pleasure of the board. Upon appointment

the treasurer shall execute and file with the secretary an official bond in such amount as may be fixed by the board of directors, and shall thereafter from time to time execute and file such further bonds as may be required by the board in amounts fixed by it, which amounts shall be at least fifty percent (50%) of the maximum probable amount of money in the treasurer's hands at any one (1) time. All such official bonds shall be executed by a lawfully qualified surety company.

(2) The board of directors shall designate an office of the district.

(3) The board of directors shall hold a regular monthly meeting in the district's office on the first Tuesday in every month or such date each month as it shall fix by resolution, and such special meetings as may be required for the proper transaction of business. Special meetings may be held on seventy-two (72) hours' notice of the chairman or a majority of the members. A majority shall constitute a quorum for the transaction of business and the concurrence of a majority of the members shall be necessary to constitute the action of the board. All meetings of the board shall be public and all records of the board shall be open to the inspection of any member water user, or representative thereof during business hours.

(4) The members of the board of directors shall fix the compensation board members shall receive for each day spent attending the meetings, or while engaged in official business under the order of the board, together with actual and necessary expenses. The term "actual and necessary expenses" shall include all traveling and lodging expenses necessarily incurred by any director when absent from his residence in the performance of the duties of his office. The board shall fix the compensation to be paid to the other officers of the district.

(5) In case of a vacancy in the office of director occurring otherwise than by the expiration of a term, the remaining members of the board of directors shall fill such vacancy by appointing a ground water user who is a member of the district or a representative thereof, possessing full voting qualifications under this chapter and the qualifications of the director whose office has become vacant to serve the remainder of the term.

42-5224. POWERS AND DUTIES OF BOARD OF DIRECTORS. The board shall, in addition to any other powers and duties provided in this chapter, and provided that nothing in this chapter shall abrogate or impair the right of any person to take any action necessary to acquire, protect, challenge or defend any water right, have the following powers and duties:

(1) To acquire, and/or construct, operate, control or use by appropriation, grant, purchase, bequest, devise, contract or lease works or facilities, water rights, water permits or licenses, well-drilling permits, wells, pipelines, ditches and any other real and personal property (including easements and rights-of-way) or contract entitlement within or without the district necessary or convenient to fully exercise its powers;

(2) To sell, lease, encumber, alienate, or otherwise dispose of works or facilities, water, water rights, wells, pipelines, ditches, reservoirs, recharge facilities, and any other real and personal prop-

erty owned by the district within or without its boundaries;

(3) To enter into contracts and agreements, cooperative and otherwise, including contracts with the United States of America and any of its agencies or instrumentalities, and tribes, and contracts with corporations, public or private, municipalities, or governmental subdivisions necessary or convenient to fully exercise its powers;

(4) To hire and retain agents, employees, engineers, hydrologists, geologists, and attorneys as shall be necessary and convenient to transact the district's business and to represent the district's interests;

(5) To levy assessments for the operation of the district and its programs;

(6) To represent district members, with respect to their individual water rights, in general water rights adjudications and other legal and administrative proceedings or before political bodies, provided that the board may levy assessments for these matters against only those members who have given written consent for the representation;

(7) To appropriate, develop, store, and transport water within the state;

(8) To acquire stock in canal companies, water companies, and water users' associations;

(9) To invest any surplus money in the district treasury pursuant to the public depository law as contained in chapter 1, title 57, Idaho Code;

(10) To develop, maintain, operate and implement mitigation plans designed to mitigate any material injury caused by ground water use within the district upon senior water uses within and/or without the district;

(11) To finance the repair or abandonment of wells in the ground water district which have experienced or are experiencing declines in water level or water pressures because of reasons including, but not limited to, flow, leakage, and waste from improper construction, maintenance, and operation of wells;

(12) To have and exercise the power of eminent domain in the manner provided by law for the condemnation of private property for easements, rights-of-way, and other rights of access to property necessary to the exercise of the mitigation powers herein granted, both within and without the district;

(13) To sue and be sued, and be a party to suits, actions and proceedings;

(14) To enter into joint powers agreements and/or memoranda of understanding with other districts, governmental or quasi-public entities;

(15) To develop and acquire water rights for, and operate, aquifer storage or recharge projects;

(16) To monitor, measure, study, and implement programs in the interests of the district's members regarding the protection of ground water diversions, depth of water in wells, aquifer water levels and characteristics, and ground water quality within the district;

(17) To adopt and amend bylaws not in conflict with the constitution and laws of the state for carrying on the business, objects and affairs of the board and of the district and to establish a fiscal

year;

(18) To enter upon land to make surveys, locate district property, works, or facilities, and to otherwise conduct the affairs of the district;

(19) To manage and conduct the affairs of the district and to have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this act.

42-5225. AUTHORITY TO CONSTRUCT AND OPERATE GROUND WATER RECHARGE OR STORAGE PROJECT. Any ground water district organized under the laws of this state is authorized in section 42-4201A, Idaho Code, to file an application with the department to acquire water rights or to appropriate the unappropriated waters of the state for the purpose of storing waters in, or recharging, ground water basins within the district to aid in the efficient irrigation of district lands, to serve domestic, commercial, municipal or industrial uses within the district, or to carry out a mitigation plan. Upon approval of the application for permit by the director, the district shall proceed in the manner provided by law to construct and operate the ground water storage or recharge project. The construction and operation of the project shall be subject to such additional conditions and limitations as shall be imposed by the director pursuant to sections 42-203A, 42-222 and 42-4201A, Idaho Code.

42-5226. INTERSECTIONS WITH STREETS, RAILROADS, WATERCOURSES. The board of directors shall have power to construct the works necessary to implement an approved mitigation plan across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch or flume which the works may intersect or cross, in such manner as to comply with the requirements of the stream channel alteration act, chapter 38, title 42, Idaho Code, and to afford security for life and property, provided that the board shall restore the same when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed pursuant to this section, shall unite with the board in forming the intersections and crossings and grant the privileges aforesaid; and if such railroad company and the board, or the owners and controllers of the property, thing or franchise to be crossed, cannot agree upon the amount to be paid therefor, or upon the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as herein provided in respect to the taking of land.

42-5227. OFFICERS MUST NOT BE INTERESTED IN CONTRACTS. No director or any other officer named in this chapter shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom, except as a member of the district; and for any violation of this provision such officers shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be pun-

ished by a fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

42-5228. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS. The indemnification provisions of section 43-204A, Idaho Code, shall apply to ground water districts in the same manner as for irrigation districts.

42-5229. REPORT TO DEPARTMENT OF WATER RESOURCES. At least as often as once a year after organization, the board of directors shall make a report to the department of the condition of the work of any mitigation plans developed by the district, as to capacity, stability and permanency, and whether or not any such mitigation plans are being successfully carried out, and whether or not in the opinion of the board the funds available will complete and maintain the mitigation plans. Upon the receipt of such report by the department, it may make such suggestions and recommendations to such board of directors as it deems advisable for the best interest of the district.

42-5230. STATEMENT OF FINANCIAL CONDITION. On or before the second Tuesday of February of each year the board of directors of each ground water district organized under this chapter shall publish in at least one (1) issue of a newspaper published in the county or counties in which such district is situated, a full, true and correct statement of the financial condition of the district, at the end of the last preceding fiscal year, giving all liabilities and assets of the district, in a form to be prescribed by the controller of the state of Idaho.

42-5231. COUNTY COMMISSION TO HAVE ACCESS TO BOOKS. Any district board, or the secretary thereof, shall at any time allow any member of the county commission, when acting under resolution of the commissioners, to have access to all books, records and vouchers of the district which are in possession or control of the board of directors or secretary of the board.

42-5232. LEVY OF ASSESSMENTS. (1) The secretary of the board shall be the assessor of the district, and on or before August 1 of each year shall prepare an assessment book containing a full and accurate list of all lands within the district that are subject to assessment under this chapter.

(2) At a regular meeting of the board between August 1 and November 1 of each year, the board of directors shall determine the amount necessary to be raised for payment of the annual payment on any and all indebtedness of the district for the following year. Money received in payment of such assessments shall be deposited in a separate fund to be known as the debt retirement fund.

(3) The board shall, in addition, determine the assessments necessary to pay, without limitation, the expenses of developing, operating or maintaining any mitigation plan established by the district and the cost of contracts with any person for mitigation plans, or evaluation of proposed contracts. Money received in payment of such assess-

ments shall be deposited in a separate fund to be known as the mitigation expense fund.

(4) The board shall, in addition, determine the assessments necessary to pay maintenance and operation of the district not related to mitigation plans or purposes. These operation and maintenance duties include making the assessment book, giving notice of assessments and making collections thereof, and other duties, programs or projects of the district to the extent such duties, programs or projects are not attributable to mitigation plans or purposes. Money received in payment of such assessments shall be deposited in a separate fund of the district to be known as the operating expense fund.

(5) Any ground water user who becomes a member of a district for mitigation purposes shall be subject to no assessment beyond his proportional share of the costs, including administrative costs and other reasonable expenses, of any mitigation plan or actions or activities in furtherance of the district's mitigation plans or purposes.

(6) No assessment made pursuant to this chapter shall be a lien against any municipal property.

(7) Except as otherwise provided in this chapter, each member shall pay a proportionate share of the total of all amounts to be assessed for the purposes aforementioned, which share shall be based on the ratio which the quantity of water the water user is authorized to appropriate under the member's ground water right(s) bears to the total quantity of water authorized for appropriation under the ground water rights of all water users in the district, provided, that the board shall be entitled to levy assessments that adjust a member's proportionate share to take into consideration priority dates, consumptive use under the members' respective ground water rights, other attributes of the ground water rights appurtenant to the assessed lands, and/or the benefits the member derives from a mitigation plan or other activity of the district.

42-5233. POWER TO INCUR INDEBTEDNESS -- ASSESSMENTS TO SECURE REPAYMENT -- WARRANTS. (1) In order to secure funds for the mitigation plan or plans for the district, the board of directors may, by resolution duly adopted and entered upon the minutes, incur indebtedness by contract with a money lending institution; provided however, that the term of such indebtedness shall not exceed ten (10) years. To secure the repayment of any indebtedness so incurred, the board shall levy assessments over the term of the indebtedness in amounts sufficient to repay the interest and principal as it falls due. Such assessments shall be levied in the manner and shall be subject to the limitations set forth in section 42-5232, Idaho Code, and may be levied only if the indebtedness has been approved at an election pursuant to sections 42-5234 through 42-5238, Idaho Code.

(2) Notwithstanding the provisions of subsection (1) of this section, the board of directors may, before the collection of the first assessment, incur indebtedness for the purpose of organization, or for any of the purposes of this chapter, and cause warrants of the district to issue therefor, provided that the total dollar amount of the warrants authorized to be issued shall not exceed one dollar ($1.00) for each two-hundredths (.02) of a cubic foot per second of ground water authorized to be diverted and used upon lands or facilities

located within the district. Following the collection of the first assessment, the board of directors may at any time issue warrants of the district for the purpose of paying claims of indebtedness against the district, including salaries of officers and employees, not to exceed the district's anticipated revenue.

(3) The warrants herein authorized shall be in form and substance the same as county warrants or as nearly the same as may be practicable and shall be signed by the chairman and attested by the secretary of said board. All such warrants shall be presented by the holder thereof to the treasurer of the district for payment who shall endorse thereon the day of presentation for payment with the additional endorsement thereon, in case of nonpayment, that they are not paid for want of funds, and such warrants shall draw interest at a rate to be established by the board of directors from the date of their presentation to the treasurer for payment as aforesaid until such warrants are paid. No warrants shall be issued in payment of any indebtedness of such district for less than face or par value. It shall be the duty of the treasurer from time to time when sufficient funds are available for that purpose to advertise in a newspaper in the county in which the district is situated requiring the presentation to the treasurer for payment of as many of the outstanding warrants as are able to be paid. Ten (10) days after the first publication of said notice by the treasurer calling in any of said outstanding warrants, said warrants shall cease to bear interest, which shall be stated in the notice. Said notice shall be published two (2) weeks consecutively and said warrants shall be called in and paid in the order of their endorsement.

42-5234. ELECTION FOR INDEBTEDNESS -- REFERENDUM PETITION. (1) The board may by resolution adopted by a two-thirds (2/3) majority of the board, determine that the interest of the district and the public interest and necessity demand the development and operation of a mitigation plan and shall set forth the amount of obligation or contract indebtedness proposed to be issued by the district under the provisions of this chapter for the development of such mitigation plan. The board shall submit the contract indebtedness in the proposed resolution to a vote of the qualified electors of the district as defined in section 42-5210, Idaho Code, at an election to be held only if within fifteen (15) days after the passage of such resolution a referendum petition signed by qualified electors of the district whose aggregate ground water rights equal not less than ten percent (10%), measured in cubic feet per second, of the aggregate ground water rights of all qualified electors of the district, shall be filed with the secretary of the district requesting that an election upon the issuance of the contract indebtedness be held and conducted under the provisions of this section. Any election required to be held pursuant to a referendum petition filed in accordance with this section for the purpose of submitting any proposition or propositions of incurring such obligation or indebtedness shall be held in accordance with section 34-106, Idaho Code. The resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the mitigation plan, the amount of principal of the indebtedness to be

incurred therefor, and the sources of the revenues and assessments pledged to the payment of the indebtedness. The separate election upon the assessments, shall be held at the same time as and shall be combined with any such election required to be held upon the indebtedness question pursuant to a referendum petition.

(2) Any election for indebtedness required to be held hereunder shall be called by resolution, which resolution shall also fix the date upon which such election shall be held, the manner of holding the same and the method of voting for or against the incurring of the indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference to any order or orders of the county commission of the county or counties in which the district or any part thereof is situated, or by reference to any previous order, or resolution of the board or by detailed description of such precincts. Precincts established by the county commissions of the various counties may be consolidated for special elections held hereunder. In the event any such election shall be called to be held concurrently with any other election or shall be consolidated therewith, the resolution calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefrom. The resolution calling the election shall prescribe an official notice of election, which notice shall be published once a week for two (2) consecutive weeks, the last publication of which shall be at least ten (10) days prior to the date set for said election, in a newspaper of general circulation printed and published within the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

(3) The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of district elections to the extent the same shall apply and shall make their returns to the district secretary. At any regular or special meeting of the board held not earlier than five (5) days following the date of such election, the returns shall be canvassed and the results declared.

(4) If no referendum petition is filed, or if so filed, if it shall appear from the returns that the qualified electors of the district representing two-thirds (2/3) of the aggregate ground water rights of the district, such fraction computed according to cubic feet per second, have voted in favor of the proposition, the district thereupon shall be authorized to incur such indebtedness or obligations, or enter into such contracts, all for the purposes provided for in the proposition submitted in the resolution, and in the amount so provided. Submission of the proposition of incurring such obligation or other indebtedness at such an election shall not prevent or pro-

hibit submission of the same or other propositions at subsequent election or elections called for such purpose.

42-5235. JUDICIAL EXAMINATION. (1) Prior to the incurring of indebtedness, the board shall file a petition in the district court of the county in which the office of the board is located, pursuant to the provisions of sections 43-406 through 43-408, Idaho Code, as if the district were an irrigation district. Whenever any district which is required to file a petition hereunder has or proposes to enter into a contract or contracts with one (1) or more districts pursuant to law, and such other district or districts is authorized or required to bring a confirmation proceeding or proceedings pursuant to the provisions of section 43-406 or section 43-1808, Idaho Code, with respect to such contracts or the levy of assessments or the apportionment of costs, the boards of each of such other districts shall join in the filing of such petition, and the district court in which such petition is filed shall have jurisdiction to hear the petition and to grant the relief prayed for therein. Each such petition shall pray for a judicial examination and determination of any power conferred hereby or by any amendment hereto or of any assessment levied or of any apportionment of costs or of any act, proceeding or contract of the district or districts, whether or not said contracts shall have been executed, including, without limitation, proposed contracts for the reconstruction, rehabilitation, replacement and improvement of any well and other related structures and works and appurtenances, falling water contracts, contracts with other districts and contracts with other public and private persons, firms, corporations and associations. Such petition shall set forth the facts whereon the validity of such powers, assessments, apportionments, acts, proceedings or contracts is founded. Notice of the filing of said petition shall be given by the clerk of the court by mailing, and by publication in at least one (1) newspaper published and of general circulation within the boundaries of each district joining in the petition, or if no newspaper is so published within any district, then in a newspaper published in the same county in which any part of such district is located which is of general circulation in such district, pursuant to and in accordance with the requirements of section 43-407, Idaho Code, as if the district were an irrigation district under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract or contracts, therein mentioned, may be examined.

(2) Any ground water user in any district joining in the petition or any other person interested in the contracts or proposed contracts may appear and answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court; and the petition shall be taken as confessed by all persons who fail so to appear. The said petition and notice shall be sufficient to give the court jurisdiction and, upon hearing, the court shall examine into and determine all matters and things affecting the question submitted, shall examine all of the proceedings of all of the districts as set forth in the petition, shall hear all objections either filed in the proceeding or brought up from the hearings before any of the boards, shall correct all errors in the assessments and apportionments of costs, shall ratify, approve and confirm all apportionments of

costs and assessments levied, shall make such findings with reference thereto and render a judgment and decree thereon approving and confirming all of the powers, assessments, apportionments, acts, proceedings and contracts of each of the districts as set forth in the petition as the case warrants. Costs may be divided or apportioned among the contesting parties in the discretion of the trial court. Review of the judgment of the court may be had as in other similar cases. The Idaho rules of civil procedure shall govern in matters of pleading and practice where not otherwise specified herein. The court shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties. Except as provided herein, the provisions of sections 43-406 through 43-408, Idaho Code, shall apply to the proceeding herein authorized as though the ground water district were an irrigation district.

42-5236. JUDICIAL PROCEEDINGS TO TEST VALIDITY. If any official required to participate in any act leading to the calling or holding of the required election or the execution of any required contract shall refuse to perform such act alleging as his reason illegality of the proposed election or the proposed contract, the board may institute judicial proceedings to compel such steps to be taken and legality of the election or the contract to be determined. All cases in which there may arise a question of the validity of any proceeding under this act shall be advanced as a matter of immediate public interest and concern, and heard at the earliest practicable moment. The courts shall be open at all times for the purposes of this act.

42-5237. TAX EXEMPTION. Interim notes, and the interest thereon, issued pursuant to the authority contained in this chapter shall be exempt from taxation under the Idaho income tax law.

42-5238. LIBERAL CONSTRUCTION. Any restrictions, limitations or regulations relative to the execution of such contracts pursuant to the authority herein contained in any other act shall not apply to the execution of such contracts pursuant to the authority herein contained. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only. This chapter being necessary to secure and preserve the public health, safety, convenience and welfare, and for the security of public and private property, it shall be liberally construed to effect the purposes of this chapter.

42-5239. LENDING INSTITUTIONS -- RIGHT TO COMPEL ASSESSMENTS -- ALTERNATIVE REMEDY. If in any year the board of directors fails to levy assessments for the repayment of indebtedness in amounts sufficient to meet a payment or payments falling due, the lender may bring an action in the district court of any county in which the district is situated to compel the board to levy assessments in amounts sufficient to insure the payment thereof. In the event that the annual assessment to meet a payment or payments falling due will be unreasonably high, the district court may, in the alternative, enter an order requiring that moneys received by the district in payment of assessments for all purposes be first expended for the repayment of that portion of the

indebtedness falling due.

42-5240. LIEN OF ASSESSMENT. From and after January 1 of any year, all assessments, other than those levied against municipalities, shall be liens against the land of ground water users to which the water rights used to determine assessments are appurtenant. Such liens shall not be removed until the assessments are paid or the property is sold for the payment thereof.

42-5241. PAYMENT OF ASSESSMENTS -- WHEN DELINQUENT -- INTEREST AND PENALTIES. (1) Assessments shall be due and payable on or before December 31 of each year. On or before the first day of December, the treasurer of the district shall publish a notice for a period of not less than two (2) weeks in a newspaper published or having general circulation in each of the counties in which any part of the district is situated setting forth the date by which assessments must be paid and the times and places at which payment may be made. The treasurer of the district shall mail by regular mail a billing to each water user. The billing shall be mailed on or before the first day of December.

(2) Assessments unpaid on December 31 shall be delinquent and shall bear interest at the rate of interest established for money due on judgments until paid. Delinquent assessments, in addition, shall be subject to a penalty in the amount of fifteen dollars ($15.00) per delinquent assessment.

42-5242. ENTRY OF DELINQUENT ASSESSMENTS -- FILING OF DELINQUENCY LIST. (1) On or before the 15th day of January of each year the treasurer shall enter the amount of all delinquent assessments upon the assessment book, which entry shall be considered to be dated as of the first day of January. Such entry shall have the force and effect of a sale to the treasurer of the district as grantee in trust for the district of all property to which a lien has attached as a result of such unpaid assessments.

(2) The treasurer shall compile a list of such delinquency entries which shall contain the names of the persons or entities to whom the assessments were directed and the amount of such delinquent assessments together with the amount of the penalties to be added thereto. A certified copy of the delinquency list shall be filed with the county recorder of each county in which the properties affected by such delinquent assessments are located, and the treasurer shall then provide by certified mail a notice of delinquency to each ground water user having a delinquent assessment.

42-5243. REDEMPTION AND SALE OF PROPERTY SUBJECT TO DELINQUENT ASSESSMENTS. The manner in which property subject to a lien for nonpayment of assessments may be redeemed, and if not redeemed, shall be sold as provided in sections 43-712, 43-715 through 43-721, 43-724 and 43-726, Idaho Code, to the extent that the provisions thereof are in keeping with the provisions of this chapter.

42-5244. PROHIBITION AGAINST PARTICIPATION IN MITIGATION PLAN WHEN SUBJECT TO DELINQUENT ASSESSMENT. A ground water user who is

delinquent in the payment of any assessment against his water use under this chapter is prohibited from being a participant in any mitigation plan until such delinquent assessment is paid in full. The district shall provide the director a report of such delinquent assessments at the first of each month for purposes of enforcement. The district shall inform the director immediately upon the payment of any such delinquent assessment. This section shall be enforced by the water master within water districts established under chapter 6 of this title, and by the director pursuant to sections 42-351 and 42-352, Idaho Code, in areas outside of such water district.

42-5245. PETITION FOR ANNEXATION OF LAND. Any ground water user may file with the board a petition in writing praying that the land and/or facilities listed under the ground water user's ground water right(s) may be annexed into the district. The petition shall contain a legal description of the lands and any other information the district may require, and the petitioner shall state under oath that petitioner holds the title to said lands. If the ground water user is a nonirrigator, the petition shall state if the ground water user is seeking to join the district solely to participate in the district's mitigation plan or other mitigation activities.

42-5246. NOTICE OF PETITION. The board secretary shall cause a notice of the filing of such petition to be published in the manner of notices of elections. The notice shall state the filing of such petition, and the name of the petitioner, a description of the lands mentioned in the said petition, and it shall notify all persons interested in or that may be affected by such change of boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the lands mentioned should not be annexed to said district. The petitioner shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this chapter.

42-5247. HEARING ON PETITION. The board, at the time mentioned in said notice or at such other time to which the hearing may be adjourned, shall hear the petition and all the objections thereto. The failure of any person to appear and object shall be taken as an assent on his part to a change of the boundaries of the district as requested in the petition, or to such a change thereof as will include a part of the lands.

42-5248. ASSESSMENTS AGAINST ANNEXED LANDS. (1) The board of directors may require, as a condition to the granting of an annexation petition, that the petitioners shall severally pay to the district such respective sums, as nearly as the same can be estimated, as said petitioners, or their grantors, would have been required to pay such district, had such lands been included in such district at the time it was originally formed, together with a proportionate share of the expenses of the district accrued since formation.

(2) If the petition seeks only to participate in a district mitigation plan, the board may require a proportionate sum of the mitigation expenses accrued since the district was originally formed to be

paid as a condition to the granting of an annexation petition.

42-5249. ORDER ACCEPTING OR REJECTING PETITION. (1) If the board of directors deems a proposed annexation not to be in the best interests of the district to include the lands mentioned in the petition, the board shall reject the petition. But if they deem it for the best interest of the district, the board may order the lands mentioned in the petition or some part thereof be annexed to the district.

(2) The order shall describe the lands to be annexed to said district and the board may cause a survey thereof to be made if deemed necessary. Thereafter the annexed land shall be subject to such assessments from time to time as the board of directors shall deem right under the circumstances, and such assessments shall be deemed to be assessments for benefits to said lands by reason of their annexation to said district. The directors shall state on their minutes at their next regular meeting which division and election precinct in said district the said lands so annexed shall be attached, and, if necessary, the board shall make an order redividing the district into divisions and election precincts, in the same manner and to like effect, as near as may be, as provided for that purpose on the formation of a district.

42-5250. ORDER TO BE RECORDED. Upon a change of the boundaries of a district becoming effective, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain a ground water district, as fully and to every intent and purpose as if the lands which are included in the district by the change of the boundaries had been included therein at the original organization of the district.

42-5251. PETITION FOR EXCLUSION OF LANDS -- LANDS MAY REMAIN IN THE DISTRICT FOR MITIGATION PURPOSES. Any district member may file with the district board a petition requesting that the member's lands be excluded from the district. The petition may request that the lands either be excluded for all purposes or be excluded for all purposes except mitigation. The petition shall be signed by each petitioner, but need not be acknowledged. All costs incurred by the district in carrying out the exclusion proceeding shall be assessed as provided in section 42-5253, Idaho Code. A person purchasing land under a written contract shall be deemed to be the owner of that land for purposes of this section.

42-5252. CONTENTS OF PETITION -- REPRESENTATIONS, CERTIFICATION AND LIABILITY -- WAIVER OF BENEFITS UPON EXCLUSION. (1) A petition for exclusion shall set forth or include the following:

(a) A description of the land and/or facilities of petitioner for which exclusion is requested, together with such evidence of ownership of the land and/or facilities as is satisfactory to the district board;

(b) A representation that no mortgagee or other person holds a lien of record in the county where the land for which exclusion is

requested is located, for which the lienholder's consent to the exclusion is required or that, if such consent is required, the consent has been granted by the lienholder;

(c) If the member seeks exclusion for all purposes, an explicit written waiver and relinquishment, on a form provided by the board or otherwise, of all right to rely upon or be covered by any program, plan, activity or benefits of any kind provided by or through the district;

(d) If the member seeks to be excluded from the district for all purposes except mitigation, an explicit written waiver and relinquishment stating that the member recognizes and agrees that:

(i) The member no longer will be entitled to vote or participate in the governance of the district, to nominate directors, or to serve as a director of the district except as specified in this chapter;

(ii) The member will remain subject to all assessments pertaining to the district's mitigation program(s) or plans;

(iii) The member will be entitled to receive no benefits of any kind from the district except those pertaining to mitigation purposes.

(e) Regardless of whether the exclusion will be for all purposes or for all except mitigation purposes, an explicit written statement, on a form provided by the board or otherwise, that the member recognizes and agrees that he will remain liable to the district, and subject to assessment, for any financial indebtedness the member may have to the district for indebtedness incurred before exclusion occurs.

(2) The district board shall return to the petitioner any petition not accompanied by the information required in subsection (1) of this section, and no further action shall be required of the board with respect to such petition. The petitioner shall be liable for any expenses or damages to lienholders or to other landowners or to the district resulting directly or indirectly from wrongful exclusion of lands by reason of untrue or incorrect statements in the petition.

(3) The petition for exclusion shall be signed by the member and be acknowledged in front of a notary public in the same manner as for deeds of land.

42-5253. ORDER OF EXCLUSION. (1) Upon receipt of a properly completed petition for exclusion, the district's board of directors, by resolution shall make an order forthwith excluding the lands described in the petition either for all purposes or for only those purposes not related to mitigation. No hearing is required prior to granting a petition for exclusion.

(2) At a minimum, the order of exclusion shall specify that:

(a) Lands excluded for all purposes shall not be a part of or be entitled to receive any benefits from the district;

(b) Lands excluded only for purposes not related to mitigation, shall continue to be part of the district for mitigation purposes only and shall be assessed for these purposes as provided under this chapter;

(c) Any excluded lands are subject to the requirements of section 42-5257, Idaho Code.

(d) When the petition is filed on or before December 1 in any calendar year, any assessment, other than those specified in section 42-5257, Idaho Code, against the land for any calendar year subsequent to the year in which the petition was filed shall not be valid and no lien for any such attempted assessment shall attach under section 42-5240, Idaho Code.

42-5254. SURVEY OF LAND TO BE EXCLUDED. The board of directors may cause any survey to be made it deems necessary for the purpose of determining the change in the district by reason of an exclusion or proposed exclusion. If the land described in the petition is described in accordance with the public survey or in accordance with a plat approved, filed and recorded as provided by law, the cost of survey shall be borne by the district, otherwise the cost shall be borne by petitioner.

42-5255. COSTS OF EXCLUDING LAND. The costs of excluding any land as provided in this chapter shall be borne by the petitioner or petitioners except as provided in section 42-5254, Idaho Code. The board may require a deposit of the estimated costs before granting the petition. If the actual costs of completing the exclusion of the lands from the district are less than the amount deposited by the petitioner, the balance shall be refunded to the petitioner within fourteen (14) days after the final action for the exclusion is completed. If the actual costs of the exclusion of the lands is more than the deposit, the difference shall be paid to the district by the petitioner within fourteen (14) days after receipt of a statement to that effect from the district, and the board's order of exclusion shall not be effective until the difference is paid.

42-5256. CHANGES TO BE FILED FOR RECORD. The decision and order of the board of directors or the district court, in case of appeal, excluding the petitioner's land and changing the boundaries of such ground water district shall be filed for record in the recorder's office of the county or counties within which are situated the lands of such ground water district.

42-5257. EXCLUSION -- EFFECT -- OBLIGATIONS OUTSTANDING -- ENFORCEMENT -- PAYMENT -- CERTIFICATE. (1) Except as otherwise provided in this chapter, land and/or facilities excluded from any ground water district shall not thereafter be entitled to any of the rights and benefits of the district and shall be deemed to have fully relinquished all such rights and benefits.

(2) Land and/or facilities fully excluded from a district and those excluded only from nonmitigation purposes shall be subject to assessment and be otherwise chargeable for the payment and discharge of all obligations outstanding at the time of the entry of the exclusion order as fully as though the land had not been excluded. Such obligations shall include, but are not limited to, their proportionate share of any of the district's existing indebtedness that was incurred for a project or activity that: (a) provided a benefit to such lands prior to the exclusion and for which benefit the excluded lands remain indebted; or (b) continues to benefit such lands even after the exclu-

sion. Where either of these circumstances exists, excluded lands shall remain a part of the district for the purpose of discharging such existing contract indebtedness, and otherwise shall be obligated to pay all regular and special assessments to retire such debt as if they had not been excluded. The district's board of directors may allow any debt or obligation against any excluded land and/or facility to be paid in installments or in any other manner the board deems equitable.

(3) All provisions which could be used to compel the payment by excluded land of its portion of the outstanding obligations had the exclusion not occurred, may be used to compel the payment on the part of the land of the portion of the outstanding obligations of the district for which it is liable.

(4) When any member obtaining the exclusion of land from a ground water district has paid to the district all of the debts and obligations of the district assessable, chargeable or allocable to the land and/or facility excluded, the district may issue its certificate of full payment executed by the president and secretary of the district, and acknowledged so that the certificate may be recorded in the records of the county wherein the land is situate.

42-5258. REINSTATEMENT OF LANDS. Where lands have been excluded from a ground water district they may be reinstated to the district by following the procedures provided in sections 42-5245 through 42-5250, Idaho Code, except that the board of directors, in its discretion, may refuse for any reason to annex such lands to the district.

42-5259. PARTICIPATION BY NONMEMBER IN DISTRICT SOLELY FOR MITIGATION PURPOSES. Upon written request from a ground water user who is not a member of a district, and regardless of whether such user is an irrigator, a district board of directors shall enter a contract with such nonmember pursuant to which the nonmember shall be allowed to participate fully in, and obtain all benefits of, any mitigation plan, purpose or activity the district currently has in force or is developing, provided that:

(1) The board finds that the plan is likely to be effective in mitigating the effects of such nonmember's ground water use, and that including the nonmember within the mitigation plan's coverage will not impair the plan's effectiveness as to district members;

(2) If the district's mitigation plan has been approved by the director, the board shall evaluate the contract request in accordance with any conditions of the district's mitigation plan which address equitable participation by ground water users who do not initially participate in such mitigation plan;

(3) Before the contract may be effective, the board may collect from the nonmember a payment adequate to compensate the district for the nonmember's proportional share of the costs the district already has incurred in developing and implementing the mitigation plan;

(4) The board may include in the contract a provision requiring the nonmember to pay a reasonable surcharge, either annually or on some other basis, to reimburse the district for such nonmember's proportional share of those past or future costs of operating the district attributable to formulating or implementing the mitigation plan

or plans in which the nonmember is participating;

(5) The board may require the nonmember to provide security to assure the payment of all assessments and charges related to the contract;

(6) Nothing in this section shall be interpreted to limit the district's ability to enter into a contract with nonmembers pursuant to terms and conditions acceptable to both parties.

42-5260. PETITION TO ANNEX STATE LAND. The state board of land commissioners may, by resolution duly passed at any meeting of such state board and recorded in its minutes, after due consideration in each specific case, authorize the governor of the state of Idaho, as chairman of the board of land commissioners, to sign a petition for the annexation of adjacent Idaho state lands to a district, or sign a petition to exclude such state lands from a district. The governor shall be deemed the owner of such state lands for the purpose of signing any petition herein authorized, with like effect as the owner of private lands.

42-5261. PETITION FOR DISSOLUTION OF DISTRICT. Whenever a majority of the members entitled and qualified to vote in district elections so desire, they may petition the board to call a special election to submit to the qualified district electors a proposal to vote on the dissolution of the district. The petition shall set forth the reasons for such proposal. The petition for dissolution of the district shall state that all the district's outstanding legal and enforceable obligations of every nature whatsoever have been fully satisfied and paid or shall set forth facts showing reasonable grounds for the belief that the consent of the holders of all such district obligations can be obtained, or that the district is able to satisfy all those not consenting.

42-5262. CALL FOR ELECTION ON DISSOLUTION PETITION. It shall be the duty of the said board of directors, if it approves the dissolution petition, to call an election in accordance with section 34-106, Idaho Code, for the purpose of submitting to the qualified electors of the district the proposal for dissolution of the district.

42-5263. NOTICE OF DISSOLUTION ELECTION. Notice of such election must be given by posting notices in five (5) public places in each election precinct in said district at least four (4) weeks before the date of said election and by the publication thereof for the same length of time in some newspaper published in each county in which the district or any part thereof is located. Such notice must specify the time and place of holding such election.

42-5264. CONDUCT OF DISSOLUTION ELECTION. An election on a dissolution petition shall be held in all respects as near as practicable in conformity with the provisions of sections 42-5211 through 42-5213, Idaho Code. Those district members who are qualified to vote pursuant to section 42-5210(1), Idaho Code, shall be entitled to vote in the dissolution election. Upon the ballots used at such elections shall be written or printed "For Dissolution--Yes" and "For Dissolution--No,"

depending upon the nature of the proposal to be voted upon. Each member qualified to vote in the election shall cast a number of votes in proportion to that user's cubic feet per second of ground water rights.

42-5265. CANVASS OF RETURNS ON ELECTION FOR DISSOLUTION. On the first Monday after any such election the board of directors of the district shall meet at its usual place of meeting to canvass the returns, and when they shall have declared the result the secretary shall make full entry in his record.

42-5266. PETITION FOR CONFIRMATION OF DISSOLUTION BY DISTRICT COURT. Immediately after such election, in case the proposal has carried by a vote of members representing a majority of the ground water rights in the district, measured by cubic feet per second, the board shall file in the district court of the county in which the district's office is situated a petition praying in effect that the proceedings for the dissolution of the district be examined, approved and confirmed by the court. The petition shall set forth a full description of the lands formerly embraced within the district which is affected by the proceedings for the dissolution of such district, shall set forth generally the proceedings taken with reference to the petition and the election specified in the preceding sections of this chapter, and shall set forth fully every item of legal and enforceable indebtedness of the district with the name and residence of the holder thereof so far as known to the district secretary. In case any items of indebtedness are in the hands of unknown owners, they shall be so listed.

42-5267. CHARACTER OF PROCEEDINGS FOR CONFIRMATION. Dissolution proceedings shall be in the nature of a suit to quiet title with respect to so much of the land and/or facilities within the district as is affected by the proposed dissolution. In such proceedings the board shall be the parties plaintiff and the holders of any obligations of the district, including obligations which are or might become liens against any of the lands, are parties defendant. The provisions of section 5-326, Idaho Code, so far as it can be made applicable, shall govern generally the force and effect of the decree; provided, that the petition may be in form against all persons having interest in or claim against the district, without naming them, and the summons, directed in the same way, and setting forth briefly the purposes of the petition, shall be by publication in the first instance or order of the court or a judge thereof and service on all parties interested, whether unknown owners, heirs, devisees, claimants or otherwise, shall be deemed complete at the time prescribed by the order for publication; and, unless answer be made by anyone interested in or making claim against said district default may be entered.

42-5268. DECREE OF CONFIRMATION. The court or judge shall set a day for the hearing of such petition and if it appears to the court from the proof that there is no such outstanding indebtedness of such district, or in case there is any such indebtedness outstanding that the holders thereof have filed no objections to the proceedings, or

have filed their consent thereto, then the court shall enter its decree confirming the said proceedings, or may hear and determine and make decree as to any controversy. The election authorized by the preceding sections of this chapter shall have no force or effect to dissolve any district until confirmed by the decree of court as herein set forth.

42-5269. DISSOLUTION WITHOUT ELECTION -- PETITION -- CONDITIONS. (1) A ground water district may be dissolved without the holding of the election provided for in this chapter upon complaint or petition of parties holding and owning fifty percent (50%) or more, measured on the basis of cubic feet per second, of all the ground water rights within the district.

(2) It must be made to appear to the satisfaction of the court, by such complaint or petition, that any one (1) or more of the following conditions exist in or as to said district:

(a) The district has been abandoned, or for two (2) or more years last past has ceased to function, and there is little or no probability that it ever will or can function in the future;

(b) No useful purpose exists for the further continuance of the organization of the district; or

(c) There are insufficient members to pay for the costs of operating the district.

42-5270. DISSOLUTION WITHOUT ELECTION -- PARTIES. In such petition the petitioners or complainants shall be named as plaintiffs and the ground water district, and its directors, if any there are, and all persons having interest in or claim against the district, without naming them, shall be defendants. In the course of the proceedings of said case, and at any time before the final hearing thereof, any person interested may join in said case as a party plaintiff or as a party defendant, or any party interested may intervene in said case without order of the court.

42-5271. DISSOLUTION WITHOUT ELECTION -- APPOINTMENT OF OFFICER TO MARSHAL ASSETS -- DECREE. In the exercise of the jurisdiction given it by this act, the court shall have the power to appoint such referee, master, auditor, or receiver as may be considered necessary or proper to marshal the assets, and protect or preserve them, or ascertain the true condition of the district. After due hearing and consideration of the evidence submitted, the court shall enter a decree establishing the legal and equitable rights, interests and priorities of all parties and claimants, and may decree and direct the sale of all or any part of the properties of the district, whether real, personal or mixed, and direct the disbursement and application of the proceeds and the payment of the costs of the proceeding, and may dissolve the district, or may approve and confirm any settlement or agreement of settlement made between the parties interested in such district, if a settlement is agreed upon by them, or may direct the payment of the indebtedness of the district in the order of priority determined and established by the decree, through assessments made as in the case of the dissolution of villages, or may grant such other or further relief as may be equitable or proper on the premises.

42-5272. DISSOLUTION -- APPEAL. Each party to any proceeding for dissolution of a district under this act shall have the right of appeal as in other civil cases.

42-5273. CONSOLIDATION OF TWO OR MORE GROUND WATER DISTRICTS. Whenever the boards of directors of any two (2) or more ground water districts which together form a contiguous area determine that it is in the best interests of their respective districts that the districts be consolidated into a single ground water district and wish to proceed toward consolidation, the following procedures shall be followed:

(1) Each board shall petition its respective county commission in the counties identified by reference to section 42-5203, Idaho Code, for an order for an election to vote upon the question of such consolidation, which petition shall state in detail the terms upon which such consolidation is proposed to be made, and also shall transmit a copy of the petition to the department of water resources.

(2) Upon receiving the petitions, the department shall investigate questions affecting such proposed consolidation, and it shall make a report of the result of such investigations to each county commission with whom the petitions were filed not more than ninety (90) days after the department receives such petitions.

(3) After receiving the department's report, each county commission, if it deems it advisable, shall make an order fixing the time for an election in the districts to vote upon the question of proposed consolidation, which time shall be at the first available date in accordance with section 34-106, Idaho Code. Notice of the election shall be published as required for notice of election in section 42-5209, Idaho Code, and the boards of directors shall make all necessary arrangements for such election in their respective districts as provided in this title for other elections. The ballots shall be substantially as follows: "Consolidation--Yes." "Consolidation--No."

(4) The boards of directors shall canvass the returns of the election as provided in case of usual ground water district elections, and shall immediately thereafter transmit, by messenger or registered mail, certified abstracts of the result of said election in their respective districts to the clerk of the county commission. Within ten (10) days after such returns are received by the clerk, the county commission shall meet and canvass the same.

(5) If it appears that a majority of all the votes cast in each of said districts is "Consolidation--Yes." said board shall make an order, and enter the same of record in its minutes, establishing said consolidated district, giving its boundaries and designation, and in detail the terms under which the consolidation has been effected, and dividing said consolidated districts into three (3) divisions, and shall appoint some person qualified under this title, to act as director for each of said divisions of said district until the next general election for the election of officers, when a board of directors shall be elected as provided in section 42-5218, Idaho Code; provided however, that the organization of such district shall not take effect until the first Tuesday of the January following said order of its establishment. If the date provided by law for the election of directors shall come between the date of said order of the county commission and the first Tuesday of January, then in making such order the

board shall designate the board of directors of one (1) of the consolidated districts as a board to take charge of such election, and in that case a director shall be elected for each such division of the consolidated district, and no appointment of directors shall be made by the county commission.

(6) If, however, upon such canvass by the county commission, it appears that a majority of the votes cast in any district thus proposed to be consolidated is "Consolidation--No," then a record of that fact shall be entered in the same minutes of the county commission, and all the proceedings had under the preceding sections of this chapter shall be void.

42-5274. PROCEDURE FOR CONSOLIDATING ONE GROUND WATER DISTRICT WITHIN ANOTHER HAVING SUBSTANTIALLY LARGER GROUND WATER DIVERSIONS. In those cases where the cumulative total ground water diversions (excluding diversions under domestic and stockwater rights) in one (1) district are less than one-tenth (1/10) of such diversions in the larger district, and the boards of directors deem it for the best interests of the respective districts that the two (2) districts be consolidated into a single district, such boards may seek to consolidate according to the following procedure as an alternative to that described in section 42-5273, Idaho Code:

(1) The boards may propose a contract between them setting forth the terms and conditions of consolidating the district having the smaller ground water diversions into the other district, with the name and officers of the district having the larger ground water diversions still retained.

(2) Once both boards have approved the contract, it shall be submitted for approval by the members of the district having the smaller ground water diversions, together with the question of whether the two (2) districts shall be consolidated under the contract's terms, at a special election held for that purpose in such district. Notice of the election shall be published as required for notices of election for indebtedness. At the election should two-thirds (2/3) of the electors voting, vote in favor of the contract and the consolidation of the districts, the board of directors of the district having the smaller ground water diversions shall petition the board of directors of the district having the larger ground water diversions, which notice shall be published in a newspaper published within the county wherein the office of the board of directors of the district having the larger ground water diversions is situated, for such length of time and covering the same matters as required by a petition to annex land and/or facilities into a district.

(3) The law applicable to the annexation of land into a district after the petition is filed and notice given, shall apply to the consolidation, including an annexation of a smaller district into a larger district.

(4) After the board of directors of the district having the larger ground water diversions has approved the resolution or other decision including within its boundaries the district having the smaller ground water diversions, the board shall file a petition in the district court within the county wherein the principal office of its district is situated, asking for an approval and confirmation of

the proceedings thereunder, and the same procedure shall be followed as provided in sections 43-406 through 43-408, Idaho Code, with reference to the confirmation of the proceedings within irrigation districts. In such petition the prayer shall be that the proceedings, together with the contract, may be examined and approved by the court; that after the confirmation of said proceedings the order of the board of directors admitting the smaller district into the district having the larger ground water diversions, containing a description of all the land properly certified by the secretary of the district, shall be filed for record in the office of the recorder of both counties with which the petition was filed.

42-5275. EXERCISE OF POWERS UNDER THIS CHAPTER BY IRRIGATION DISTRICTS ORGANIZED UNDER TITLE 43. Any irrigation district organized and operating pursuant to title 43, Idaho Code, may exercise the authorities provided under this chapter to the extent doing so does not conflict with any provision of title 43, Idaho Code.

42-5276. INCLUSION OF IRRIGATION DISTRICTS ORGANIZED UNDER TITLE 43. Where the water supply for lands is ground water provided by an irrigation district established under title 43, Idaho Code, and such lands are included in and subject to assessment by the irrigation district, such lands shall be included in a ground water district organized under the provisions of this chapter only if the board of the irrigation district serves notice in the same manner as that provided for nonirrigators in section 42-5214(2) and (3), 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 21, 1995.

CHAPTER 291
(H.B. No. 284)

AN ACT

RELATING TO WATER MEASUREMENT; AMENDING SECTION 42-701, IDAHO CODE, TO LIMIT APPLICATION OF A PORTION OF THE SECTION WITH RESPECT TO APPROPRIATORS OR WATER USERS WITHIN ACTIVE WATER DISTRICTS AND WATER MEASUREMENT DISTRICTS, SETTING A REPORT PROCESSING FEE, AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 42-704, IDAHO CODE; AMENDING CHAPTER 7, TITLE 42, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 42-705, 42-706, 42-707, 42-708, 42-709, 42-710, 42-711, 42-712, 42-713, 42-714 AND 42-715, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO CREATE AND SUPERVISE WATER MEASUREMENT DISTRICTS, TO PROVIDE FOR THE CREATION OF WATER MEASUREMENT DISTRICTS, TO PROVIDE FOR DISTRICT MEETINGS, THE ELECTION AND QUALIFICATION OF A DISTRICT HYDROGRAPHER AND ASSISTANTS, THE METHOD OF VOTING, THE ELECTION OF OFFICERS AND MANAGEMENT OF THE DISTRICT, TO PROVIDE FOR REPORTS OF

DISTRICT HYDROGRAPHERS, TO PROVIDE FOR THE MEASUREMENT OF WATER, TO PROVIDE THE DISTRICT HYDROGRAPHER'S TERM OF SERVICE, TO PROVIDE FOR THE ESTABLISHMENT AND APPROVAL OF DISTRICT BUDGETS AND ASSESSMENTS TO PAY THE OPERATING EXPENSES OF THE DISTRICT, TO PROVIDE FOR THE DUTIES OF THE DISTRICT TREASURER; TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT; 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. 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. 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, 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.

(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 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 owned by such appropriator or user until the user does construct and maintain such headgates, controlling works or mea-

suring devices or remedy the defects which exist 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. This subsection shall not apply to any appropriator or water user with respect to a water right included in an active water district created pursuant to chapter 6, title 42, Idaho Code, the annual report of which meets the reporting requirements of section 42-708, Idaho Code, or with respect to any water right included in an active water measurement district created pursuant to this chapter.

(6) The director of the department of water resources shall collect a report processing fee ~~not--to--exceed~~ of 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 42-704, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 7, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS to be known and designated as Sections 42-705, 42-706, 42-707, 42-708, 42-709, 42-710, 42-711, 42-712, 42-713, 42-714 and 42-715, Idaho Code, and to read as follows:

42-705. DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES AUTHORIZED TO CREATE AND SUPERVISE WATER MEASUREMENT DISTRICTS. The director of the department of water resources is authorized to create water measurement districts to carry out the water measuring requirements of this chapter and shall have direction and control of the measurement of water existing therein or diverted from all public water sources, including ground water sources, within a water measurement district. Measurement of water within water measurement districts created pursuant to section 42-706, Idaho Code, shall be accomplished by district hydrographers as provided in this chapter and supervised by the director. Administration of water rights within water measurement districts shall be pursuant to the authority of the director of the department of water resources found elsewhere in title 42, Idaho Code, except such curtailment of diversion as is specifically authorized in section 42-714, Idaho Code.

42-706. CREATION OF WATER MEASUREMENT DISTRICTS. (1) The director of the department of water resources is authorized to divide the state into water measurement districts in such manner that each public water source or sources or part thereof shall constitute a water measurement district; provided, that any appropriation or use included in a water district created pursuant to chapter 6, title 42, Idaho Code, shall not be included in a water measurement district. Appropriators or users of water for hydropower, instream flow and aquaculture purposes and irrigation districts duly organized under title 43, Idaho Code, holding water rights for distribution to landowners within the irrigation district may petition to be excluded from the water measurement district at the time the district is created or modified upon a showing to the satisfaction of the director that they are currently making and recording sufficient measurements of their diversions with measuring methods acceptable to the director and upon their agreement to provide an annual report of their diversions to the director in substantially the same form as required in section 42-708, Idaho Code. The director may create, revise the boundaries of, or abolish a water measurement district or combine two (2) or more water measurement districts by entry of an order if such action is required in order to properly administer uses of the water resource. Copies of the order and notice of the first meeting of the water measurement district shall be sent by regular mail to all holders of rights to the waters affected by the order.

(2) Before entering an order creating, modifying, or abolishing a district, the director shall, by regular mail, send notice of the proposed action to each appropriator and water user in the district or proposed district. The notice shall describe the proposed action to be taken, the reasons therefor, the time and place of a hearing to be held concerning the proposed action, and provide a time period within which written comment on the action will be accepted. The hearing

shall not be held sooner than ten (10) days after the mailing of the notice, and the written comment period shall not close sooner than ten (10) days after the hearing. Instead of mailing notice, the director may publish notice describing the proposed action, the time and place for the hearing, and the deadline for receiving written comment. The notice shall be published once a week for two (2) weeks in a newspaper or newspapers having general circulation within the district or proposed district, with the second publication appearing at least ten (10) days before the date set for the hearing. The hearing shall be held within the district or proposed district, or at some nearby location convenient to the affected appropriators or water users.

(3) Each water measurement district created hereunder shall be considered an instrumentality of the state of Idaho for the purpose of performing the essential governmental function of measurement of water within the district.

(4) Any order of the director issued pursuant to this section is subject to judicial review as provided in section 42-1701A, Idaho Code.

42-707. DISTRICT MEETINGS -- DISTRICT HYDROGRAPHER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE -- DISTRICT TREASURER. (1) There shall be held, except as provided in subsection (2) of this section, on the first Monday in November in each year commencing at two o'clock P.M., a meeting of all persons owning or having the use of a water right in the waters of the stream or water supply comprising such district. For purposes of this chapter, a water right is a right which has been adjudicated by the court, is represented by valid permit or license issued by the department of water resources, or is based upon diversion and beneficial use and is recorded by a claim to water right on file with the department of water resources.

(2) Such meeting shall be held at some place within the water measurement district, or at some nearby location convenient to a majority of those entitled to vote thereat, which place shall be designated by the director of the department of water resources. The director shall provide notice of district meetings by publication of the time, date, location and purpose of the meeting in a newspaper or newspapers in general circulation in the district. Published notice shall be made once per week for two (2) consecutive weeks with the second notice appearing at least thirty (30) and not more than sixty (60) days prior to the meeting. The appropriators or water users of any water measurement district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, change the time of day when the meeting shall commence or change the date for annual meetings in subsequent years to any day except Saturday or Sunday between the first Monday of November and the third Monday in December or change both the time and the date. At an annual meeting the appropriators or water users may adopt resolutions to assure or improve the measurement of the waters of the district within state law, and may provide that such resolutions shall continue from year to year.

(3) At the meeting of the appropriators or water users of a district there shall be elected a qualified district hydrographer for

such water measurement district, who may be authorized to employ such other qualified regular assistants as the appropriators or water users shall deem necessary, and who, upon qualification and appointment by the director of the department of water resources, shall be responsible for measurement of water as in this chapter required within the water measurement district, and the appropriators or water users shall, prior to the election of such district hydrographer and approval of the employment of assistants, fix the compensation to be paid them during the time actually engaged in the performance of their duties. Qualifications for the district hydrographer and hydrographer's assistants include:

(a) Any combination of education or experience that demonstrates to the satisfaction of the director of the department of water resources the applicant's ability to conduct water measurements, to perform mathematical computations associated with water measurements, to keep complete and accurate records of water measurements, to be familiar with common terminology associated with water rights and water diversion and use, and to be able to read public land legal descriptions, translate written public land legal descriptions to map locations and find those locations on the land; and

(b) In addition, the district hydrographer's qualifications shall include any combination of education or experience that demonstrates to the satisfaction of the director of the department of water resources the applicant's ability to keep financial records as those records pertain to the expenses of the district, prepare a budget, and prepare assessments and billings for the appropriators or water users in the district.

(4) The appropriators or water users may, by resolution, authorize the district hydrographer to utilize, through a memorandum of understanding, water delivery organizations as hydrographer's assistants.

(5) Voting shall be by majority vote of the appropriators or water users present at the meeting unless one (1) or more appropriators or water users requests voting using the procedure which follows in this subsection. In such case the meeting chairman shall appoint a credentials committee to determine the number of votes each appropriator or water user present is authorized to cast. If requested, each person present, owning or having the use for the ensuing season of any water right in the stream or water supply comprising such water measurement district shall be entitled to a number of votes equal to the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser number of years as the right has been assessed. If a right has not previously been assessed, a person present, owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right would have been assessed had it existed and been used during the previous year.

(6) At such meeting the appropriators or water users shall choose a meeting chairman and meeting secretary and shall determine the manner and method of electing the district hydrographer. Within five (5) days after such meeting the meeting chairman and meeting secretary

shall forward a certified copy of the minutes of such meeting to the department of water resources. The meeting chairman, or the meeting secretary if the meeting chairman from the immediately preceding annual meeting is not present, shall call the meeting to order and preside over the election of officers for the meeting.

(7) At such meeting the appropriators or water users may choose an advisory committee to be composed of members selected as may be determined at the meeting, which committee shall serve as advisors to the director and the district hydrographer in matters pertaining to the measurement of water within the district. The advisory committee may be authorized to carry out policies pertaining to the measurement of water within the district as set forth in resolutions duly adopted by the appropriators or water users at the annual meeting or at a special meeting.

(8) A corporation or a water delivery organization including, but not limited to a corporation, a water company, an irrigation district, an irrigation company or a canal company, shall be considered a person for the purpose of this section and shall cast its vote by someone to be designated by the corporation or water delivery organization.

(9) Should the meeting not be held, or should the district hydrographer not be elected or the district hydrographer's compensation not be fixed as above provided, then the director of the department of water resources is authorized to appoint a district hydrographer and fix the district hydrographer's compensation.

(10) The director of the department of water resources may remove any district hydrographer whenever such district hydrographer fails to perform the district hydrographer's duty, upon the director's own motion or upon complaint in that respect being made to the director in writing, by one (1) person owning or having the right to the use of a water right in such district provided, that upon investigation the director, after a hearing with the other appropriators or water users of the district, which shall be held in the district or at some location convenient to the appropriators or water users of the district, finds such charge to be true. If at any time a vacancy occurs, for whatever reason, in the position of district hydrographer, the director may appoint a successor for the unexpired term.

(11) Before entering upon the duties of the district hydrographer's office, the district hydrographer shall take and subscribe an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the district hydrographer's office, as provided in section 42-709, Idaho Code, and shall file that oath with the department of water resources. Upon qualification and appointment by the director of the department of water resources, the actions taken by a district hydrographer in fulfillment of the duties of his office are covered by the state group surety bond as provided in sections 59-801 through 59-804, Idaho Code.

(12) The director shall call a special meeting of the appropriators or water users of a district upon receipt of a written request for such meeting from a majority of the members of the advisory committee for a district, a written request from appropriators or water users representing thirty percent (30%) or more of the votes cast at the last regular annual meeting, a written request from the district hydrographer or on the director's own motion if the director

determines a meeting is necessary to address matters that cannot be delayed until the next regular annual meeting. Notice of the time, place and purpose of the special meeting shall be given by the director in the manner provided in subsection (2) of this section or by regular mail to all holders of rights to the use of the waters of such district known to the director.

(13) The appropriators or water users may, by resolution, authorize the district hydrographer to acquire, hold and dispose of such real and personal property, equipment and facilities in the name of the water measurement district as necessary for the proper measurement of water and shall provide that all such real and personal property shall remain in the custody of the district hydrographer and the district hydrographer's successor.

(14) At such meeting the appropriators or water users shall choose a district treasurer to be selected as may be determined at the meeting. The district treasurer shall assume the duties specified in section 42-715, Idaho Code. If a water measurement district treasurer is not selected at the annual meeting, and one is found to be necessary, the director of the department of water resources shall appoint a water measurement district treasurer.

42-708. REPORTS OF DISTRICT HYDROGRAPHERS. All district hydrographers shall make and certify annually a report to the department of water resources, in a form and containing the information required by the director of the department of water resources, prior to the expiration of the district hydrographer's appointment for the current year. This report shall show the amount of water diverted at each diversion as measured or determined by the district hydrographer during the preceding period from November 1 through October 31, the total expense of the district and the apportionment of expenses among users and all debits and credits to be carried over to the following year. Such report shall also include records of stream flow, depth to ground water measurements, current names and addresses of appropriators or water users within the district and such other information as the district hydrographer collected or caused to be collected in the course of completing the duties of the district as instructed by the director. The director may also ask for other information deemed necessary in assuring proper administration of water within the district. The reports of district hydrographers to the department of water resources shall be filed and kept in the office of the department.

42-709. MEASUREMENT OF WATER. (1) It shall be the duty of the district hydrographer to:

(a) Measure the diversion from the water supply within the district by each appropriator or water user, or as the director of the department of water resources may otherwise require, and report the results as provided in section 42-708, Idaho Code.

(b) Take and record measurements from devices within the district required in sections 42-702 and 42-703, Idaho Code, and report the results as provided in section 42-708, Idaho Code.

(c) Monitor the ground water levels at ground water diversions, as required by the director of the department of water resources,

before the pumping period begins and during the pumping period and report the results as provided in section 42-708, Idaho Code.

(d) Maintain current records of names and addresses of ground and surface appropriators or water users within the district and report the names and addresses as provided in section 42-708, Idaho Code.

(e) Maintain and report, as provided in section 42-708, Idaho Code, any change in the diversion facilities of any appropriator or water user in the district.

(f) Immediately report to the director of the department of water resources the diversion of any water appearing to be diverted without a water right or in violation of a water right.

(2) Data collected pursuant to the provisions of subsection (1) of this section during the period November 1 through December 31 shall be reported in the report required in section 42-708, Idaho Code, submitted the following year.

(3) The district hydrographer and his assistants may make reasonable entry upon any lands in the state for the purpose of making water measurements or in direct support of making water measurements.

(4) Appropriators or water users may be required by the director, pursuant to subsections (1) through (4) of section 42-701, Idaho Code, or section 42-702 or 42-703, Idaho Code, to install measuring devices to facilitate the measurement of water required in this section.

42-710. DISTRICT HYDROGRAPHER'S TERM OF SERVICE. A district hydrographer shall serve throughout the year from January 1 through December 31. Assistants to the district hydrographer shall serve when necessary to make the water measurements required of the district or for such period of time as specified by resolution at any annual meeting of the appropriators or water users, provided, the period of time set by resolution is sufficient for the assistants to make all needed water measurements in the district.

42-711. EXPENSES OF THE DISTRICT -- APPROVAL -- ALLOTMENT AND CHARGE AGAINST WATER USER. (1) District hydrographers shall prepare an accounting of all expenses of the district for the year. The accounting shall show:

(a) The time charged to the district by each employee of the district, the function performed by each employee for the time charged and the cost to the district for the time charged.

(b) The cost to the district for each activity of the advisory committee and for each activity a breakdown of the cost by per diem for committee members, travel costs, goods and services, and other costs with a description of the substance of the other costs.

(c) The cost to the district for travel and services, except as already included in paragraph (b) of this subsection, and a description of the activity performed for the district for each cost.

(d) The cost to the district for all real or personal property, equipment or facilities acquired, and a description and the cost of each.

The accounting shall be certified by the district hydrographer and the chairman of the advisory committee.

(2) The accounting shall be submitted to the director of the department of water resources for approval.

(3) The expenses of the district shall be a charge against the water users in the district. The expenses of the district shall be apportioned among all water users included within the district in the following manner:

(a) A charge of twenty-five dollars ($25.00) per year for each diversion measured; and

(b) A pro rata share of the total expense of the district, minus the total amount charged for all diversions in the district from paragraph (a) of this subsection determined by the fraction the recorded diversion rate for each water right is to the total recorded diversion rate of all water rights being measured by the district.

(c) Except, if the total charge for all diversions measured in the district from paragraph (a) of this subsection is more than the total expense of the district, the individual charge for each diversion will be the total expense of the district divided by the number of diversions in the district and the pro rata share from paragraph (b) of this subsection will be zero (0).

(4) An allocation of the district expenses among the various users shall be prepared by the district hydrographer and filed with the director of the department of water resources and with the water measurement district treasurer.

42-712. PROPOSED BUDGET FOR SUCCEEDING YEAR. Each district hydrographer shall, at least thirty (30) days prior to the annual meeting of the appropriators or water users of the water measurement district, also prepare and file with the department of water resources a proposed budget for the succeeding year, together with an allocation of the amount of the budget to the respective appropriators or water users, using the actual amounts for the past year or years as the basis for the allocation, which proposed budget and allocation shall be submitted to the appropriators or water users for consideration and approval at the next annual district meeting.

42-713. BUDGET OF WATER MEASUREMENT DISTRICT -- ADOPTION AND CONTENTS -- DEBT OF APPROPRIATOR OR WATER USER. At any annual meeting the appropriators or water users must adopt a budget covering the estimated expenses of water measurements and data collection, as required in section 42-709, Idaho Code, of the district for the ensuing year, and by resolution determine that the budget shall be collected, and the compensation of the district hydrographer and the district hydrographer's assistants and any other expenses of the district, including the costs of the advisory committee in implementing resolutions adopted by the appropriators or water users of the district for activities in addition to the payment of the salary and operating expenses of the district hydrographer and assistants, shall be paid in the manner provided in this section. The budget shall show the aggregate amount to be collected from all the appropriators or water users in the district, and the amount to be paid by each ditch, canal com-

pany, irrigation district or other appropriator or water user, and for the purpose of computing the respective amounts, the cost of measuring the various diversions and other measurements during the past year or years not exceeding five (5) years, shall be used as a basis. Upon the adoption of the budget the amount payable by each ditch, canal company, irrigation district or other appropriator or water user, as shown by the budget, shall become the debt of each respectively and shall become due and payable as in this chapter provided.

42-714. BUDGET -- COLLECTION METHOD -- ENFORCEMENT. (1) The budget, when approved, shall be filed with the secretary of the meeting and the district treasurer and thereupon the district hydrographer shall immediately prepare and file a certified copy thereof with the director of the department of water resources. The budget so approved shall be due and payable on the first day of April of each year unless a different due date is specified by resolution of the appropriators or water users at the annual meeting. Any assessments not paid by the due date shall bear interest from the due date until paid at the rate of eight percent (8%) per annum.

(2) The district hydrographer is authorized to collect his compensation and that of his assistants, and other expenses of the district, directly from the appropriators or water users, canal companies, and irrigation districts. The district hydrographer shall collect such compensation and expenses directly from the appropriators or water users and shall turn the collected funds over to the water measurement district treasurer for deposit and disbursement in accordance with section 42-715, Idaho Code.

(3) The district hydrographer is authorized to cause the delivery of water to be withheld or to cause diversions of water to cease by those users who have not paid their pro rata share of the cost of operating the district as levied until such time as the pro rata share of the cost is paid.

(4) The water measurement district shall have the right to collect any charges due and unpaid, by civil action, the action to be brought in any court of competent jurisdiction, in the name of the district hydrographer to whom such charges are payable, and in addition to the amount found due, together with interest and costs, may also recover such sum as the court may adjudge reasonable as attorney's fees in the action.

(5) The appropriators or water users may by resolution request the department of water resources to prepare and mail the billings for the collections authorized in this section. The resolution will agree to reimburse to the department the actual cost incurred by the department in preparing and mailing the billings.

42-715. DUTIES OF THE WATER MEASUREMENT DISTRICT TREASURER. (1) The water measurement district treasurer shall keep a complete, accurate and permanent record of all moneys received by and disbursed for and on behalf of the district. The water measurement district treasurer shall deposit all moneys of the district in a designated depository approved at the annual meeting, and shall comply with the public depository law as contained in chapter 1, title 57, Idaho Code.

(2) Before undertaking the duties of the office, the water mea-

surement district treasurer shall take and subscribe to an oath before an officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the office, and shall file the oath with the director of the department of water resources. Upon issuance by the director of a certificate confirming the selection of a water measurement district treasurer, the actions taken by the water measurement district treasurer in fulfillment of the duties of the office are covered by the state group surety bond as provided in sections 59-801 through 59-804, Idaho Code.

(3) The water measurement district treasurer shall serve until a successor is elected or appointed, and qualified. A water measurement district treasurer may be removed from office by the director for failure to perform the duties of the office in the manner provided for removal of a district hydrographer.

(4) Compensation for the services of the water measurement district treasurer shall be set at the annual meeting and may be established on a fixed sum, per diem, or voluntary basis. If a water measurement district treasurer is appointed by the director in the absence of being elected at the annual meeting, the director shall fix the compensation to be paid, if any.

(5) The treasurer of the water measurement district shall only disburse moneys from the water measurement district account upon submission of a written voucher approved by the district hydrographer for expenses incurred for water measurement district purposes related to the district or by a voucher approved by the chairman of the advisory committee for activities pursuant to resolutions adopted by the appropriators or water users from district funds.

(6) It shall be the duty of the water measurement district treasurer to prepare a statement of the financial affairs of the district at the end of each fiscal year and to file the statement with the director of the department of water resources. An audit of the financial affairs of the district shall be made as required in section 67-450B, Idaho Code. A certified copy of the audit shall be filed with the director of the department of water resources following the audit.

(7) In water measurement districts with an annual budget of three thousand dollars ($3,000) or less, the appropriators or water users may, by resolution adopted at the annual meeting, authorize the district hydrographer to serve as water measurement district treasurer. District hydrographers in water measurement districts with annual budgets in excess of three thousand dollars ($3,000) shall not be authorized to act as water measurement district treasurer.

SECTION 4. STATEMENT OF LEGISLATIVE INTENT. It is the intent of the Legislature of the State of Idaho that the Director of the Department of Water Resources exercise the authority provided under Chapter 7, Title 42, Idaho Code, to create water measurement districts within the Eastern Snake River Plain Aquifer area in a timely manner to assure that water diverted from public water sources is measured and reported to the Department of Water Resources in accordance with the provisions of the chapter to be used in the management of the water resources of the State.

SECTION 5. An emergency existing therefor, which emergency is

hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 21, 1995.

CHAPTER 292
(S.B. No. 1208, As Amended)

AN ACT

RELATING TO CONSTRUCTION STANDARDS FOR ENERGY CONSERVATION; AMENDING SECTION 44-2301, IDAHO CODE, TO STRIKE CERTAIN DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 44-2302, IDAHO CODE, TO ADOPT ENERGY-EFFICIENT CONSTRUCTION STANDARDS; AMENDING SECTION 44-2303, IDAHO CODE, TO PROVIDE ADMINISTRATION, ENFORCEMENT, CERTIFICATION, INSPECTIONS AND FEES; REPEALING SECTIONS 44-2304 AND 44-2306, IDAHO CODE; AMENDING SECTIONS 44-2305, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE A WARNING NOTICE REGARDING INDOOR AIR QUALITY; AND AMENDING CHAPTER 23, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-2305, IDAHO CODE, TO PROVIDE FOR REVIEW OF THE PROVISIONS OF THIS CHAPTER.

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

SECTION 1. That Section 44-2301, Idaho Code, be, and the same is hereby amended to read as follows:

44-2301. DEFINITIONS. In this chapter:

(1) "Conservation measures" means materials and techniques used in residential buildings to reduce energy consumption, and which result in increased efficiency of energy use.

(2) "Conservation provider" means only rural electric cooperatives, municipal electric systems, and public utilities as defined in chapter 1, title 61, Idaho Code, who provide equipment, funding, products or services for the purpose of increasing the efficient use of energy within a building.

(3) "Contaminant" means the presence in the atmosphere of a building of asbestos, biological elements, combustion products, formaldehyde, radon gas and volatile organic compounds.

~~(4) "Department" means the Idaho department of labor and industrial services.~~

~~(5) "Director" means the director of the Idaho department of labor and industrial services.~~

~~(6)~~ "Dwelling unit" means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one (1) family.

(~~7~~5) "Energy" means coal, electricity, natural gas, liquified petroleum gas, oil, wood or any other material used to cool or heat a residential building.

(~~8~~6) "Residential building" means any building permanently sited in Idaho which consists of one (1) or more dwelling units and is of three (3) stories or less. Residential buildings shall not include

manufactured homes as defined in section 39-4105, Idaho Code, or log homes.

(~~9~~7) "R-value" or "thermal resistance" means the ability of a material to resist the flow of heat. Mathematically it is the reciprocal of the U-value. Nominal R-values mean thermal resistance of insulation, excluding structural components, as specified by the manufacturer according to recognized trade and engineering standards or other approved source.

(~~10~~8) "U-value, thermal transmittance" means the amount of heat measured in British thermal units (BTU) that will pass through one (1) square foot of building section per hour per degree Fahrenheit of temperature difference (BTU/ft hr °F).

(~~11~~9) "U-value, overall (U), thermal transmittance" means the average heat transmission of a gross area of the exterior residential building envelope expressed in BTU/ft hr °F. The overall U-value applies to the combined effect of the time rate of heat flows through the various parallel paths, such as windows, doors and opaque construction areas, comprising the gross area of one or more exterior residential building components, such as walls, floors or roof/ceiling.

SECTION 2. That Section 44-2302, Idaho Code, be, and the same is hereby amended to read as follows:

44-2302. ADOPTION OF ENERGY-EFFICIENT CONSTRUCTION STANDARDS. (1) The ~~following~~ minimum energy-efficient construction standards~~are~~ hereby adopted in Idaho for all newly constructed residential buildings started after January 1, 199~~1~~6, will achieve energy use less than or equal to that which would be achieved by the minimum requirements as set forth in the following prescriptive path and as calculated by the "WATTSUN 5.4 Program" computer software for "proposed" and "comparison" designs of average annual heat use.

~~(1)--A-residential-building-minimum-energy-efficient--construction standard--with-measures:~~

~~Component~~	~~Standard~~
~~Ceilings~~	
~~--Vented-Attic~~	~~R---38~~
~~--Vaulted-Ceiling~~	~~R---30~~
~~Walls~~	
~~--Above-Grade~~	~~R---19~~
~~--Below-Grade~~	~~R---10~~
~~Doors-(excluding-main~~	
~~--entry-door)~~	~~U---.22~~
~~Floors-Over-Unheated-Space~~	~~R---19~~
~~Crawl-Space-Foundation-Wall~~	
~~--(alternative-to-floor~~	
~~--insulation)~~	~~R---19~~
~~Slab-on-Grade-Perimeter~~	~~R---10~~
~~Windows~~	~~U---.65~~
~~Maximum-Glazed-Area~~	
~~(%-of-floor)~~	~~17%~~

~~(2)--The--director,--or--a-city-or-county-official-in-a-certifying jurisdiction,-may-accept-the-certification-of-alternative-construction~~

~~configurations which meet the overall thermal transmittance level as provided in this section.~~

The energy-efficient construction standard may be met by any one

(1) of the following methods:

(a) By use of the "WATTSUN 5.4 Program" to establish a "proposed" energy use for residential buildings that is less than or equal to energy use determined in this prescriptive path and "comparison" energy use target.

(b) Direct implementation of the council of American building officials 1992 model energy code.

(c) Following the prescriptive path measures outlined in the tables below.

Component	Standard
Attic above ceiling of up to 2.5/12 slope	R38
Vaulted ceiling of more than 2.5/12 slope (up to 30% maximum of total ceiling area)	R30
Opaque wall above grade	
single-family	R19 [B.]
multi-family	R19 [B.]
Floor	
underfloor or crawl space perimeter	R19
slab on grade	R10
Opaque wall below grade	R10
Doors	U.22 except main entry & side lites
Glazing [C.D.]	U.50 area weighted average not to exceed 17% heated floor area
Heat system ducts	R6 in unheated areas
Heat equipment	
Air-source heat pump	6.8 HSPF for split systems and 6.6 HSPF for single package systems
Ground-source heat pump	3.0 COP @ 50°F inlet
Gas or oil furnace	.78 AFUE
Infiltration control	standard air-sealing
Ventilation [E.]	NWEC RS-25 & Tbl. 53-K

General conditions and footnotes:

A. All prescriptive R-values describe the rated nominal value of the insulation only and do not include framing. However, the sheetrock, framing, vapor barrier, sheathing, siding and etc. are taken into account for modeling purposes to achieve the stated R-values.

B. Walls constructed with a minimum R13 nominal insulation between framing members and with a minimum R3.6 insulating sheathing installed continuously over the "warm" wall framing shall be deemed to comply with this minimum prescriptive insulation standard.

EXCEPTION: Insulated sheathing may be omitted from up to fifteen

percent (15%) of the total square footage of the "warm" wall area where plywood sheathing is required for shear bracing.

C. The total glazing area may be increased to more than seventeen percent (17%) of heated floor area provided:

1. The area weighted U-value of the glazing is decreased to give an overall glazing value not to exceed U.50 multiplied by seventeen percent (17%) of heated floor area; and

2. All other envelope components are insulated to meet or exceed this minimum prescriptive standard.

D. Compliance with the U-values for glazing shall be determined for the entire glazing assembly and shall be either:

1. A U-value which is certified by the national fenestration rating council (NFRC); or

2. The U-value listed for product type "R" (residential size) for the combination of glazing type, low-e coating, air space, gas fill and frame type from the 1989 ASHRAE handbook of fundamentals, chapter 27, table 13, titled "overall coefficients of heat transmission of various fenestration products," also known as the "default table."

Window assemblies which have been certified as meeting the requirements of the NFRC standard shall be labeled as required by the NFRC.

E. Penetrations. The following openings in the building envelope shall be caulked or otherwise sealed to limit infiltration:

1. Around glazing and door frames, between the unit and the interior sheetrock or the rough framing;

2. Around all exterior wall sole plates at the structural floor, using a fillet of caulking placed prior to sheetrock installation or an alternate approved procedure;

3. Around penetrations in the building envelope for ducts, plumbing, electrical and utilities in walls, ceilings and floors;

4. At all openings or joints in the ceiling membrane;

5. At the top and bottom of the mudsill, basements and underfloor plenums only;

6. At all other penetrations in the building envelope.

Electric outlets. Electric outlet plate gaskets shall be installed or the boxes sealed on all electrical outlets in the exterior walls, ceiling or floor.

Ducts. HVAC ducts shall be sealed at all joints and corners, at junctions between outlet registers and interior surfaces.

Wood stoves and fireplaces. Masonry and factory-built fireplaces and wood stoves shall be installed with the following:

1. Tight-fitting, closeable metal or glass doors covering the entire opening of the firebox.

2. A combustion air intake from outside of the conditioned space directly into the firebox at least six (6) square inches in area, and equipped with a readily accessible, operable, and tight-fitting damper.

3. For masonry fireplaces only, a tight-fitting flue damper with a readily accessible manual control.

Exhaust systems. Fans or other systems exhausting air from the building to the outside shall be provided with backdraft or auto-

matic dampers to limit air leakage.

Recessed fixtures. Recessed lighting fixtures shall meet one (1) of the following requirements:

1. Type I.C. rated manufactured with no penetrations between the inside of the recessed fixture and ceiling cavity and sealed, or gasketed, to prevent air leakage into the unconditioned space.

2. Type I.C. or Non-I.C. rated, installed in a sealed box constructed with/from gypsum wallboard, or maintaining required clearances of not less than one and one-half (1 1/2) inches from combustible construction and not less than three (3) inches from insulation.

3. Type I.C. rated certified under RS-2 to have no more than 2 cfm air movement from conditioned space to ceiling cavity. The lighting fixtures shall be tested at 70 pascals or 1.567 ft. lbs/sq. ft. pressure differential and shall have a label attached showing compliance.

EXCEPTION: Heat recovery fixture for use with a return air system.

F. Notwithstanding the requirements of uniform building code section 1204(a), a ventilation system complying with northwest energy code standard #25 shall be installed. The ventilation system shall be capable of providing the ventilation rates in accordance with NWEC Table 53-K below:

Table 53-K

	Whole House Supply	Exhaust	Spot Kitchen	Spot Bath
Intermittent	10cfm/bedroom plus 10cfm	50cfm measured flow or 80cfm rated	100cfm	50cfm
Continuous	10cfm/bedroom plus 10cfm	not less than 1/2 required supply rate	25cfm	20cfm

Alternative construction configurations which vary from the prescriptive path energy-efficient construction standards set forth in this subsection are allowable, provided that the alternative construction configurations meet the overall thermal transmittance level of the prescriptive path standards.

(2) Incorporated cities and counties may elect to establish by ordinance or building code, alternative energy codes and construction standards, provided that such locally adopted codes achieve energy use equal to or less than the energy use determined in this prescriptive path and as calculated by the "WATTSUN 5.4 Program" for "proposed" and "comparison" designs' average annual heat.

SECTION 3. That Section 44-2303, Idaho Code, be, and the same is hereby amended to read as follows:

44-2303. ADMINISTRATION, ENFORCEMENT, CERTIFICATION, ~~PERMITS~~ INSPECTIONS AND FEES. (1) Any builder who begins construction on a residential building in Idaho after January 1, 199~~1~~6, within the corporate limits of an incorporated city or within the boundaries of a county which has adopted an alternative energy code pursuant to sec-

tion 44-2302(2), Idaho Code, shall certify in writing to the ~~director or--to--the~~ appropriate incorporated city or county official that the residential building will be constructed in compliance with the energy-efficient construction standards ~~established-by-the-provisions of-section-44-2302,-Idaho-Code~~ set forth in said alternative energy code.

(2) ~~The-director-is-hereby-authorized-and-directed-to-provide-for the--administration--and-enforcement-of-the-provisions-of-this-chapter and-to-issue-permits-for-residential-dwellings-which-have-been--certified--by--the--builder--thereof-as-complying-with-the-energy-efficient construction--standards--established--by--the--provisions--of--section 44-2302,-Idaho-Code.-The-director-may-establish-and-collect--fees--for the--issuance--of-such-permits,-which-fee-shall-not-exceed-twenty-five dollars-($25.00).~~

~~(3)--The-provisions-of-this-section-relating-to-state-issuance--of permits-for-residential-dwellings-shall-not-apply-within-the-corporate limits--of--incorporated--cities--or-within-the-boundaries-of-counties which-have-elected-to-accept-residential-building-certifications--from builders-and-which-issue-permits-therefor.~~

~~(4)--Incorporated--cities--and--counties-may-elect-to-establish-by ordinance-or-building-code,--energy-efficient--construction--standards comparable--to-or-more-stringent-than-the-standards-established-by-the provisions-of-this-chapter,-provided-that-at-a-minimum-such--standards shall--be--enforced-through-builder-certifications-and-the-issuance-of permits-as-provided-in-this-section.~~

~~(5)--The-director-may,-in-accordance-with-the-provisions-of--chapter--52,-title-67,-Idaho-Code,-promulgate-rules-necessary-to-implement the-provisions-of-this-chapter.-Every-rule-and-regulation--promulgated within--the--authority--conferred--by--this--act-shall-be-of-temporary effect-and-shall-become-permanent-only-by-enactment-by-statute-at--the regular--session--first--following-adoption-of-the-rule-or-regulation. Rules-and-regulations-not--approved--in--the--above--manner--shall--be rejected,--null,--void-and-of-no-force-and-effect-on-July-1,-following submission-of-the-rules-and-regulations-to--the--legislature.~~ Builder certifications required under subsection (1) of this section may be made on builder certification forms which shall be provided as identified in section 44-2304, Idaho Code, to requesting builders by incorporated cities or counties which have adopted an alternative energy code pursuant to section 44-2302(2), Idaho Code. The incorporated cities or counties may establish and collect fees for providing such builder certification forms, which fee shall not exceed twenty-five dollars ($25.00) per residential building.

(3) Any builder who begins construction on a residential building in Idaho after January 1, 1996, within the corporate limits of an incorporated city or within the boundaries of a county which has not adopted an alternative energy code pursuant to section 44-2303(2), Idaho Code, shall provide written certification of compliance with the energy efficient construction standards set forth in section 44-2302(1), Idaho Code, to potential purchasers of the residential building. Upon request of the incorporated city or within the boundaries of a county, this builder shall provide written certification of compliance set forth in section 44-2302(1), Idaho Code.

(4) Incorporated cities and counties may elect to provide for on-

site inspection(s) of residential building construction to facilitate compliance with the energy-efficient construction standards set forth in section 44-2302, Idaho Code. Such inspections may be performed by the incorporated city or county, its agents or contractors. The maximum fee to be charged by the incorporated city or county for inspection(s) shall not exceed fifty dollars ($50.00) per residential building.

(5) Any city or county adopting an alternative energy code pursuant to section 44-2302(2), Idaho Code, shall, at a minimum, enforce the code in the manner the city or county is currently enforcing its building code. The means of enforcement may include, without limitation:

(a) Plan check and site inspections for each building.

(b) Spot checks and inspections for some buildings.

(c) Builder certifications.

SECTION 4. That Sections 44-2304 and 44-2306, Idaho Code, be, and the same are hereby repealed.

SECTION 5. That Section 44-2305, Idaho Code, be, and the same is hereby amended to read as follows:

44-2305~~4~~. RELEASE FROM LIABILITY. (1) Any conservation provider engaged in or responsible for the alteration, construction or improvement of any residential building in this state for the purpose of increasing the efficient use of energy therein, ~~wherein--any~~ and any builder who constructs any residential building in this state to the energy-efficient construction standards set forth in this chapter, where the residential building contains contaminants which are found to be damaging to human health as a result of exposure to such contaminants, does not:

(a) Extend any assurance that the residential building is free of contaminants that may be damaging to human health; or

(b) Assume responsibility for or incur liability for any injury to person or property caused by the presence within the residential building of contaminants found to be damaging to human health.

(2) The builder of a residential building shall provide the initial building owner or occupants with ~~a written~~ the following warning notice ~~of--the--potential--risks--to--human--health--by--indoor---air contaminants--in--the--manner-prescribed-by-the-director.-The-director shall-prescribe-such-form-of-written-notice-within-one-hundred--eighty (180)--days--of--the--effective--date--of-this-chapter-(July-1,-1990).~~ regarding indoor air quality:

INDOOR AIR QUALITY WARNING NOTICE

This notice to occupants of new homes discusses indoor air quality. It describes what indoor air pollution is, how it can affect your health, and suggests actions you may wish to take to improve the quality of your indoor environment.

Every home contains pollutants that can affect the quality of the indoor air. Some pollutants, such as formaldehyde, are emitted by certain building materials and home furnishings. Other pollutants, such as radon from underlying soil,

can migrate from beneath the home to the home's interior.

Radon is an odorless, colorless, naturally occurring gas that escapes from the soil into homes in varying degrees dependent upon the home's location. Prolonged exposure to radon increases the risk of lung cancer. The Environmental Protection Agency has set a recommended action level at 4 PCI/I for all homes. Radon concentration levels can be lowered through increased ventilation and other means to prevent infiltration into the home.

Formaldehyde is a colorless, pungent smelling gas which can cause watery eyes, burning sensations in the eyes and throat, nausea, and breathing difficulties in some humans when exposed at elevated levels (above 0.1 parts per million).

Typical sources of formaldehyde within new homes are pressed wood products which use adhesives containing urea-formaldehyde resins. Pressed wood products include particleboard, hardwood plywood paneling, and medium density fiberboard. Formaldehyde concentration levels can be lowered through increased ventilation and additional use of air conditioning and dehumidifiers to maintain moderate temperature and humidity levels. In most cases, pollutants do not reach harmful levels. In some homes, however, pollutants do accumulate to levels which can affect the health of the home's occupants.

If the presence of indoor air pollutants becomes a concern, small detectors that measure pollutant concentrations in residences are available for formaldehyde and radon. These devices can be installed in the home for a period of time, and then sent to a laboratory for analysis. The results can then be compared to the pollutant levels mentioned above to help determine if an indoor air quality problem exists.

If you have any questions regarding the health effects associated with exposure to radon, formaldehyde, or any other indoor air contaminants, consult your doctor or local office of the Department of Health and Welfare.

(3) Nothing in this section shall be construed to create a duty of care or liability for injury to persons or property.

(4) Nothing in this section shall be construed to relieve any conservation provider of liability for complying with the laws, rules and regulations of the United States and the state of Idaho relative to contaminants within buildings.

BUILDER CERTIFICATION FORMS

Component	COMPONENT VALUES Proposed		Prescriptive (IRES)
Floor or	R.....		R-
Crawl Space Wall	R.....		R-
Slab on Grade	R.....		R-
Wall-Below Grade	R.....	Nominal	R-
Wall-Above Grade	R.....	R-Values	R-
Ceiling-Attic	R.....		R-
Ceiling-Vaulted	R.....		R-
Doors	U.....	Tested	U-
Glazing	U.....	or	U-
Glazing % of Conditioned Floor Area	.....	Default U-Value	17%

COMPLIANCE PATHS

Choose a Compliance Path and check one of the boxes below.

☐ PRESCRIPTIVE - All Component R-values meet or exceed IRES R-values and Door or Glazing U-values do not exceed IRES U-values.

☐ ALTERNATE PRESCRIPTIVE
Percent Glazing from U-value Trade-off Graph for Glazing U-value listed in box 3.
.....%

☐ OVERALL THERMAL TRANSMITTANCE
Project UA .....
IRES Reference UA .....

BUILDER CERTIFICATION

I certify that the residential building to be constructed or sited at the above address or property will be built to the standards above which meet or exceed the requirements of Title 44, Chapter 23, Idaho Code.

The facts stated in this certification are true to the best of my knowledge. I acknowledge that a willful misrepresentation of a material fact may be punishable under the laws of the State of Idaho.

.....
BUILDER OR GENERAL CONTRACTOR (Signature)

.....
(Print Name and Office if signature for Corporation)

.....
(Date)

SECTION 6. That Chapter 23, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 44-2305, Idaho Code, and to read as follows:

44-2305. REVIEW. No more often than every three (3) years, the Idaho building contractors association, with the advice and consent of the Idaho public utilities commission, shall name representatives from electric and/or gas utilities serving in Idaho, together with representatives from the building industry to a panel which will also include representatives from Idaho's cities and counties and the Idaho department of water resources, to review this chapter and recommend any changes thereto to the Idaho legislature.

Approved March 21, 1995.

CHAPTER 293
(S.B. No. 1287)

AN ACT

APPROPRIATING MONEYS FOR THE SPECIAL PROGRAMS FOR FISCAL YEAR 1996; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR THE SEVERAL DESIGNATED PROGRAMS; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for the Special Programs the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. FOREST UTILIZATION RESEARCH PROGRAM:					
FROM:					
General Fund	$ 419,800	$ 47,800			$ 467,600
B. IDAHO GEOLOGICAL SURVEY PROGRAM:					
FROM:					
General Fund	$ 560,000	$ 54,200	$ 2,300		$ 616,500
C. SCHOLARSHIPS AND GRANTS PROGRAM:					
FROM:					
General Fund				$2,043,800	$2,043,800
Scholarship Fund		$ 800		9,800	10,600
Federal Fund		19,300	$51,600	425,600	496,500
TOTAL		$ 20,100	$51,600	$2,479,200	$2,550,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. IDAHO MUSEUM OF NATURAL HISTORY:					
FROM:					
General Fund	$ 419,700	$ 28,600	$ 2,500		$ 450,800
E. IDAHO SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General Fund				$ 239,900	$ 239,900
F. IDAHO COUNCIL ON ECONOMIC EDUCATION:					
FROM:					
General Fund				$ 55,000	$ 55,000
GRAND TOTAL	$1,399,500	$150,700	$56,400	$2,774,100	$4,380,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than twenty-five and eighty-six one hundredths (25.86) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Board of Regents of the University of Idaho and to the State Board of Education for the Forest Utilization Research Program, Idaho Geological Survey Program, and Idaho Museum of Natural History subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to each respective program under Section 1, Chapter 224, Laws of 1994, for each respective program to be used for nonrecurring expenditures for the period July 1, 1995, through June 30, 1996.

SECTION 4. The reappropriation granted in Section 3 of this act shall be subject to the following conditions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is zero, the reappropriation in Section 3 is declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is greater than zero but less than the total reappropriation authority granted to all state agencies, the amounts reappropriated in Section 3 shall be in the proportion that the reappropriation for each program bears to the total reappropriation authority granted to all state agencies.

Approved March 21, 1995.

CHAPTER 294
(H.B. No. 265)

AN ACT

RELATING TO LEAKING ARTESIAN WELLS; AMENDING SECTION 42-1601, IDAHO CODE, TO PROVIDE THE EFFECT OF A GROUND WATER MANAGEMENT DISTRICT ADOPTING AND IMPLEMENTING A PLAN FOR REPAIR OF LEAKING ARTESIAN WELLS ACCEPTABLE TO THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES AND THE PERSON OWNING THE LEAKING WELL IS AN ACTIVE PARTICIPANT IN THE GROUND WATER MANAGEMENT DISTRICT; AND AMENDING SECTION 42-5112, IDAHO CODE, TO AUTHORIZE THE BOARD OF DIRECTORS OF A GROUND WATER MANAGEMENT DISTRICT TO ENTER INTO COST SHARE AGREEMENTS AND TO AUTHORIZE THEM TO ADOPT AND IMPLEMENT A PLAN FOR THE REPAIR OF LEAKING ARTESIAN WELLS WITHIN THE DISTRICT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-1601, Idaho Code, be, and the same is hereby amended to read as follows:

42-1601. WELL NOT CONTROLLED A COMMON NUISANCE -- APPROVAL OF DIRECTOR -- RESERVOIRED WATER -- MAINTENANCE OF ARTESIAN WELLS. (1) Any person owning or controlling a flowing artesian well, which is not capped, equipped or furnished with such mechanical appliance as will readily control the flow of water from such well, shall be guilty of a misdemeanor and such well is hereby declared to be a common nuisance; and any person owning or controlling a flowing artesian well, which is capped, equipped or furnished with a mechanical appliance for arresting and preventing the flow of water therefrom, which cap, equipment or mechanical appliance is of a type that has not been approved by the director of the department of water resources, shall be guilty of a misdemeanor and such well is hereby declared to be a common nuisance: provided, however, that in cases where the waters of artesian wells are reservoired and controlled so that waste is not committed and a common nuisance created and where the pressure of water in a reservoir automatically causes wells to cease to flow, such mechanical contrivances may be dispensed with by obtaining the consent of the director of the department of water resources.

(2) Any person owning or controlling an artesian well shall maintain the well to prevent waste or contamination of ground waters through leaky casings, pipes, fittings, valves, pumps, seals or through leakage around the outside of the casings, whether the leakage is above or below the land surface.

(3) The owner of the land on which the well is located shall be deemed to own the well unless a deed, covenant, contract, easement, or other documentation acceptable to the director is available to demonstrate that the well is owned by another.

(4) If a ground water management district created pursuant to chapter 51, title 42, Idaho Code, has adopted and is implementing a plan for the repair of leaking artesian wells acceptable to the director of the department of water resources, then the director of the

department of water resources will not take any administrative or judicial action to require repair of a well within the ground water management district if the person owning the well is an active participant in the ground water management district.

SECTION 2. That Section 42-5112, Idaho Code, be, and the same is hereby amended to read as follows:

42-5112. POWERS AND DUTIES OF BOARD OF DIRECTORS. The board shall have the following powers and duties:

(1) To manage and conduct the business and affairs of the district;

(2) To employ and appoint such agents, officers and employees as may be required to perform the duties as set out in this chapter and prescribe their duties;

(3) To incur indebtedness, for the purpose of financing repair or abandonment of wells in the district, the term of which shall not exceed ten (10) years, by contract with a money-lending institution, including the Idaho water resource board;

(4) To levy assessments for the retirement of indebtedness incurred for purposes of financing repair or abandonment of wells in the district and for the cost of operating the district, including participating in state and/or federal aquifer monitoring programs;

(5) To contract with owners of wells in the district which require repair or abandonment as ordered by the director of the Idaho department of water resources to effectuate repair or abandonment of such wells. The contracts may include financial participation in repair or abandonment, as necessary, to meet minimum well construction standards adopted by the Idaho water resource board, as follows:

(a) Repair of wells which owners intend to continue to use: grants of up to fifty percent (50%) of total cost of repair; loans at interest rates and terms determined by the board of directors of up to one hundred percent (100%) of total cost of repair;

(b) Abandonment of wells which owners do not intend to continue to use: grants or loans of up to one hundred percent (100%) of total cost; total cost of repair or abandonment includes all costs, including technical evaluation, design and inspections;

(6) To contract with the director of the department of water resources to evaluate proposed contracts with well owners to evaluate the repairs or other work proposed and the costs of the proposed work;

(7) To adopt rules ~~and regulations~~, in accordance with the administrative procedure act, chapter 52, title 67, Idaho Code, for determining the percentage of the total repair or abandonment cost that the district will grant or loan, the maximum amounts of grants and loans and their terms, a procedure for determining which water users will be given the financial assistance offered by the district, and a limitation on the total indebtedness of the district. For the purposes of chapter 52, title 67, Idaho Code, the district shall be considered an agency. Among the factors to be considered by the board of directors in the adopted rules shall be the following:

(a) Characteristics of the well to be repaired or abandoned; i.e., location, depth, diameter, depth to water or water pressure in the well, rate of leakage above and below land surface, and the

purpose of the well;

(b) Financial ability of the owner;

(c) Estimated relative impact of the repair or abandonment on water levels or pressures in the aquifer and in surrounding wells;

(d) ~~t~~Total number and estimated total cost of repairs to be made in the district as compared to the repayment capability from allowable annual assessments to be collected by the district; and

(e) Orders and recommendations of the director of the Idaho department of water resources;

(8) To accept gifts and grants or to enter into cost share agreements with any person, corporation, association or governmental agency in furtherance of the purposes of this chapter;

(9) To enter upon any land to make inventories, surveys, and monitoring or construction inspections in furtherance of the purposes of this chapter;

(10) To do any and every lawful act necessary to be done that the provisions of this chapter may be carried out;

(11) At such intervals as the director of the department of water resources shall establish, the board of directors shall report to the director, in the form and manner prescribed by him, concerning the operations of the district;

(12) The board of directors annually shall submit to the director of the department of water resources a financial report setting forth the financial condition of the district. The report shall be in the form prescribed by the director and shall specify the amount of the assessments levied by the district for the year, the outstanding obligations of the district, and such other information as the director may require. The director shall have the authority to conduct an audit of the financial transactions and operations of the district.

(13) To adopt and implement a plan for the repair of leaking artesian wells within the district.

Approved March 21, 1995.

CHAPTER 295
(H.B. No. 366)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1996; AND PROVIDING A LIMIT ON THE NUMBER OF FULL-TIME POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Fish and Game the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game Fund	$ 1,850,300	$ 1,280,700	$ 277,500	$300,000	$ 3,708,500
Fish and Game Set-aside Fund	15,700	14,700			30,400
Fish and Game Depredation Claim Fund		900			900
Fish and Game Expendable Trust Fund		1,000			1,000
Fish and Game Nonexpendable Trust Fund		100			100
Fish and Game Federal Fund	1,925,500	1,355,900	166,300		3,447,700
TOTAL	$ 3,791,500	$ 2,653,300	$ 443,800	$300,000	$ 7,188,600
II. ENFORCEMENT:					
FROM:					
Fish and Game Fund	$ 5,114,800	$ 942,800	$ 406,000		$ 6,463,600
Fish and Game Set-aside Fund		35,000			35,000
Fish and Game Federal Fund	278,100	153,200			431,300
TOTAL	$ 5,392,900	$ 1,131,000	$ 406,000		$ 6,929,900
III. FISHERIES:					
FROM:					
Fish and Game Fund	$ 3,109,000	$ 2,059,000	$ 513,300		$ 5,681,300
Fish and Game Set-aside Fund	38,700	110,200	375,000		523,900
Fish and Game Federal Fund	6,400,500	5,102,400	1,443,800		12,946,700
Fish and Game Expendable Trust Fund	176,500	33,400	102,000		311,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Nonexpendable Trust Fund		31,400			31,400
TOTAL	$ 9,724,700	$ 7,336,400	$2,434,100		$19,495,200
IV. WILDLIFE:					
FROM:					
Fish and Game Fund	$ 2,605,500	$ 1,527,500	$ 350,400		$ 4,483,400
Fish and Game Set-aside Fund	57,300	98,600			155,900
Fish and Game Federal Fund	2,428,700	1,139,500	48,900		3,617,100
Fish and Game Expendable Trust Fund	35,200	39,000			74,200
Fish and Game Nonexpendable Trust Fund	4,900	1,900			6,800
TOTAL	$ 5,131,600	$ 2,806,500	$ 399,300		$ 8,337,400
V. INFORMATION AND EDUCATION:					
FROM:					
Fish and Game Fund	$ 1,046,200	$ 609,800	$ 68,700		$ 1,724,700
Fish and Game Federal Fund	322,400	238,200	59,800		620,400
TOTAL	$ 1,368,600	$ 848,000	$ 128,500		$ 2,345,100
VI. ENGINEERING:					
FROM:					
Fish and Game Fund	$ 676,700	$ 50,400	$ 179,000		$ 906,100
Fish and Game Federal Fund	17,500	18,800			36,300
TOTAL	$ 694,200	$ 69,200	$ 179,000		$ 942,400
VII. NATURAL RESOURCE POLICY:					
FROM:					
Fish and Game Fund	$ 448,700	$ 61,800	1,600		$ 512,100
Fish and Game Federal Fund	846,800	266,100			1,112,900
TOTAL	$ 1,295,500	$ 327,900	$ 1,600		$ 1,625,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VIII. WINTER FEEDING, DEPREDATION CONTROL, AND HABITAT IMPROVEMENT:					
FROM:					
Fish and Game Fund	$ 331,200	$ 50,000			$ 381,200
Fish and Game Depredation Claim Fund				$300,000	300,000
Fish and Game Set-aside Fund	31,600	1,641,600	$1,031,700		2,704,900
TOTAL	$ 362,800	$ 1,691,600	$1,031,700	$300,000	$ 3,386,100
GRAND TOTAL	$27,761,800	$16,863,900	$5,024,000	$600,000	$50,049,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred twenty-three and twenty-one hundredths (523.21) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 296
(H.B. No. 355)

AN ACT

RELATING TO THE GRIZZLY BEAR MANAGEMENT OVERSIGHT COMMITTEE; AMENDING SECTION 2, CHAPTER 403, LAWS OF 1993, TO EXTEND THE SUNSET CLAUSE TWO YEARS.

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

SECTION 1. That Section 2, Chapter 403, Laws of 1993, be, and the same is hereby amended to read as follows:

> SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and its passage and approval. The provisions of this ~~section~~ act shall be null and void and of no force and effect on and after July 1, 199~~5~~7.

Approved March 21, 1995.

CHAPTER 297
(H.B. No. 375)

AN ACT
APPROPRIATING MONEYS FOR THE OFFICE ON AGING FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Office on Aging the following amounts, to be expended according to the designated standard classifications from the listed funds, for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	$319,200	$ 37,700		$2,331,000	$2,687,900
Miscellaneous Revenue Fund	45,000	22,000	$4,000	962,400	1,033,400
Federal Grant Fund	342,000	117,200		5,120,900	5,580,100
TOTAL	$706,200	$176,900	$4,000	$8,414,300	$9,301,400

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office on Aging is authorized no more than fourteen and seventy-four one hundredths (14.74) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 298
(H.B. No. 376)

AN ACT
APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Industrial Commission the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. COMPENSATION:					
FROM:					
Industrial Administration Fund	$1,592,300	$ 939,000	$71,900	$ 877,200	$3,480,400
Federal Grant Fund	2,700	2,300			5,000
Miscellaneous Revenue Fund		42,900			42,900
TOTAL	$1,595,000	$ 984,200	$71,900	$ 877,200	$3,528,300
B. REHABILITATION:					
FROM:					
Industrial Administration Fund	$2,218,200	$ 501,100	$55,800		$2,775,100
C. CRIME VICTIMS:					
FROM:					
Crime Victims Compensation Fund	$ 229,600	$ 77,400	$ 9,000	$1,146,600	$1,462,600
Federal Grant Fund				401,000	401,000
TOTAL	$ 229,600	$ 77,400	$ 9,000	$1,547,600	$1,863,600
D. ADJUDICATION:					
FROM:					
Industrial Administration Fund	$ 844,500	$ 342,500	$ 2,500		$1,189,500
GRAND TOTAL	$4,887,300	$1,905,200	$139,200	$2,424,800	$9,356,500

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred twenty-three and one-half (123.5) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 299
(H.B. No. 377)

AN ACT
APPROPRIATING MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the regulatory boards in the Department of Self-Governing Agencies the following amounts, to be expended according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. STATE ATHLETIC COMMISSION:					
FROM:					
General Fund		$ 1,000			$ 1,000
State Regulatory Fund	$ 2,800	14,000			16,800
TOTAL	$ 2,800	$ 15,000			$ 17,800
B. BOARD OF PHARMACY:					
FROM:					
General Fund	$ 43,800	$ 100			$ 43,900
State Regulatory Fund	293,800	133,900	$ 6,300		434,000
TOTAL	$ 337,600	$ 134,000	$ 6,300		$ 477,900
C. BOARD OF ACCOUNTANCY:					
FROM:					
State Regulatory Fund	$ 188,700	$ 192,800	$ 3,000		$ 384,500
D. BOARD OF DENTISTRY:					
FROM:					
State Regulatory Fund	$ 108,500	$ 73,200	$ 1,500		$ 183,200
E. BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:					
FROM:					
State Regulatory Fund	$ 146,900	$ 129,600	$ 1,000		$ 277,500
F. BOARD OF MEDICINE:					
FROM:					
State Regulatory Fund	$ 314,600	$ 240,700	$ 5,300		$ 560,600
G. BOARD OF NURSING:					
FROM:					
State Regulatory Fund	$ 277,200	$ 161,500	$ 21,000		$ 459,700
H. BUREAU OF OCCUPATIONAL LICENSES:					
FROM:					
State Regulatory Fund	$ 526,700	$ 390,600		$ 50,000	$ 967,300
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:					
FROM:					
State Regulatory Fund	$ 200,100	$ 89,800	$ 3,000		$ 292,900
J. IDAHO REAL ESTATE COMMISSION:					
FROM:					
State Regulatory Fund	$ 629,600	$ 330,100	$ 45,600		$1,005,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
K. PROFESSIONAL GEOLOGISTS BOARD:					
FROM:					
State Regulatory Fund	$ 21,800	$ 16,000			$ 37,800
L. BOARD OF OPTOMETRY:					
FROM:					
State Regulatory Fund	$ 2,500	$ 13,400			$ 15,900
M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD:					
FROM:					
State Regulatory Fund	$ 13,300	$ 13,400			$ 26,700
N. OUTFITTERS AND GUIDES BOARD:					
FROM:					
State Regulatory Fund	$ 202,200	$ 168,500	$ 12,500		$ 383,200
Federal Fund		1,400			1,400
TOTAL	$ 202,200	$ 169,900	$ 12,500		$ 384,600
O. BOARD OF VETERINARY MEDICINE:					
FROM:					
State Regulatory Fund	$ 55,600	$ 91,200	$ 4,000		$ 150,800
P. COMMISSION ON HISPANIC AFFAIRS:					
FROM:					
General Fund	$ 68,600	$ 32,300			$ 100,900
Federal Fund	157,600	92,500			250,100
Miscellaneous Revenue Fund	71,900	63,300			135,200
TOTAL	$ 298,100	$ 188,100			$ 486,200
GRAND TOTAL	$3,326,200	$2,249,300	$103,200	$50,000	$5,728,700

SECTION 2. In accordance with Section 67-3519, Idaho Code, each regulatory board in the Department of Self-Governing Agencies is authorized no more than the number of full-time equivalent positions listed below at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

State Athletic Commission ..... Zero (0)
Board of Pharmacy ..... Eight and seventy-five one hundredths (8.75)
Board of Accountancy ..... Five and one-half (5.5)
Board of Dentistry ..... Two (2)

Board of Professional Engineers and Land Surveyors ..... Three (3)
Board of Medicine ..... Eight (8)
Board of Nursing ..... Six (6)
Bureau of Occupational Licenses ..... Fourteen (14)
Public Works Contractors State License Board ..... Five (5)
Idaho Real Estate Commission ..... Sixteen (16)
Professional Geologists Board ..... Fifty-two one hundredths (.52)
Board of Optometry ..... Zero (0)
Idaho Certified Shorthand Reporters
Board ..... Twenty-seven one hundredths (.27)
Outfitters and Guides Board ..... Four (4)
Board of Veterinary Medicine ..... One (1)
Commission on Hispanic Affairs ..... Four (4)

Approved March 21, 1995.

CHAPTER 300
(H.B. No. 378)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. It is legislative intent that the appropriation for the Division of Vocational Rehabilitation not exceed the following amount for the period July 1, 1995, through June 30, 1996:

FROM:	
General Fund	$ 3,103,500
Federal Grants Fund	9,722,800
Rehabilitation Revenue and Refunds Fund	325,000
Miscellaneous Revenue Fund	237,900
Business and Industry Services Fund	38,200
TOTAL	$13,427,400

SECTION 2. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

A. RENAL DISEASE:	
FROM:	
General Fund	$ 497,900
FOR:	
Trustee and Benefit Payments	$ 497,900

B. VOCATIONAL REHABILITATION:	
FROM:	
General Fund	$ 2,519,600
Federal Grants Fund	9,545,700
Rehabilitation Revenue and Refunds Fund	325,000
Miscellaneous Revenue Fund	232,600
Business and Industry Services Fund	38,200
TOTAL	$12,661,100
FOR:	
Personnel Costs	$ 5,290,800
Operating Expenditures	864,400
Capital Outlay	76,300
Trustee and Benefit Payments	6,429,600
TOTAL	$12,661,100
C. EPILEPSY SERVICES:	
FROM:	
General Fund	$ 69,000
FOR:	
Trustee and Benefit Payments	$ 69,000
D. INDEPENDENT LIVING COUNCIL:	
FROM:	
General Fund	$ 17,000
Federal Grants Fund	177,100
Miscellaneous Revenue Fund	5,300
TOTAL	$ 199,400
FOR:	
Personnel Costs	$ 65,800
Operating Expenditures	83,000
Trustee and Benefit Payments	50,600
TOTAL	$ 199,400
GRAND TOTAL	$13,427,400

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred thirty-eight and five-tenths (138.5) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 301
(H.B. No. 379)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF REVENUE AND TAXATION FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Revenue and Taxation not exceed the following amounts for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Fund	$13,586,100	$3,953,300	$630,200	$18,169,600
Dedicated Funds	1,804,500	810,200	33,700	2,648,400
Federal Funds	81,500	65,000		146,500
Other Funds		145,800		145,800
TOTAL	$15,472,100	$4,974,300	$663,900	$21,110,300

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 standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. MANAGEMENT SERVICES:				
FROM:				
General Fund	$ 2,612,000	$1,392,800	$220,300	$ 4,225,100
Seminars and Publications Fund		56,800		56,800
Administration and Accounting Fund		35,800		35,800
Administration and Accounting - Services to Transportation Fund	285,500	87,800	19,100	392,400
TOTAL	$ 2,897,500	$1,573,200	$239,400	$ 4,710,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
B. AUDIT AND COLLECTIONS:				
FROM:				
General Fund	$ 6,846,000	$1,066,100	$203,800	$ 8,115,900
Multi-State Tax Compact Fund		163,100		163,100
Federal Grant Fund	81,500	65,000		146,500
Seminars and Publications Fund		4,100		4,100
Administration and Accounting Fund	153,300	122,800	8,300	284,400
Administration and Accounting - Services to Transportation Fund	807,100	154,700	4,800	966,600
Abandoned Property Trust - Unclaimed Property Fund	286,900	65,000	1,500	353,400
TOTAL	$ 8,174,800	$1,640,800	$218,400	$10,034,000
C. REVENUE OPERATIONS:				
FROM:				
General Fund	$ 2,184,800	$1,053,700	$154,500	$ 3,393,000
Seminars and Publications Fund		17,500		17,500
Administration and Accounting Fund		25,800		25,800
Administration and Accounting - Services to Transportation Fund	271,700	155,200		426,900
TOTAL	$ 2,456,500	$1,252,200	$154,500	$ 3,863,200
D. COUNTY SUPPORT:				
FROM:				
General Fund	$ 1,851,700	$ 425,800	$ 45,600	$ 2,323,100
Seminars and Publications Fund		67,400		67,400
TOTAL	$ 1,851,700	$ 493,200	$ 45,600	$ 2,390,500
E. BOARD OF TAX APPEALS:				
FROM:				
General Fund	$ 91,600	$ 14,900	$ 6,000	$ 112,500
GRAND TOTAL	$15,472,100	$4,974,300	$663,900	$21,110,300

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Revenue and Taxation is authorized no more than three hundred seventy-six (376) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 302
(H.B. No. 374)

AN ACT

APPROPRIATING MONEYS FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amounts, to be expended for the designated programs according to the designated standard classification from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. HISTORICAL PRESERVATION AND EDUCATION:					
FROM:					
General Fund	$ 911,400	$314,400	$123,800	$ 2,600	$1,352,200
Federal Grant Fund	447,200	90,300		40,800	578,300
Miscellaneous Revenue Fund	63,000	121,400		4,500	188,900
TOTAL	$1,421,600	$526,100	$123,800	$47,900	$2,119,400
B. HISTORIC SITES MAINTENANCE AND INTERPRETATION:					
FROM:					
General Fund	$ 64,200	$ 39,600	$ 1,200		$ 105,000
Miscellaneous Revenue Fund	104,200	92,400	800		197,400
TOTAL	$ 168,400	$132,000	$ 2,000		$ 302,400
GRAND TOTAL	$1,590,000	$658,100	$125,800	$47,900	$2,421,800

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than thirty-seven and thirty-six one hundredths (37.36) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified

in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 303
(H.B. No. 257)

AN ACT

RELATING TO FUEL TAX; AMENDING SECTION 63-2407, IDAHO CODE, TO PROVIDE CONDITIONS GOVERNING TAXES ON ACCOUNTS FOUND TO BE WORTHLESS; AND AMENDING SECTION 63-2420, IDAHO CODE, TO PROVIDE CONDITIONS GOVERNING TAXES ON ACCOUNTS FOUND TO BE WORTHLESS.

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

SECTION 1. That Section 63-2407, Idaho Code, be, and the same is hereby amended to read as follows:

63-2407. DEDUCTIONS AUTHORIZED. Each licensed distributor shall deduct from his monthly report:

(1) Gasoline and/or aircraft engine fuel exported from this state other than in the supply tanks of motor vehicles, motor boats or aircraft when supported by a shipping document issued by a common carrier, an invoice signed by the purchaser, or other proper documents approved by the commission.

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

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

(4) The number of gallons which would be equal to one per cent (1%) of the total number of gallons received during the reporting period, less the total number of gallons deducted under subsections (1) through (3) of this section, which credit is granted to the licensed distributor to reimburse him for the expense incurred on behalf of the state of Idaho in collecting and remitting gasoline and/or aircraft engine fuel tax moneys, maintaining necessary records for the state, preparing necessary reports and remittances in compliance with this chapter, and for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty as provided in subsection (3) of this section. The licensed distributor may, in addition to the above, deduct the number of gallons equal to one per cent (1%) of the total number of gallons received during the preceding calendar month, less the total number of gallons deducted under subsections (1) through (3) of this section, to cover shrinkage, evaporation, spillage and handling losses of a retail dealer. The latter deductions are to be allowed only upon filing with the commission sat-

isfactory evidence as may be prescribed by it indicating the credit allowance has been made in favor of the retail dealer or paid to him. The evidence shall be submitted together with the report wherein this portion of the deduction is claimed. A licensed distributor who sells and delivers gasoline directly to the consumer and not for resale shall, with respect to those sales, be deemed a retail dealer for the purposes of this section.

(5) When aircraft engine fuel is sold for use in aircraft and the tax imposed by section 63-2408, Idaho Code, is paid to the commission, the total number of gallons sold shall be deducted from the total gallons of gasoline and/or aircraft engine fuel received.

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

(7) For sales made on or after July 1, 1995, taxes previously paid on gallons represented by accounts found to be worthless and actually charged-off for income tax purposes may be credited upon a subsequent payment of the tax provided in this chapter or, if no such tax is due, refunded. If such accounts are thereafter collected, the tax per gallon shall be paid based upon the amount actually received divided by the price per gallon of the original sale multiplied by the appropriate tax rate.

SECTION 2. That Section 63-2420, Idaho Code, be, and the same is hereby amended to read as follows:

63-2420. RETURNS, PAYMENTS AND DEDUCTIONS BY SPECIAL FUELS DEALERS. (1) For the purpose of reporting the amount of tax due and payable under section 63-2416, Idaho Code, each special fuels dealer shall file with the commission in the manner and form prescribed by it a monthly tax return or a return for any other reporting period as may be directed by the commission. The return shall include:

(a) An itemized statement of the total number of gallons of special fuels held in inventory by the dealer at the beginning of the period to which the return relates;

(b) An itemized statement of all special fuels received by the dealer during the period of time to which the return relates;

(c) An itemized statement of the number of gallons of special fuels sold or delivered by the dealer during the period to which the return relates which are not subject to tax imposed by this chapter;

(d) The total number of gallons of special fuels subject to tax under this chapter during the period to which the return relates;

(e) The total number of gallons of special fuels remaining in inventory at the end of the period to which the return relates; and

(f) Any other information the commission may require.

(2) The amount of tax due shall be computed by multiplying the taxable gallons determined under subsection (1)(d) of this section by the tax rate established in section 63-2405, Idaho Code, and deducting from the result two percent (2%) of the result. The two percent (2%)

deduction authorized herein may be retained by the special fuel dealer filing the return to reimburse him for the expenses incurred by him on behalf of the state of Idaho in collecting and remitting the tax.

(3) The return shall be accompanied by a remittance of the tax shown to be due on the return together with any applicable interest and penalty, except when the amounts due are required to be made by electronic funds transfer under section 67-2026, Idaho Code.

(4) Any special fuel dealer required to collect the tax imposed by section 63-2416, Idaho Code, who fails to collect such tax or any special fuel dealer required to remit tax pursuant to this section who fails to make such remittance shall be liable to the commission for the amount of tax not collected or remitted plus any applicable penalty or interest. The commission may collect such amounts in the manner provided in section 63-2434, Idaho Code.

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

(6) For sales made on or after July 1, 1995, taxes previously paid on gallons represented by accounts found to be worthless and actually charged-off for income tax purposes may be credited upon a subsequent payment of the tax provided in this chapter, or, if no such tax is due, refunded. If such accounts are thereafter collected, the tax per gallon shall be paid based upon the amount actually received divided by the price per gallon of the original sale multiplied by the appropriate tax rate.

Approved March 21, 1995.

CHAPTER 304
(H.B. No. 229, As Amended)

AN ACT

RELATING TO THE LEGAL RATE OF INTEREST; AMENDING SECTION 28-22-104, IDAHO CODE, TO REVISE HOW THE LEGAL RATE OF INTEREST IS CALCULATED AND APPLIED.

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

SECTION 1. That Section 28-22-104, Idaho Code, be, and the same is hereby amended to read as follows:

28-22-104. LEGAL RATE OF INTEREST. (1) When there is no express contract in writing fixing a different rate of interest, interest is allowed at the rate of twelve cents (12¢) on the hundred by the year on:

1. Money due by express contract.
2. Money after the same becomes due.
3. Money lent.
4. Money received to the use of another and retained beyond a reasonable time without the owner's consent, express or implied.
5. Money due on the settlement of mutual accounts from the date

the balance is ascertained.

6. Money due upon open accounts after three (3) months from the date of the last item.

(2) The legal rate of interest on money due on the judgment of any competent court or tribunal shall be the rate of five percent (5%) plus the base rate. The base rate shall be determined on July 1 of each year by the Idaho state treasurer and shall be the weekly average yield on United States treasury securities as adjusted to a constant maturity of one (1) year and rounded up to the nearest one-eighth percent (1/8%). The base rate shall be determined by the Idaho state treasurer utilizing the published interest rates during the second week ~~preceding--July--1~~ in June of the year in which such interest is being calculated. The legal rate of interest as announced by the treasurer on July 1 of each year shall operate as the ~~base~~ rate ~~shall apply~~ applying for the succeeding twelve (12) months to all ~~such~~ judgments ~~during--the-succeeding-twelve-(12)-months~~ declared or remaining unpaid. The payment of interest and principal on each judgment shall be calculated according to a three hundred sixty-five (365) day year.

Approved March 21, 1995.

CHAPTER 305
(H.B. No. 248, As Amended in the Senate)

AN ACT

RELATING TO LOCAL PLANNING; AMENDING SECTION 67-6508, IDAHO CODE, TO DELETE A CONFLICTING PROVISION RELATING TO THE SITING OF MANUFACTURED HOMES AS A REQUIRED COMPONENT OF A COMPREHENSIVE PLAN; AND AMENDING SECTION 67-6509A, IDAHO CODE, TO EXEMPT LANDS FALLING WITHIN A HISTORIC DISTRICT FROM THE REQUIREMENT TO AMEND A COMPREHENSIVE PLAN AND LAND USE REGULATIONS FOR SINGLE-FAMILY RESIDENTIAL USES TO ALLOW FOR SITING OF MANUFACTURED HOMES.

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

SECTION 1. That Section 67-6508, Idaho Code, be, and the same is hereby amended to read as follows:

67-6508. PLANNING DUTIES. It shall be the duty of the planning or planning and zoning commission to conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan, hereafter referred to as the plan. The plan shall include all land within the jurisdiction of the governing board. The plan shall consider previous and existing conditions, trends, desirable goals and objectives, or desirable future situations for each planning component. The plan with maps, charts, and reports shall be based on the following components unless the plan specifies reasons why a particular component is unneeded.

(a) Population -- A population analysis of past, present, and future trends in population including such characteristics as total population, age, sex, and income.

(b) School Facilities and Transportation -- An analysis of public school capacity and transportation considerations associated with future development.

(c) Economic Development -- An analysis of the economic base of the area including employment, industries, economies, jobs, and income levels.

(d) Land Use -- An analysis of natural land types, existing land covers and uses, and the intrinsic suitability of lands for uses such as agriculture, forestry, mineral exploration and extraction, preservation, recreation, housing, commerce, industry, and public facilities. A map shall be prepared indicating suitable projected land uses for the jurisdiction.

(e) Natural Resource -- An analysis of the uses of rivers and other waters, forests, range, soils, harbors, fisheries, wildlife, minerals, thermal waters, beaches, watersheds, and shorelines.

(f) Hazardous Areas -- An analysis of known hazards as may result from susceptibility to surface ruptures from faulting, ground shaking, ground failure, landslides or mudslides; avalanche hazards resulting from development in the known or probable path of snowslides and avalanches, and floodplain hazards.

(g) Public Services, Facilities, and Utilities -- An analysis showing general plans for sewage, drainage, power plant sites, utility transmission corridors, water supply, fire stations and fire fighting equipment, health and welfare facilities, libraries, solid waste disposal sites, schools, public safety facilities and related services. The plan may also show locations of civic centers and public buildings.

(h) Transportation -- An analysis showing the general locations and widths of a system of major traffic thoroughfares and other traffic ways, and of streets and the recommended treatment thereof. This component may also make recommendations on building line setbacks, control of access, street naming and numbering, and a proposed system of public or other transit lines and related facilities including rights-of-way, terminals, viaducts and grade separations. The component may also include port, harbor, aviation, and other related transportation facilities.

(i) Recreation -- An analysis showing a system of recreation areas, including parks, parkways, trailways, river bank greenbelts, beaches, playgrounds, and other recreation areas and programs.

(j) Special Areas or Sites -- An analysis of areas, sites, or structures of historical, archeological, architectural, ecological, wildlife, or scenic significance.

(k) Housing -- ~~An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing, including provision for the siting of manufactured homes on individual lots in single family residential areas or in mobile home parks, as appropriate to address the needs of the community.~~

~~(k) Housing~~ -- An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing, including the provision for low-cost conventional housing, manufactured housing and mobile homes in subdivisions and parks and on individual lots which are sufficient to

maintain a competitive market for each of those housing types.

(l) Community Design -- An analysis of needs for governing landscaping, building design, tree planting, signs, and suggested patterns and standards for community design, development, and beautification.

(m) Implementation -- An analysis to determine actions, programs, budgets, ordinances, or other methods including scheduling of public expenditures to provide for the timely execution of the various components of the plan.

Nothing herein shall preclude the consideration of additional planning components or subject matter.

SECTION 2. That Section 67-6509A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6509A. SITING OF MANUFACTURED HOMES IN RESIDENTIAL AREAS -- PLAN TO BE AMENDED. (1) On or before July 1, 1996, by ordinance adopted, amended or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, each governing board shall amend its comprehensive plan and land use regulations for all land zoned for single-family residential uses, except for lands falling within an area defined as a historic district under section 67-4607, Idaho Code, to allow for siting of manufactured homes as defined in section 39-4105(14), Idaho Code.

(2) Manufactured homes on individual lots zoned for single-family residential uses as provided in subsection (1) of this section shall be in addition to manufactured homes on lots within designated mobile home parks or manufactured home subdivisions.

(3) This section shall not be construed as abrogating a recorded restrictive covenant.

(4) A governing board may adopt any or all of the following placement standards, or any less restrictive standards, for the approval of manufactured homes located outside mobile home parks:

(a) The manufactured home shall be multisectional and enclose a space of not less than one thousand (1,000) square feet;

(b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve (12) inches above grade;

(c) The manufactured home shall have a pitched roof, except that no standards shall require a slope of greater than a nominal three (3) feet in height for each twelve (12) feet in width;

(d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority;

(e) The manufactured home shall have a garage or carport constructed of like materials. A governing board may require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings;

(f) In addition to the provisions of paragraphs (a) through (e) of this subsection, a city or county may subject a manufactured

home and the lot upon which it is sited to any development standard, architectural requirement and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subjected.

(5) Any approval standards, special conditions and the procedures for approval adopted by a local government shall be clear and objective and shall not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

Approved March 21, 1995.

CHAPTER 306
(H.B. No. 342)

AN ACT

RELATING TO THE EDUCATIONAL SUPPORT PROGRAM; REPEALING SECTION 33-1002, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 316, LAWS OF 1994; REPEALING SECTION 33-1002, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 428, LAWS OF 1994; REPEALING SECTION 33-1002, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 440, LAWS OF 1994; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1002, IDAHO CODE, TO PROVIDE AN EDUCATIONAL SUPPORT PROGRAM; AMENDING SECTION 33-1002, IDAHO CODE, AS ADOPTED BY SECTION 4 OF THIS ACT, TO PROVIDE REFERENCE FOR CALCULATION OF AVERAGE DAILY ATTENDANCE; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1003A, IDAHO CODE, TO PROVIDE CONDITIONS GOVERNING CALCULATION OF AVERAGE DAILY ATTENDANCE WHEN A SCHOOL IS CLOSED OR WHEN A SCHOOL REMAINS OPEN BUT ATTENDANCE IS SIGNIFICANTLY REDUCED BY FACTORS SPECIFIED; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION FOR PROVISIONS OF THIS ACT.

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

SECTION 1. That Section 33-1002, Idaho Code, as amended by Section 1, Chapter 316, Laws of 1994, be, and the same is hereby repealed.

SECTION 2. That Section 33-1002, Idaho Code, as amended by Section 2, Chapter 428, Laws of 1994, be, and the same is hereby repealed.

SECTION 3. That Section 33-1002, Idaho Code, as amended by Section 1, Chapter 440, Laws of 1994, be, and the same is hereby repealed.

SECTION 4. 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 33-1002, Idaho Code, and 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. 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 sections 33-1004 through 33-1004F, Idaho Code;

h. Unemployment insurance benefit payments according to the provisions of section 72-1349C, Idaho Code;

i. For programs to provide basic curricula 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;

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. 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;

n. 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. 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 with such value being determined by the provi-

sions of section 63-222, Idaho Code, and four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the cooperative electrical associations' property values that have been derived from the taxes paid in lieu of ad valorem taxes for the previous year as provided in section 63-3502, 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 1. 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 kindergarten support units, computation of elementary support units, computation of secondary 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		15
	..23...grades 4,5 & 6....	
	..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 including alternative high school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, 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 this 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 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.

e. Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection 8.d. of this

section.

SECTION 5. That Section 33-1002, Idaho Code, as adopted by Section 4 of this act, 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. 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 sections 33-1004 through 33-1004F, Idaho Code;

h. Unemployment insurance benefit payments according to the provisions of section 72-1349C, Idaho Code;

i. For programs to provide basic curricula 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;

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. 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;

n. 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. 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 with such value being determined by the provisions of section 63-222, Idaho Code, and four-tenths percent (.4%) during fiscal year 1994-95 and each year thereafter, of the cooperative electrical associations' property values that have been derived from the taxes paid in lieu of ad valorem taxes for the previous year as provided in section 63-3502, 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 1. 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~~ Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

6. Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary 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.....		15
	..23...grades 4,5 & 6....	
	..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 including alternative high school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(2) Divide the combined totals of the average daily attendance of all preschool, handicapped, kindergarten, elementary, 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 this 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 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.
e. Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection 8.d. of this section.

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 33-1003A, Idaho Code, and to read as follows:

33-1003A. CALCULATION OF AVERAGE DAILY ATTENDANCE. 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, or if a school remains open but attendance is significantly reduced 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 or impacted attendance, the average daily attendance for such day or days of closure or impacted attendance shall be considered as being the same as for the days when the school actually was in session or when attendance was not impacted. A decision by the state department to disallow such a consideration shall be subject to appeal to the state board of education.

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.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and retroactively to July 1, 1994.

Approved March 21, 1995.

CHAPTER 307
(H.B. No. 380)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1996.

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

SECTION 1. There is hereby appropriated to the Administration Program in the Department of Fish and Game the following amounts from the designated funds to be spent according to the designated standard classifications for the period July 1, 1995, through June 30, 1996, for the purpose of initiating an automated system of sales for Fish and Game licenses.

FOR:	
Operating Expenditures	$1,180,000
FROM:	
Fish and Game Fund	$ 708,000
Fish and Game Federal Fund	472,000
TOTAL	$1,180,000

Approved March 21, 1995.

CHAPTER 308
(H.B. No. 381)

AN ACT

APPROPRIATING MONEYS FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR FISCAL YEAR 1996; APPROPRIATING MONEYS IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 253, LAWS OF 1994; EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY FOR SECTION 2 OF THIS ACT.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Public Employee Retirement System the following amount, to be expended for the 401(k) Administration Program according to the designated standard classification from the listed fund for the period July 1, 1995, through June 30, 1996:

FOR:	
Operating Expenditures	$10,000
FROM:	
PERSI 401(k) Administration Fund	$10,000

SECTION 2. In addition to the appropriations made in Section 1, Chapter 253, Laws of 1994, there is hereby appropriated to the Office of the Governor for the Public Employee Retirement System the following amount, to be expended for the 401(k) Administration Program

according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Operating Expenditures	$3,000
FROM:	
PERSI 401(k) Administration Fund	$3,000

SECTION 3. It is legislative intent that the amounts designated in Sections 1 and 2 of this act are for administrative costs of Section 59-1308, Idaho Code.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval.

Approved March 21, 1995.

CHAPTER 309
(H.B. No. 382)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1996.

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

SECTION 1. There is hereby appropriated to the Park Operations Program in the Department of Parks and Recreation the following amounts from the designated fund to be spent according to the designated standard classifications for the period July 1, 1995, through June 30, 1996, for the purpose of providing ongoing support for the Ashton to Tetonia "rails to trails" Recreation Corridor.

FOR:	
Personnel Costs	$43,000
Operating Expenditures	23,000
TOTAL	$66,000
FROM: General Fund	$66,000

Approved March 21, 1995.

CHAPTER 310
(H.B. No. 384)

AN ACT

TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND; APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSES SPECIFIED; REAPPROPRIATING AN UNEXPENDED BALANCE TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND

THE DIVISION OF PUBLIC WORKS; TRANSFERRING MONEYS FROM THE PUBLIC BUILDING ENDOWMENT FUND TO THE ADMINISTRATION AND ACCOUNTING SERVICES FUND; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED IN THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller is directed to transfer the amount of $49,709,100 from the General Fund to the Permanent Building Fund.

SECTION 2. There is hereby appropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, named and listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Account for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. MAINTENANCE PROJECTS:		
(1)	Alterations and Repairs	$11,000,000
(2)	Asbestos Abatement	1,000,000
(3)	Underground Storage Tank Program	500,000
(4)	Statewide ADA Compliance	1,000,000
(5)	Building Demolition	200,000
(6)	Statewide Contingency	150,000
	TOTAL	$13,850,000
B. DEPARTMENT OF JUVENILE CORRECTIONS:		
(1)	Juvenile Correctional Facilities	$ 6,500,000
C. STATE BOARD OF EDUCATION:		
(1)	University of Idaho - Renovations of Physics and Engineering Buildings Phase II	$ 6,880,000
(2)	BSU/U. of I. Engineering & Technology Building - Planning and Design	500,000
(3)	Boise State University - Canyon County Building Remodel and Campus Land Acquisition	5,000,000
(4)	Idaho State University - Physical Science Building, additional funds	1,600,000
(5)	Eastern Idaho Technical College - Classroom/Laboratory Building, additional funds	800,000
	TOTAL	$14,780,000

D. DEPARTMENT OF CORRECTION:	
(1) Pocatello Women's Correctional Center Addition	$ 1,300,000
(2) ISCI 500-bed Medium-security Facility	35,000,000
(3) Inmate Housing - Givens Hall, Orofino	600,000
TOTAL	$36,900,000
E. DEPARTMENT OF ADMINISTRATION:	
(1) Joe R. Williams Building Fire Escape	$ 350,000
(2) Culdesac Communications Building and Tower	168,000
(3) Albion Ridge Communications Tower	90,000
TOTAL	$ 608,000
GRAND TOTAL	$72,638,000

SECTION 3. There is hereby reappropriated from the Permanent Building Fund to the Permanent Building Fund Advisory Council and the Division of Public Works the unexpended balance of moneys remaining from the appropriation made in Section 2, Chapter 385, Laws of 1994, for the Department of Correction addition to the Maximum Security Institution and infrastructure improvements.

SECTION 4. There is hereby appropriated from the Permanent Building Fund the amount of $9,500 to be transferred to the Division of Public Works' Administration and Accounting Services Fund as payment for costs of remodeling legislative space.

SECTION 5. It is the express intention that the moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; and it is further the express intention of the Legislature to authorize the Division of Public Works to expend, for the purpose of paying the cost of any land, building, equipment or the rebuilding, renovation or repair of buildings, moneys appropriated for public works to various agencies as part of the respective agency operating budgets; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance. It is further the intention of the Legislature that this authority be effective from the effective date of this act.

SECTION 6. 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 7. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred in Sections 63-3201 through 63-3205, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General

Fund were being anticipated.

SECTION 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 March 21, 1995.

CHAPTER 311
(H.B. No. 330, As Amended)

AN ACT
RELATING TO THE SALE OF BEER; AMENDING SECTION 23-1001, IDAHO CODE, TO CLARIFY THE DEFINITION OF CERTAIN TERMS AND TO DELETE DEFINITIONS.

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

SECTION 1. That Section 23-1001, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(~~k~~c) "Certificate of approval" means a license issued to a person whose business is located outside of the state of Idaho, who sells beer to wholesalers or brewers located within the state of Idaho.

(~~c~~d) The term "dealer" ~~shall include any~~ means a person ~~who~~ licensed to imports beer into this state for sale ~~or produces or manufactures beer in the state for sale~~ to a wholesaler.

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

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

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

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

(~~d~~h) The word "retailer" means ~~any~~ a person ~~engaged in the sale or distribution of~~ licensed to sell beer to ~~the~~ consumers at premises described in the license.

(~~g~~i) The word "wholesaler" means any person ~~having a store or establishment for the wholesale and distribution of~~ licensed to sell beer ~~in wholesale or jobbing quantities~~ to retailers, wholesalers, permittees or consumers and distribute beer from warehouse premises described in the license.

Approved March 21, 1995.

CHAPTER 312
(H.B. No. 367)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1996; APPROPRIATING AND TRANSFERRING CERTAIN FUNDS TO THE PARKS AND RECREATION FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED FUNDS; AND PROVIDING A LIMIT ON THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	$ 861,700	$ 541,100	$ 109,000		$ 1,511,800
Indirect Cost Recovery Fund	44,500	6,000			50,500
Parks and Recreation Fund	346,500	309,700	48,000		704,200
Recreational Fuels Fund		31,100	20,000		51,100
Parks and Recreation Registration Fund		15,700			15,700
Federal Grant Fund	14,100	3,100			17,200
Miscellaneous Revenue Fund	4,100	31,900			36,000
TOTAL	$1,270,900	$ 938,600	$ 177,000		$ 2,386,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. PARK OPERATIONS:					
FROM:					
General Fund	$3,229,000	$ 544,400			$ 3,773,400
Miscellaneous Revenue Fund		53,200			53,200
Public Recreation Enterprise Fund	147,000	363,700	$ 140,000		650,700
Recreational Fuels Fund			440,000		440,000
Parks and Recreation Fund	895,100	490,100			1,385,200
Parks and Recreation Expendable Trust Fund	82,800	348,100			430,900
Federal Grant Fund	322,700	102,900			425,600
TOTAL	$4,676,600	$1,902,400	$ 580,000		$ 7,159,000
III. PARK DEVELOPMENT:					
FROM:					
General Fund	$ 217,200		$ 430,000		$ 647,200
Parks and Recreation Expendable Trust Fund			894,000		894,000
Recreational Fuels Fund	129,700		809,800		939,500
Parks and Recreation Fund	48,000	$ 47,100			95,100
TOTAL	$ 394,900	$ 47,100	$2,133,800		$ 2,575,800
IV. RECREATIONAL RESOURCES:					
FROM:					
General Fund	$ 147,800	$ 26,800	$ 4,500		$ 179,100
Parks and Recreation Registration Fund	112,800	178,900	66,000	$3,598,100	3,955,800
Recreational Fuels Fund	313,200	81,800	601,000	1,511,200	2,507,200
Parks and Recreation Fund		33,200		12,000	45,200
Federal Grant Fund	61,800	91,400		710,800	864,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Indirect Cost Recovery Fund	90,900	3,500	1,000		95,400
TOTAL	$ 726,500	$ 415,600	$ 672,500	$5,832,100	$ 7,646,700
V. LAVA HOT SPRINGS FOUNDATION:					
FROM:					
Public Recreation Fund	$ 419,500	$ 443,800			$ 863,300
GRAND TOTAL	$7,488,400	$3,747,500	$3,563,300	$5,832,100	$20,631,300

SECTION 2. There is hereby appropriated and transferred to the Parks and Recreation Fund the sum of $25,000 from the Tourism and Promotion Fund; the sum of $25,000 from the State Highway Fund; and the sum of $25,000 from the Recreational Vehicle Fund. These appropriations will provide the matching fund support of the Gateway Visitor Centers in the Administration Program in Section 1 of this act.

SECTION 3. There is hereby reappropriated to the Department of Parks and Recreation the unexpended and unencumbered balances of the funds appropriated for capital outlay in the Park Development Program for fiscal year 1995, to be used for the Park Development Program for the period July 1, 1995, through June 30, 1996.

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Parks and Recreation is authorized no more than one hundred forty-seven and seventy-four hundredths (147.74) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 313
(H.B. No. 368)

AN ACT

APPROPRIATING MONEYS FOR COMMUNITY COLLEGE SUPPORT FOR FISCAL YEAR 1996.

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

SECTION 1. There is hereby appropriated to the State Board of Education for Community College Support the following amount, from the listed fund to be expended for the period July 1, 1995, through June 30, 1996:

FROM:

General Fund $10,754,800

Approved March 21, 1995.

CHAPTER 314
(H.B. No. 162, As Amended in the Senate)

AN ACT

RELATING TO AN INCOME TAX DEDUCTION FOR DONATIONS OF TECHNOLOGICAL EQUIPMENT; AMENDING SECTION 63-3025B, IDAHO CODE, TO ALLOW A DEDUCTION FOR DONATIONS MADE TO PUBLIC UNIVERSITIES, PRIVATE UNIVERSITIES, PUBLIC COLLEGES, PRIVATE COLLEGES, PUBLIC COMMUNITY COLLEGES, PRIVATE COMMUNITY COLLEGES, PUBLIC TECHNICAL COLLEGES OR PRIVATE TECHNICAL COLLEGES, TO DEFINE TERMS AND TO PROVIDE FOR RULES; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3025B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025B. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT. (1) For taxable years commencing on and after January 1, 198~~5~~95, any individual or corporation may deduct from taxable income as defined in section 63 of the Internal Revenue Code, an amount equal to the fair market value of technological equipment donated to public elementary or public secondary schools, public universities, private universities, public colleges, private colleges, public community colleges, private community colleges, public technical colleges or private technical colleges or public libraries and library districts located within the state of Idaho, except that the amount of the deduction shall not reduce taxable income to less than zero. The deduction allowed pursuant to this section shall be in addition to any other deduction allowed pursuant to this chapter. In order to take the deduction pursuant to this section, the taxpayer shall receive a written statement from the donee in which the donee agrees to accept the technological equipment donated.

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

pleted.

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

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

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

(6) For the purposes of this section, a private university, private college, private community college or private technical college means one that is located within this state, does not receive an appropriation from the legislature and is operated on a nonprofit basis.

(7) The state tax commission shall promulgate rules ~~and regulations~~ to administer the provisions of this section. The rules ~~and regulations~~ shall be promulgated in compliance 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 passage and approval, and retroactively to January 1, 1995.

Approved March 21, 1995.

CHAPTER 315
(H.B. No. 363)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Water Resources the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 698,500	$ 329,200	$ 45,000	$ 348,700	$ 1,421,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Indirect Cost Recovery Fund	210,900	83,200	31,000		325,100
TOTAL	$ 909,400	$ 412,400	$ 76,000	$ 348,700	$ 1,746,500
II. PLANNING AND POLICY DIVISION:					
FROM:					
General Fund	$1,361,500	$ 255,800	$ 35,000	$ 464,600	$ 2,116,900
Federal Grants Fund	80,900	56,600			137,500
Professional Services Fund	278,400	192,700			471,100
Water Pollution Control Fund	156,800	40,700		350,000	547,500
Indirect Cost Recovery Fund	50,200	4,300			54,500
Resource Conservation Fund	31,500				31,500
TOTAL	$1,959,300	$ 550,100	$ 35,000	$ 814,600	$ 3,359,000
III. ENERGY RESOURCES DIVISION:					
FROM:					
General Fund	$ 128,800	$ 26,000			$ 154,800
Indirect Cost Recovery Fund	75,800	130,500			206,300
Federal Grants Fund	945,300	585,500			1,530,800
Petroleum Violation Escrow Fund	274,500	1,562,600			1,837,100
Professional Services Fund	33,100	104,100			137,200
TOTAL	$1,457,500	$2,408,700			$ 3,866,200
IV. WATER MANAGEMENT DIVISION:					
A. SNAKE BASIN ADJUDICATIONS:					
FROM:					
General Fund	$1,000,000				$ 1,000,000
Water Claims Adjudication Fund	704,400	$ 389,100		$ 571,700	1,665,200
TOTAL	$1,704,400	$ 389,100		$ 571,700	$ 2,665,200
B. WATER MANAGEMENT:					
FROM:					
General Fund	$2,291,900	$ 469,100	$ 54,500		$ 2,815,500
Professional Services Fund	237,200	33,900			271,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Indirect Cost Recovery Fund	38,000	3,100			41,100
Federal Grants Fund	174,000	195,300			369,300
TOTAL	$2,741,100	$ 701,400	$ 54,500		$ 3,497,000
GRAND TOTAL	$8,771,700	$4,461,700	$165,500	$1,735,000	$15,133,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred seventy-five (175) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 316
(H.B. No. 369)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL FUND FOR CONSTRUCTION OF SPECIALIZED CLASSROOM SPACE IN THE GOODING JOINT SCHOOL DISTRICT; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the State Superintendent of Public Instruction the sum of $250,000 from the General Fund, to be paid to the Gooding Joint School District No. 231 for the purpose of constructing classroom/training space for eight or more students who are wards of the state or an institution, who have severe and profound handicaps.

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

Approved March 21, 1995.

CHAPTER 317
(H.B. No. 372)

AN ACT

APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Executive Office of the Governor the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. GOVERNOR'S OFFICE ADMINISTRATION:					
FROM:					
General Fund	$ 900,100	$287,000			$1,187,100
II. GOVERNOR'S EXPENSE ALLOWANCE:					
To be expended pursuant to Section 67-808d, Idaho Code:					
FROM:					
General Fund		$ 8,200			$ 8,200
III. SOCIAL SERVICES:					
FROM:					
Federal Grant Fund	$ 90,800	$ 5,100		$115,300	$ 211,200
IV. ENERGY:					
FROM:					
Federal Grant Fund	$ 13,400	$ 17,900			$ 31,300
V. STATE EMERGENCY RESPONSE COMMISSION:					
FROM:					
Hazardous Waste Training, Emergency and Monitoring Fund	$ 131,400	$172,000	$75,500		$ 378,900
Federal Grant Fund	20,800	84,000		$ 74,600	179,400
TOTAL	$ 152,200	$256,000	$75,500	$ 74,600	$ 558,300
VI. ACTING GOVERNOR PAY:					
FROM:					
General Fund	$ 10,000				$ 10,000
GRAND TOTAL	$1,166,500	$574,200	$75,500	$189,900	$2,006,100

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-five and seventy-five one hundredths (25.75) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this Act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 318
(H.B. No. 351)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1402, IDAHO CODE, TO PROVIDE THAT A FIRST TIME HUNTING VIOLATION OFFENDER UNDER TWENTY-ONE MAY BE REQUIRED TO ATTEND A REMEDIAL HUNTER EDUCATION COURSE, AUTHORIZING A WITHHELD JUDGMENT UPON COMPLETION OF THE COURSE, PROVIDING FOR ADMINISTRATIVE RULES ESTABLISHING THE CURRICULUM AND COST TO THE OFFENDER OF THE REMEDIAL COURSE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-1402, Idaho Code, be, and the same is hereby amended to read as follows:

36-1402. PENALTY -- INFRACTION -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Infraction Penalty. Any person who pleads guilty to or is found guilty of an infraction of this code or ~~regulations~~ rules promulgated pursuant thereto, shall be punished in accordance with the provisions of the Idaho infractions rules.

(b) Misdemeanor Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a misdemeanor under the provisions of this title or ~~regulations~~ rules promulgated pursuant thereto shall, except in cases where a higher penalty is prescribed, be fined in a sum of not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000) and/or by commitment to jail for not more than six (6) months. The minimum fine, per animal, fish or bird, for the illegal taking, illegal possession or the illegal waste of the following animals, fish or birds shall be as indicated below:

Animal, Fish or Bird	Minimum Fine
Bighorn sheep, mountain goat and moose	$500
Elk	$300
Deer and pronghorn antelope	$200
Wild turkey, swan and sturgeon	$200
Chinook salmon	$100

(c) Felony Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a felony under the provisions of this

title shall be punished in accordance with section 18-112, Idaho Code. Provided further, that the judge hearing the case shall forthwith revoke for life, the hunting, fishing or trapping license and privileges of any person who, within a five (5) year period, pleads guilty to, is found guilty of or is convicted of three (3) or more felony violations of the provisions of this title.

(d) License Revocation. Any person entering a plea of guilty for being found guilty or convicted of violating any of the provisions of this title, or who otherwise fails to comply with the requirements of a citation in connection with any such offense, may, in addition to any other penalty assessed by the court, have his hunting, fishing, or trapping privileges revoked for such period of time as may be determined by the court not to exceed three (3) years, said period beginning on the date of conviction, finding of guilt or the entry of the plea of guilty. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year from the date of such conviction, finding of guilt or the entry of the plea of guilty, of any person who is convicted of, found guilty of or enters a plea of guilty for any of the following offenses:

1. Taking or possessing upland game birds, migratory waterfowl, salmon, steelhead, sturgeon, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.
3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.
4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.
5. Trespassing in violation of warning signs as set forth in section 36-1603, Idaho Code.
6. The unlawful sale or purchase of wildlife as set forth in section 36-501, Idaho Code.
7. Taking any game animal with a firearm during an archery only season.

Provided further, that the magistrate hearing the case of a first time hunting violation offender under the age of twenty-one (21) may require that the offender attend a remedial hunter education course at the offender's expense. Upon successful completion of the course, the remainder of the revocation period shall be subject to a withheld judgment so long as the offender is not convicted of any additional hunting violations during the period. The commission shall establish by rule the curriculum and cost of the hunter education remedial course.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed. In the case of persons pleading guilty, convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of pleas of guilty, convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the

hunting, fishing or trapping privileges of any person convicted or found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

It shall be a misdemeanor for any person to hunt, fish, or trap or purchase a license to do so during the period of time for which such privilege is revoked by order of any court of this state. Any person pleading guilty, found guilty or convicted thereof shall be fined in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by commitment to jail for not more than six (6) months or by both such fine and commitment. Provided further, that the period of revocation of such privileges shall be extended an additional amount of time equal to the original revocation.

For the purpose of this title, the term "conviction" shall mean either a withheld judgment or a final conviction.

(e) For purposes of the wildlife violator compact, section 36-2301, Idaho Code, et. seq., the department shall:

1. Suspend a violator's license for failure to comply with the terms of a citation from a party state. A copy of a report of failure to comply from the licensing authority of the issuing state shall be conclusive evidence.

2. Revoke a violator's license for a conviction in a party state. A report of conviction from the licensing authority of the issuing state shall be conclusive evidence.

(f) Disposition of Fines and Forfeitures. Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

Approved March 21, 1995.

CHAPTER 319
(H.B. No. 364)

AN ACT
APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR THE LEGISLATIVE SERVICES OFFICE FOR FISCAL YEAR 1996.

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

SECTION 1. There is hereby appropriated to the Legislative Council for the Legislative Services Office the following amounts from the listed funds for the period July 1, 1995, through June 30, 1996:

FROM:	
General Fund	$3,165,000
Miscellaneous Revenue Fund	42,300
Professional Services Fund	967,900
TOTAL	$4,175,200

Approved March 21, 1995.

CHAPTER 320
(H.B. No. 52, As Amended)

AN ACT

RELATING TO CHILD SUPPORT; AMENDING SECTION 32-710A, IDAHO CODE, TO PROVIDE THAT WHEN A CHILD IS IN THE PHYSICAL CARE OF A PERSON OR ENTITY OTHER THAN ITS PARENTS, THE DEPARTMENT OF HEALTH AND WELFARE MAY, AFTER WRITTEN NOTICE TO AND AN OPPORTUNITY FOR HEARING BY THE OBLIGOR AND OBLIGEE UNDER AN ORDER OF SUPPORT FOR SAID CHILD, TRANSMIT PAYMENTS UNDER THE ORDER TO THE PERSON OR ENTITY WHO HAS PHYSICAL CARE OF SAID CHILD, WITHOUT FURTHER ORDER OF THE COURT, WHETHER OR NOT SUCH PERSON OR ENTITY IS THE OBLIGEE UNDER THE ORDER FOR SUPPORT.

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

SECTION 1. That Section 32-710A, Idaho Code, be, and the same is hereby amended to read as follows:

32-710A. SUPPORT PAYMENTS PAID TO CLERK OR THE DEPARTMENT OF HEALTH AND WELFARE -- PROSECUTING ATTORNEY TO ENFORCE PAYMENTS. A. All payments for support ordered pursuant to any decree of divorce, separate maintenance or other order for support shall be paid to the clerk of the district court which entered the order or decree requiring the same, unless otherwise ordered by said court, or upon provision of support enforcement services pursuant to section 56-203A, Idaho Code, to the department of health and welfare. The clerk or the department shall keep a record of payments made under said order or decree and shall transmit said payments to the person or persons entitled thereto by virtue of said order or decree. Whenever a child is in the physical care of a person or entity other than its parents and the department of health and welfare is providing support enforcement services under title IV-D of the social security act, the department may, after written notice to the obligor and obligee and the opportunity for hearing set forth in paragraphs 1. through 3. of this subsection transmit payments under an order of support for said child to the person or entity who has physical care of said child, without further order of the court, whether or not such person or entity is the obligee under the support order.

1. The department shall send notice of its intent to transmit child support payments to the person or entity who has physical care of the child by registered or certified mail to the last known address of the obligor and obligee under an order for support of the child.

2. The obligor and obligee may file a written objection to the transmittal of child support payments with a court of proper jurisdiction within fourteen (14) days from the date the notice of transmittal is mailed. A copy of the written objection shall be sent to the department of health and welfare, bureau of child support services.

3. After hearing in a court of proper jurisdiction and entry of an order, or if no written objection is made by the obligor or

obligee, the department may transmit the payments under an order of support for the child to the person or entity who has physical care of the child.

B. On any order or decree not receiving support enforcement services from the department of health and welfare, said clerk shall notify the prosecuting attorney of the county in which the order or decree is entered of any failure to comply with the terms of payments specified by any such order or decree, and said prosecuting attorney shall be responsible for enforcing said order or decree as follows:

1. If the person required to pay resides in the county in which the order or decree was entered, the prosecuting attorney shall institute appropriate action to enforce the order or decree.

2. If the person required to pay resides outside the state, the prosecuting attorney shall institute proceedings through the Uniform Reciprocal Enforcement of Support Act.

3. If the person required to pay resides in some other county in the state, the prosecuting attorney shall make such showing to the district court which entered the order or decree and upon further order of the court shall forward two (2) certified copies of the order or decree with all modifications together with two (2) certified copies of the payment record to the clerk of the district court of the county in which the person required to pay resides. Said clerk shall file and docket one (1) copy of the order or decree and payment record without fee and deliver the other copies to the prosecuting attorney of that county who shall institute appropriate action to enforce the order or decree.

C. Upon the filing and docketing of the certified copies of the order or decree and payment record, said order or decree shall be enforced, and may be modified as to the amount of payment required, by the district court in that county as if originally entered in that county. The procedure for the enforcement or modification of said order or decree as to amount of payment shall be the same as in the case of an order or decree originally entered in that court, including the power to punish the person required to pay for contempt. Any payments made as a result of proceedings in that court shall be made as provided in subsection A. and the clerk or the department of health and welfare shall keep a record of such payments and shall transmit said payments to the person or persons entitled thereto by virtue of said order or decree.

D. If the district court in a county other than the county in which the order or decree is entered modifies the order or decree as to the amount of payment required, the clerk of that court shall send a certified copy of the order modifying the original order or decree to the clerk of the court in the county in which the order or decree was originally entered and the latter clerk shall file the same in the action in which the original order or decree was entered.

E. If the person required to pay changes his residence from any county to which certified copies of the order or decree and payment record have been forwarded as herein provided, and the prosecuting attorney of that county discovers that the defendant resides in another county of this state, the prosecuting attorney shall make such showing to the district court and upon order of the court shall forward the entire file to the clerk of the district court of the county

where the defendant resides, where the same proceedings shall be had for enforcement or modification as herein provided.

F. When the department of health and welfare is providing support enforcement services and the support order or decree directs payment to be made through the clerk of the court or any entity other than the department, the department shall:

1. Make reasonable attempts to provide written notice to the person required to pay when support payments shall be made to the department of health and welfare and again when payments to the department are to cease.
2. Provide written notice to the clerk in the county where payments were required to be paid when support payments shall be paid to the department of health and welfare, and any payments subsequently received by the clerk shall be forwarded to the department.
3. Maintain a record of payments made under said order or decree and transmit the payments to the person or persons entitled thereto by virtue of said order or decree or the assignment of rights thereof.
4. Provide written notice to the clerk in the county where payments were last required to be paid together with two (2) certified copies of the department of health and welfare's payment record when payments to the department are to cease.

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

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

Approved March 21, 1995.

CHAPTER 321
(S.B. No. 1075)

AN ACT

RELATING TO THE EDUCATION SUPPORT PROGRAM; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1003A, IDAHO CODE, TO PROVIDE A MINIMUM DISTRIBUTION AMOUNT FOR EACH SCHOOL DISTRICT.

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

SECTION 1. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 33-1003A, Idaho Code, and to read as follows:

33-1003A. SPECIAL APPLICATION -- MINIMUM SUPPORT. In the application of the provisions of the education support program, no district's distribution shall be less in any year than ninety percent (90%) of the distribution of state educational dollars less the special program allocations in sections 33-1002, 33-1007A and 33-2006, Idaho Code, received by that district in the immediately preceding year.

Approved March 21, 1995.

CHAPTER 322
(S.B. No. 1285)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF HEALTH AND THE DIVISION OF WELFARE FOR FISCAL YEAR 1996; PROVIDING THAT THE STATE CONTROLLER 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; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; EXEMPTING THE DEPARTMENT FROM APPROPRIATION TRANSFER LIMITATIONS; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO MEDICAID PROVIDER REIMBURSEMENT.

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 standard classifications from the funds listed for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DIVISION OF HEALTH SERVICES:					
A. PHYSICAL HEALTH SERVICES:					
FROM:					
General Fund	$ 635,700	$ 1,372,100		$ 1,421,100	$ 3,428,900
Cooperative Welfare Fund (Other)	603,600	467,200		2,511,200	3,582,000
Cancer Control Fund	19,800	15,000		347,700	382,500
Central Tumor Registry Fund				141,000	141,000
Cooperative Welfare Fund (Federal)	2,472,600	3,355,100		20,337,100	26,164,800
TOTAL	$ 3,731,700	$ 5,209,400		$ 24,758,100	$ 33,699,200

	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			103,100
Emergency Medical Services Fund I & II	$ 1,045,000	604,200	$118,800	$ 645,000	2,413,000
Cooperative Welfare Fund (Federal)	62,600	169,900	9,400		241,900
TOTAL	$ 1,107,600	$ 887,200	$128,200	$ 645,000	$ 2,768,000
C. LABORATORY SERVICES:					
FROM:					
General Fund	$ 1,362,100	$ 299,400		$ 201,000	$ 1,862,500
Cooperative Welfare Fund (Other)	708,800	234,800	$183,500	37,000	1,164,100
Water Pollution Control Fund	105,600	15,800			121,400
Hazardous Waste Training, Emergency and Monitoring Fund	78,100	43,100			121,200
Cooperative Welfare Fund (Federal)	406,800	213,000		13,100	632,900
TOTAL	$ 2,661,400	$ 806,100	$183,500	$ 251,100	$ 3,902,100
DIVISION TOTAL	$ 7,500,700	$ 6,902,700	$311,700	$ 25,654,200	$ 40,369,300
II. DIVISION OF WELFARE:					
A. ELIGIBILITY SERVICES:					
FROM:					
General Fund	$ 8,332,500	$ 3,058,100			$ 11,390,600
Cooperative Welfare Fund (Other)	58,400	14,700			73,100
Cooperative Welfare Fund (Federal)	8,061,300	2,844,800			10,906,100
TOTAL	$16,452,200	$ 5,917,600			$ 22,369,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. MEDICAL ASSISTANCE PAYMENTS:					
FROM:					
General Fund	$ 2,614,700	$ 4,548,100		$105,084,800	$112,247,600
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)	3,487,100	12,821,800	$ 1,300	235,497,200	251,807,400
TOTAL	$ 6,352,700	$17,492,700	$ 1,300	$354,199,500	$378,046,200
C. ADULT AND ADC ASSISTANCE PAYMENTS:					
FROM:					
General Fund				$ 19,232,100	$ 19,232,100
Cooperative Welfare Fund (Federal)				18,067,600	18,067,600
Cooperative Welfare Fund (Other)				9,200,000	9,200,000
TOTAL				$ 46,499,700	$ 46,499,700
D. CHILD SUPPORT SERVICES:					
FROM:					
General Fund	$ 880,500	$ 1,349,600	$ 21,500		$ 2,251,600
Cooperative Welfare Fund (Other)	572,800	122,100			694,900
Cooperative Welfare Fund (Federal)	4,426,900	7,226,400	163,100		11,816,400
TOTAL	$ 5,880,200	$ 8,698,100	$184,600		$ 14,762,900
DIVISION TOTAL	$28,685,100	$32,108,400	$185,900	$400,699,200	$461,678,600
GRAND TOTAL	$36,185,800	$39,011,100	$497,600	$426,353,400	$502,047,900

SECTION 2. As appropriated, the State Controller 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 for fiscal year 1995, to be used for nonrecurring expenditures only for the period July 1, 1995, through June 30, 1996.

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, 1995, through June 30, 1996.

SECTION 6. To provide maximum flexibility in dealing with personnel reductions contained in this act, the Department of Health and Welfare is hereby exempted from the provisions of Section 67-3511(1) and (2), Idaho Code, for all moneys appropriated to it for the period of July 1, 1995, through June 30, 1996. Transfers of moneys between programs in the same appropriation bill and transfers of moneys between programs in different appropriation bills are still subject to the approval of the Division of Financial Management.

SECTION 7. As appropriated in Section 1 of this act for the Medical Assistance Program, the Department of Health and Welfare is hereby directed to provide a 5% increase in Evaluation and Management fees in the areas of office and other outpatient services, office consultations, confirmatory consultations, home services and preventive medicine services. All other providers shall receive a 2.5% increase except those otherwise provided for in the Idaho Code. Should Senate Bill 1156 of the First Regular Session of the Fifty-third Idaho Legislature become law, the physician reimbursement portion of this section shall become null and void.

Approved March 21, 1995.

CHAPTER 323
(S.B. No. 1283)

AN ACT
APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE COST FUND FOR FISCAL YEAR 1996.

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

SECTION 1. There is hereby appropriated $7,471,300 from the General Fund to be transferred to the Catastrophic Health Care Cost Fund for the period July 1, 1995, through June 30, 1996.

Approved March 21, 1995.

CHAPTER 324
(S.B. No. 1279)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1996; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED; AND LIMITING AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amount, to be expended for designated programs according to designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. MANAGEMENT AND SUPPORT:					
FROM:					
State Highway Fund	$ 9,052,000	$ 4,147,500	$ 528,500		$ 13,728,000
B. TRANSPORTATION PLANNING:					
FROM:					
State Highway Fund	$ 1,685,700	$ 802,400	$ 168,500	$ 752,900	$ 3,409,500
C. MOTOR VEHICLE SERVICES:					
FROM:					
State Highway Fund	$ 5,772,800	$ 3,895,400	$ 353,700		$ 10,021,900
D. HIGHWAY OPERATIONS:					
FROM:					
State Highway Fund	$61,206,200	$34,568,100	$ 10,761,600	$ 415,700	$106,951,600
Highway Safety Fund				3,515,700	3,515,700
TOTAL	$61,206,200	$34,568,100	$ 10,761,600	$3,931,400	$110,467,300
E. CAPITAL FACILITIES:					
FROM:					
State Highway Fund			$ 1,395,000		$ 1,395,000
F. CONTRACT CONSTRUCTION:					
FROM:					
State Highway Fund			$134,344,500		$134,344,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
G. AERONAUTICS:					
FROM:					
State Aeronautics Fund	$ 611,500	$ 381,700	$ 21,100	$ 400,000	$ 1,414,300
H. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Fund	$ 311,000	$ 97,500	$ 10,000	$3,172,800	$ 3,591,300
I. INTERDEPARTMENTAL SERVICES:					
FROM:					
State Aeronautics Fund	$ 96,200	$ 297,400			$ 393,600
State Highway Fund	71,600	739,900			811,500
TOTAL	$ 167,800	$ 1,037,300			$ 1,205,100
GRAND TOTAL	$78,807,000	$44,929,900	$147,582,900	$8,257,100	$279,576,900

SECTION 2. It is legislative intent that all moneys transferred to the Local Bridge Inspection Fund and to the Railroad Grade Crossing Protection Fund, as provided in Section 63-2412, Idaho Code, are hereby continuously appropriated to the Idaho Transportation Department for the stated purposes.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Idaho Transportation Department is authorized no more than one thousand eight hundred sixteen (1,816) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 325
(S.B. No. 1275)

AN ACT

APPROPRIATING MONEYS FOR THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE PROGRAM; AND RESTRICTING APPROPRIATED FUNDS FOR SUGAR BEET RHIZOMANIA RESEARCH.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Coopera-

tive Extension Service Program, the following amount from the General Fund, for the period July 1, 1995, through June 30, 1996:
FROM: General Fund $38,000

SECTION 2. The appropriation made in Section 1 of this act shall be used solely and only for sugar beet rhizomania research.

Approved March 21, 1995.

CHAPTER 326
(S.B. No. 1190, As Amended, As Amended in the House)

AN ACT
RELATING TO RECONVEYANCES OF DEEDS OF TRUST; AMENDING TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 45, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE CONDITIONS TO RECONVEYANCE, TO PROVIDE PROCEDURE FOR RECONVEYANCE, TO PROVIDE FOR OBJECTIONS TO RECONVEYANCES, TO SPECIFY LIABILITY OF TITLE INSURANCE AGENT OR UNDERWRITER AND TO PROVIDE APPLICATION OF THESE PROCEDURES; AND AMENDING SECTION 45-1502, IDAHO CODE, TO SET FORTH AUTHORITY FOR CHARGING A REASONABLE FEE.

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

SECTION 1. That Title 45, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 12, Title 45, Idaho Code, and to read as follows:

CHAPTER 12
RECONVEYANCE

45-1201. DEFINITIONS. As used in this chapter:

(1) "Beneficiary" means both the record owner of the beneficiary's interest under a trust deed, including successors in interest.

(2) "Reconveyance" or "reconvey" means a reconveyance of a trust deed.

(3) "Satisfactory evidence" of the full payment of an obligation secured by a trust deed means a payoff letter, the original cancelled check or a copy, including a voucher copy, of a check, payable to the beneficiary or a servicer, and reasonable documentary evidence that the check was intended to effect full payment under the trust deed or an encumbrance upon the property covered by the trust deed.

(4) "Servicer" means a person or entity that collects loan payments on behalf of a beneficiary.

(5) "Title agent" means a title insurance agent duly licensed as an organization under chapter 27, title 41, Idaho Code.

(6) "Title insurer" means a title insurer duly authorized to conduct business in the state of Idaho under title 41, Idaho Code.

(7) "Trust deed" means a trust deed as defined in section 45-1502, Idaho Code.

45-1202. CONDITIONS TO RECONVEYANCE. A title insurer or title agent may reconvey a trust deed pursuant to the procedure prescribed in section 45-1203, Idaho Code, if the obligation secured by the trust deed shall have been fully paid by the title insurer or title agent that is permitted to reconvey the trust deed pursuant to section 45-1203, Idaho Code, or such title insurer or title agent shall possess satisfactory evidence of such payment in full. A title insurer or title agent may provide a reconveyance under section 45-1203, Idaho Code, whether or not it is then named as trustee under a trust deed.

45-1203. PROCEDURE FOR RECONVEYANCE. A title insurer or title agent may execute and record a reconveyance of a trust deed upon compliance with the following procedure:

(1) Not less than thirty (30) days after payment in full of the obligation secured by the trust deed and receipt of satisfactory evidence of payment in full has been effected, the title insurer or title agent may either: (a) mail a notice by certified mail with postage prepaid, return receipt requested, to the beneficiary or a servicer at its address set forth in the trust deed, and at any address for the beneficiary or servicer specified in the last recorded assignment of the trust deed, if any, and at any address for a beneficiary or servicer shown in any request for notice duly recorded pursuant to section 45-1511, Idaho Code; or (b) hand deliver a notice to the beneficiary or servicer. The notice shall be in substantially the following form and shall be accompanied by a copy of the reconveyance to be recorded:

NOTICE OF INTENT
TO RELEASE OR RECONVEY

TO: [Beneficiary] or [Servicer for Beneficiary]
FROM: [Title insurer or Title agent]
DATE: .....

Notice is hereby given to you as follows:

1. This notice concerns the trust deed described as follows:

Trustor: .....
Beneficiary: .....
Recording information:
Entry No.: .....
Book No.: .....
Page No.: .....

2. The undersigned claims to have fully paid or received satisfactory evidence of the payment in full of the obligation secured by the trust deed described above.

3. Unless, within sixty (60) days following the date stated above, the undersigned has received by certified mail, return receipt requested, directed to the address noted below a notice stating that you have not received payment in full of all obligations secured by the trust deed or that you otherwise object to reconveyance of the trust deed, the undersigned will fully release and reconvey the trust deed pursuant to chapter 12, title 45, Idaho Code.

4. A copy of the reconveyance or release of the trust

deed is enclosed with this notice.

[Title insurer/Title agent]
[Address]

(2) Sixty (60) days shall elapse following the mailing, in the case of certified mail, or delivery, in the case of hand delivery, of the notice prescribed in subsection (1) of this section.

(3) If the title insurer or title agent has not upon expiration of that sixty (60) day period received any objection under section 45-1204, Idaho Code, the title insurer or title agent may then execute, acknowledge, and record a reconveyance of the trust deed in substantially the following form:

RECONVEYANCE OF TRUST DEED
[To be used concerning trust deeds as defined in section 45-1502, Idaho Code]

....., a [Title insurer/Title agent] authorized to act in the State of Idaho does hereby, pursuant to chapter 27, title 41, Idaho Code, reconvey, without warranty, to the person or persons legally entitled thereto, the following trust property covered by a Trust Deed naming ....., as trustor, and ....., as beneficiary, which was recorded on ..... in Book ..... at Page ..... as Entry No. ..... :

The following described property located in ..... County, State of Idaho:

[Property Description]

The undersigned title insurer/title agent hereby certifies as follows:

1. The undersigned title insurer/title agent has fully paid or received satisfactory evidence of the payment in full of the obligation secured by said Trust Deed.

2. Not less than thirty (30) days following the payment in full of said Trust Deed, the undersigned hand delivered or mailed by certified mail, return receipt requested, to the record beneficiary or a servicer for the record beneficiary under said Trust Deed at its record address a notice as required in section 45-1203(1), Idaho Code.

3. In excess of sixty (60) days elapsed after the mailing of said notice and no objection to said reconveyance has been received by the undersigned.

Dated .....

.....
[Title insurer/Title agent]

[acknowledgment]

(4) A reconveyance of a trust deed, when executed and acknowledged in substantially the form prescribed in subsection (3) of this section shall be entitled to recordation and, when recorded, shall constitute a reconveyance of the trust deed identified therein, irrespective of any deficiency in the reconveyance procedure not disclosed in the release or reconveyance that is recorded other than forgery of

the title insurer or title agent's signature. The reconveyance of a trust deed pursuant to this chapter shall not itself discharge any personal obligation that was secured by the trust deed at the time of its reconveyance.

45-1204. OBJECTIONS TO RECONVEYANCES. The title insurer or title agent shall not record a reconveyance of a trust deed if, prior to the expiration of the sixty (60) day period specified in section 45-1203(2), Idaho Code, the title insurer or title agent receives a notice on behalf of the beneficiary or servicer stating that the trust deed continues to secure an obligation or otherwise objecting to reconveyance of the trust deed.

45-1205. LIABILITY OF TITLE INSURANCE AGENT OR UNDERWRITER. In the event that a trust deed is reconveyed by a title insurer or title agent purporting to act under the provisions of this chapter, but the obligation secured by the trust deed has not been fully paid, the title insurer or title agent effecting such reconveyance shall be liable to the beneficiary of the trust deed for the damages suffered as a result of such improper reconveyance only if the title insurer or title agent failed to substantially comply with the provisions of section 45-1203 or 45-1204, Idaho Code, or acted with negligence or in bad faith in reconveying the trust deed.

45-1206. PAYOFFS PRIOR TO EFFECTIVE DATE. The reconveyance procedure prescribed in sections 45-1201 through 45-1205, Idaho Code, shall apply to obligations secured by trust deeds that were paid either prior to or following the effective date of this section.

SECTION 2. That Section 45-1502, Idaho Code, be, and the same is hereby amended to read as follows:

45-1502. DEFINITIONS -- TRUSTEE'S CHARGE. As used in this act:

(1) "Beneficiary" means the person named or otherwise designated in a trust deed as the person for whose benefit a trust deed is given, or his successor in interest, and who shall not be the trustee.

(2) "Grantor" means the person conveying real property by a trust deed as security for the performance of an obligation.

(3) "Trust deed" means a deed executed in conformity with this act and conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or other person named in the deed to a beneficiary.

(4) "Trustee" means a person to whom the legal title to real property is conveyed by trust deed, or his successor in interest.

(5) "Real property" means any right, title, interest and claim in and to real property owned by the grantor at the date of execution of the deed of trust or acquired thereafter by said grantor or his successors in interest. Provided, nevertheless, real property as so defined which may be transferred in trust under this act shall be limited to either (a) any real property located within an incorporated city or village at the time of the transfer, or (b) any real property not exceeding twenty (20) acres, regardless of its location, and in either event where the trust deed states that the real property

involved is within either of the above provisions, such statement shall be binding upon all parties and conclusive as to compliance with the provisions of this act relative to the power to make such transfer and trust and power of sale conferred in this act.

(6) The trustee shall be entitled to a reasonable charge for duties or services performed pursuant to the trust deed and this chapter. The trustee shall not be entitled to a foreclosure fee in the event of judicial foreclosure or work done prior to the recording of a notice of default. If the default is cured prior to the time of the last newspaper publication of the notice of sale, the ~~trustee's--fee shall--not--exceed-one-hundred-fifteen-dollars-($115)~~ trustee shall be paid a reasonable fee, such fee subject to approval of the director of the department of insurance.

Approved March 21, 1995.

CHAPTER 327
(S.B. No. 1009)

AN ACT

RELATING TO A CONSTITUTIONAL DEFENSE COUNCIL; REPEALING CHAPTER 63, TITLE 67, IDAHO CODE; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 63, TITLE 67, IDAHO CODE, TO CREATE A CONSTITUTIONAL DEFENSE COUNCIL, TO PROVIDE MEMBERS, POWERS AND STAFF AND TO CREATE THE CONSTITUTIONAL DEFENSE COUNCIL FUND; AND APPROPRIATING MONEYS FROM THE GENERAL FUND TO THE CONSTITUTIONAL DEFENSE COUNCIL FUND.

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

SECTION 1. That Chapter 63, Title 67, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 63, Title 67, Idaho Code, and to read as follows:

CHAPTER 63
CONSTITUTIONAL DEFENSE COUNCIL

67-6301. CONSTITUTIONAL DEFENSE COUNCIL CREATED -- MEMBERS -- POWERS -- STAFF -- FUND. (1) There is hereby created the constitutional defense council which shall consist of the governor, the president pro tempore of the senate, the speaker of the house of representatives and the attorney general.

(2) The purpose of the council includes, but is not limited to, restoring, maintaining and advancing the sovereignty and authority over issues that affect this state and the well-being of its citizens.

(3) Meetings of the council may be called by any member and decisions of the council shall be made by a majority vote of the members.

(4) The council, in the name of the state or its citizens, may examine and challenge by legal action, legislation or any other legal

means:

(a) Federal mandates.

(b) Court rulings.

(c) The authority granted to, or assumed by, the federal government.

(d) Laws, regulations and practices of the federal government.

(e) Any other activity that is deemed appropriate by the council.

(f) Notwithstanding any other provision of law to the contrary, the council may hire legal counsel for the purpose of this chapter and may utilize staff and resources within state government.

(5) There is hereby established in the state treasury the constitutional defense council fund which shall consist of appropriations, gifts, grants and other council moneys. Moneys in the council fund are continuously appropriated and shall be used for purposes enumerated in this chapter.

SECTION 3. The sum of $1,000,000 is hereby appropriated from the general fund for deposit in the constitutional defense fund created in section 67-6301, Idaho Code.

Approved March 21, 1995.

CHAPTER 328
(S.B. No. 1069, As Amended)

AN ACT

RELATING TO IMMUNITY UNDER THE CHILD PROTECTION ACT; AMENDING SECTION 16-1620, IDAHO CODE, TO DELETE MINISTERS FROM THE LIST OF PROFESSIONS AS BEING REQUIRED TO PROVIDE EVIDENCE REGARDING THE ABUSE, ABANDONMENT OR NEGLECT OF A CHILD OR THE CAUSE THEREOF.

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

SECTION 1. That Section 16-1620, Idaho Code, be, and the same is hereby amended to read as follows:

16-1620. IMMUNITY. Any person who has reason to believe that a child has been abused, abandoned or neglected and, acting upon that belief, makes a report of abuse, abandonment or neglect as required in section 16-1619, Idaho Code, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Any privilege between husband and wife, or between any professional person except the lawyer-client privilege, including but not limited to physicians, ~~ministers,~~ counselors, hospitals, clinics, day care centers and schools and their clients shall not be grounds for excluding evidence at any proceeding regarding the abuse, abandonment or neglect of the child or the cause thereof.

Approved March 21, 1995.

CHAPTER 329
(S.B. No. 1108)

AN ACT
RELATING TO REPORTING OF ABUSE, ABANDONMENT OR NEGLECT OF CHILDREN; AMENDING SECTION 16-1619, IDAHO CODE, TO DEFINE "DULY ORDAINED MINISTER OF RELIGION" AND TO PROVIDE AN EXEMPTION FROM NOTIFICATION REQUIREMENTS FOR DULY ORDAINED MINISTERS OF RELIGION UPON CERTAIN CONDITIONS.

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

SECTION 1. That Section 16-1619, Idaho Code, be, and the same is hereby amended to read as follows:

16-1619. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT. (a) Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the department. The department shall be informed by law enforcement of any report made directly to it. When the attendance of a physician, resident, intern, nurse, day care worker, or social worker is pursuant to the performance of services as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall make the necessary reports.

(b) For purposes of subsection (c) of this section the term "duly ordained minister of religion" means a person who has been ordained or set apart, in accordance with the ceremonial, ritual or discipline of a church or religious organization which has been established on the basis of a community of religious faith, belief, doctrines and practices, to hear confessions and confidential communications in accordance with the bona fide doctrines or discipline of that church or religious organization.

(c) The notification requirements of subsection (a) of this section do not apply to a duly ordained minister of religion, with regard to any confession or confidential communication made to him in his ecclesiastical capacity in the course of discipline enjoined by the church to which he belongs if:

(1) The church qualifies as tax-exempt under 26 U.S.C. 501(c)(3);

(2) The confession or confidential communication was made directly to the duly ordained minister of religion; and

(3) The confession or confidential communication was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. A confession or confidential communication made under any other circumstances does not fall under this exemption.

(d) Failure to report as required in this section shall be a misdemeanor.

Approved March 21, 1995.

CHAPTER 330
(S.B. No. 1151)

AN ACT

RELATING TO ATTACHMENTS AND GARNISHMENTS: AMENDING SECTION 8-507, IDAHO CODE, TO PROVIDE FOR BANKS AND DEPOSITORY INSTITUTIONS TO RECEIVE A FIVE DOLLAR GARNISHMENT SEARCH FEE AND INFORMATION TO IDENTIFY DEFENDANTS ON BANK RECORDS AND TO PROVIDE FOR CENTRALIZED SERVICE OF PROCESS ON CONSENTING BANKS AND DEPOSITORY INSTITUTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 8-507A, IDAHO CODE, TO ADD THE SERVICE OF A FIVE DOLLAR GARNISHMENT SEARCH FEE BY THE SHERIFF WHEN HE SERVES BANKS AND DEPOSITORY INSTITUTIONS WITH WRITS OF ATTACHMENT AND GARNISHMENT; AND AMENDING SECTION 8-507B, IDAHO CODE, TO PROVIDE THAT THE FIVE DOLLAR GARNISHMENT SEARCH FEE TO WHICH BANKS AND DEPOSITORY INSTITUTIONS ARE ENTITLED IS IN ADDITION TO THE TEN DOLLAR PROCESSING AND SERVICE FEE CURRENTLY PROVIDED IN SECTION 8-507B, IDAHO CODE.

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

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

8-507. GARNISHMENT -- SERVICE OF WRIT OF ATTACHMENT, EXECUTION, OR GARNISHMENT -- BANKS. (a) Upon receiving written directions from the plaintiff or his attorney, that any person or corporation, public or private, has in his or its possession or control, any credits or other personal property belonging to the defendant, or is owing any debt to the defendant, the sheriff shall serve upon any such person, or corporation identified in the plaintiff's written directions all of the following documents:

(1) a copy of the writ;

(2) a notice that such credits, or other property, or debts, as the case may be, are attached in pursuance of such writ;

(3) a notice of exemptions available under federal and state law;

(4) instructions to debtors and third parties for asserting a claim of exemption; ~~and~~

(5) a form for making a claim of exemption; and

(6) if the garnishee is a bank or depository institution, a search fee of five dollars ($5.00) and the last known mailing address of the defendant and, if known, a tax identification number, that will enable the garnishee to identify the defendant on its records.

The documents specified in paragraphs (3) through (5) of this subsection shall be in a form substantially similar to the form provided in section 8-507C, Idaho Code.

(b) In case of service upon a corporation the same may be had by delivering a copy of the papers to be served, if upon a private corporation, to any officer or agent thereof, and if upon a public or municipal corporation, to the mayor, president of the council or board of trustees, or any presiding officer, or to the secretary or clerk thereof. Provided, further, that no service of any writ of attachment, nor of execution, nor any garnishment, shall be made under this section, or otherwise, on any banking or trust corporation operating branch banks or more than one (1) office where deposits are received, except by delivery of copies of the writs, notices and/or other papers required, to one (1) of the officers or managing agents of such corporation employed in and at, and in charge of some particular office or branch of said corporation, and being so made, such writ or garnishment shall be valid and effective only as to moneys to the defendant's credit in that particular office or branch and as to other personal property belonging to the defendant held in the possession or control of the officers or managing agents of said corporation employed in and at, and in charge of such office or branch.

If a banking or trust corporation operating branch banks or more than one (1) office where deposits are received has designated a particular branch or office for the attachment, execution, or garnishment, then service of such papers shall be made on the branch or office so designated. In such case, a writ of attachment, execution, or garnishment shall be valid and effective as to moneys to the defendant's credit held in the possession or control of any of the corporation's branches or offices located within the state of Idaho.

(c) The provisions of this section and sections 8-507A through 8-507D, Idaho Code, shall apply to any levy by execution pursuant to chapters 2 and 3, title 11, Idaho Code.

SECTION 2. That Section 8-507A, Idaho Code, be, and the same is hereby amended to read as follows:

8-507A. SERVICE ON DEFENDANT AND THIRD PARTIES BY SHERIFF. Within two (2) business days after service of the writ and other documents as provided in section 8-507, Idaho Code, or if service is upon a bank or other depository institution, within one (1) business day, the sheriff shall hand deliver or mail to the defendant and any third party named in plaintiff's written directions as a co-owner or having an interest in the property or money to be levied upon, one (1) copy of all the documents and if the garnishee is a bank or depository institution, the search fee and other information specified in subsection (a) of section 8-507, Idaho Code. The plaintiff shall identify in the plaintiff's written directions the last known mailing address of the defendant and any third party to be served. The sheriff shall indicate on the return of the writ filed with the court the date and manner of service upon the defendant and any third party and shall indicate the documents served.

If at the time of service of the writ the sheriff receives written answer from the garnishee stating that it has no money or other personal property belonging or owing to the defendant, compliance with the provisions of this section shall not be required.

SECTION 3. That Section 8-507B, Idaho Code, be, and the same is hereby amended to read as follows:

8-507B. SERVICE ON DEFENDANT AND THIRD PARTIES BY BANK OR DEPOSITORY INSTITUTION. If the writ and notice of garnishment are served upon a bank or other depository institution holding money or accounts belonging to the defendant, the garnishee shall within one (1) business day after such service, mail or hand deliver a copy of all documents served upon it by the sheriff:

(a) To the defendant at the address to which account statements or other pertinent account documentation are normally sent, or if the money is not in an account, to the last known address of the defendant shown upon the records of the garnishee at the time of service upon it of the writ; and

(b) To any other person shown upon the records of the garnishee as a co-owner or having an interest in the money or accounts garnished at the last known address of the third party shown upon the records of the garnishee at the time of service upon it of the writ.

The bank or depository institution shall be entitled to deduct a single fee of not to exceed ten dollars ($10.00) from the money transferred to the sheriff pursuant to the garnishment to cover the costs associated with the processing and service of the documents. The fee herein provided shall be the only processing and service fee to which the bank or depository institution is entitled regardless of the number of parties to which documents are sent and is in addition to the search fee specified in subsection (a)(6) of section 8-507, Idaho Code. Upon being notified by the sheriff that money transferred pursuant to the garnishment has been released as a result of a court determination that the money is exempt or a failure by the plaintiff to contest the claim of exemption, the garnishee shall recredit the fee to the defendant's account or reimburse the defendant therefor and the plaintiff shall reimburse the garnishee for the fee.

The garnishee shall indicate in the answer to interrogatories as provided in section 8-511, Idaho Code, the date and manner of service of the documents upon the defendant and any third party as herein required but shall not be required to disclose the names or addresses of any third party served.

The garnishee shall only be required to serve on the defendant and any third party copies of those documents served upon it by the sheriff.

Approved March 21, 1995.

CHAPTER 331
(S.B. No. 1280)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1996; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED GENERAL FUND BALANCES; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Lands the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
A. SUPPORT SERVICES:						
FROM:						
General Fund	$ 1,034,900	$ 711,500	$123,400			$ 1,869,800
Department of Lands Fund	242,900	135,300				378,200
Federal Grant Fund	6,400	115,900				122,300
Land Improvement Fund	60,600	3,900				64,500
TOTAL	$ 1,344,800	$ 966,600	$123,400			$ 2,434,800
B. FOREST RESOURCES MANAGEMENT:						
FROM:						
General Fund	$ 2,798,000	$ 365,400	$ 65,300			$ 3,228,700
Department of Lands Fund	1,454,300	902,200	117,900			2,474,400
Water Pollution Control Fund	128,700	14,000				142,700
Land Improvement Fund	1,875,100	1,803,600	30,500			3,709,200
Community Forestry Fund				$ 76,500		76,500
Federal Grant Fund	436,000	229,900		202,000		867,900
TOTAL	$ 6,692,100	$3,315,100	$213,700	$278,500		$10,499,400
C. LAND, RANGE AND MINERAL RESOURCE MANAGEMENT:						
FROM:						
General Fund	$ 1,739,700	$ 753,100	$ 76,800			$ 2,569,600
Department of Lands Fund		131,000				131,000
Land Improvement Fund	185,500	205,400				390,900
Land and Building Rental Fund	1,000	30,300				31,300
TOTAL	$ 1,926,200	$1,119,800	$ 76,800			$ 3,122,800
D. FOREST AND RANGE FIRE PROTECTION:						
FROM:						
General Fund					$2,346,000	$ 2,346,000
Department of Lands Fund					3,174,300	3,174,300
Fire Suppression Fund					108,000	108,000
Federal Grant Fund					281,500	281,500
TOTAL					$5,909,800	$ 5,909,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	FOR LUMP SUM	TOTAL
E. SOIL AND WATER CONSERVATION:						
FROM:						
General Fund	$ 497,200	$ 76,600	$ 17,700	$ 257,100		$ 848,600
Department of Lands Fund	390,500	75,800	2,700			469,000
Federal Grant Fund	200,500	114,500				315,000
Water Pollution Control Fund		1,500		266,600		268,100
Resource Conservation Fund	28,000	102,000		300,000		430,000
TOTAL	$ 1,116,200	$ 370,400	$ 20,400	$ 823,700		$ 2,330,700
F. SCALING PRACTICES:						
FROM:						
Department of Lands Fund	$ 243,800	$ 34,900	$ 39,900			$ 318,600
GRAND TOTAL	$11,323,100	$5,806,800	$474,200	$1,102,200	$5,909,800	$24,616,100

SECTION 2. There is hereby reappropriated to the Department of Lands the unexpended and unencumbered balance of any funds appropriated for the Triumph Mine Remediation Project for the period July 1, 1994, through June 30, 1995, to be used for the same purpose for the period July 1, 1995, through June 30, 1996.

The reappropriation is limited to $150,000 in General Funds, $500,000 in Hazardous Waste Training, Emergency and Monitoring Funds, and $500,000 in spending authority for money collected from other potentially responsible parties.

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than two hundred sixty-one and eighty-five one hundredths (261.85) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 332
(S.B. No. 1219)

AN ACT

RELATING TO CREATION OF A TRUST FUND TO BE KNOWN AS THE STATE TRUST FOR OUTDOOR RECREATION ENHANCEMENT; AMENDING CHAPTER 42, TITLE 67,

IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-4245, 67-4246, 67-4247, 67-4248 AND 67-4249, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT, TO CREATE THE STATE TRUST FUND FOR OUTDOOR RECREATION ENHANCEMENT AND TO PROVIDE FOR ADMINISTRATION AND ELIGIBLE RECIPIENTS, TO PROVIDE FOR MANAGEMENT OF FUNDED PROJECTS AND LANDS AND TO PROVIDE FOR PROMULGATION OF RULES; AND AMENDING SECTION 67-4223, IDAHO CODE, TO MODIFY POWERS OF THE PARKS AND RECREATION BOARD AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Chapter 42, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 67-4245, 67-4246, 67-4247, 67-4248 and 67-4249, Idaho Code, and to read as follows:

67-4245. SHORT TITLE. This act shall be known as the "State Trust for Outdoor Recreation Enhancement (STORE) Act."

67-4246. LEGISLATIVE INTENT. The legislature finds that outdoor recreation is a primary force in providing important social, personal, resource, and economic benefits to the people of Idaho. The legislature further recognizes that in order to obtain the optimum benefit to the people of Idaho, it is necessary to create a reliable source of revenues which will provide funding for capital improvements, repairs, renovations, land acquisition and a recreation incentive program which will enhance Idaho's local and state park and outdoor recreation opportunities and which will provide alternative activities (to crime or delinquency) for youth and young adults in cooperation with Idaho's education and law enforcement agencies. The purpose of this act is to establish a trust fund that will generate sufficient revenue to provide stable funding to address Idaho's outdoor recreation needs.

67-4247. STATE TRUST FUND FOR OUTDOOR RECREATION ENHANCEMENT -- CREATION, ADMINISTRATION, ELIGIBLE RECIPIENTS. (1) There is hereby created and established in the state treasury a fund to be known and designated as the "state trust for outdoor recreation enhancement (STORE)." The park and recreation board may dedicate funds acquired by gift, agreement, donation, appropriation or otherwise to the STORE fund.

(2) Commencing with the passage and approval of this act, all interest income from the STORE fund is hereby appropriated to, and is to be administered by, the park and recreation board for the purpose of carrying out the provisions of this act.

(a) Up to fifteen percent (15%) of the STORE fund interest income appropriated to the department each year may be used by the department to defray STORE program administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the STORE fund.

(b) The park and recreation board may return up to twenty-five percent (25%) of the interest income appropriated to the department to the STORE to increase the trust principal.

(3) The department shall use the moneys appropriated from the interest income on the STORE fund to:

(a) Operate a grant program to fund capital improvements, repairs, renovations, and land acquisitions that enhance opportunities for outdoor recreation. Indoor swimming pools and indoor ice rinks shall be eligible to receive grant funding provided use is primarily for public recreation. Grant recipients shall be required to provide a fifty percent (50%) match for all grants.

(b) Organize and operate a recreation incentive program to initiate positive growth activities for children and young adults and which will assist rural communities to meet the growing demand for recreation services.

(4) The state of Idaho and any of its subdivisions legally authorized to provide public recreation facilities may apply for and receive grant funds.

67-4248. MANAGEMENT OF FUNDED PROJECTS AND LANDS. (1) Grant recipients must enter into a contract with the park and recreation board which specifies that all property acquired, developed, repaired, renovated or improved with grant funds from the STORE shall be held in perpetuity for outdoor recreation by the grant recipient.

(a) Upon approval from the park and recreation board, trails acquired, developed, repaired, renovated or improved through STORE grant funds may be exempted from this requirement.

(b) Property acquired, developed, repaired, renovated or improved with STORE grant funds, and all recreation incentive programs funded by moneys from the STORE, shall be operated and maintained as being open and available for public use.

(2) Upon approval from the park and recreation board, property acquired, developed, renovated or improved through STORE may be converted to non-recreation purposes when, in the board's opinion, all practical alternatives to the conversion have been evaluated and rejected on a sound basis, there is not irreparable damage caused to the state's recreation infrastructure as a result of the proposed action, the grant recipient has provided for ample public involvement in the conversion, and the recreation utility lost is mitigated by the grant recipient.

(a) Conversions generally occur when property interests are conveyed for nonpublic outdoor recreation use, nonoutdoor recreation uses (public or private) are made of the project area or a portion thereof, noneligible outdoor recreation facilities are developed within the project area, or public outdoor recreation use is terminated.

(b) The following are not considered conversions but require the approval of the park and recreation board: (i) granting underground utility easements which do not have significant impact upon the recreation utility of the facility; and (ii) constructing public indoor recreation facilities where it can be demonstrated that there is an increased benefit to public recreational opportunities without a decrease in the outdoor recreation utility of the STORE assisted area.

(c) The project sponsor may mitigate the conversion by replacing the loss of recreation utility caused by the conversion or by

reimbursing the STORE the fair market value of converted property as developed. The reimbursement shall be returned to the STORE fund for redistribution.

(d) Recreation utility shall be established by the fair market value of the property to be converted, the type and amount of use occurring on the property, equivalent usefulness and location of converted property and other factors the park and recreation board may consider relevant and may be mitigated by placing land previously not in recreation use into recreation use or by improving recreation opportunities on previously developed land commensurate to the loss of recreation utility caused by the conversion.

(3) The department may, by rule, impose a fee to defray the department's cost of administration and management of this replacement process.

67-4249. RULES. The Idaho park and recreation board shall adopt rules as necessary to administer the provisions of this act in accordance with legislative intent.

SECTION 2. That Section 67-4223, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Adopt, amend or rescind rules ~~and regulations~~ as may be necessary for the proper administration of the provisions of sections 67-4218, et seq., Idaho Code, and the use and protection of park and recreational areas subject to its jurisdiction.

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

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

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

(e) Administer the funds derived from the recreational vehicle account established in section 49-448, Idaho Code, to provide financial assistance in the form of grants to public entities for the

acquisition, lease, development, improvement, operations and maintenance of facilities and services designed to promote the health, safety and enjoyment of recreational vehicle users. Up to fifteen percent (15%) of the recreational vehicle account generated each year may be used by the department to defray recreational vehicle program administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the recreational vehicle account.

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

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

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

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

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

applicable federal regulations.

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

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

(l) Establish, develop, supervise and maintain through cooperative agreement, lease, purchase or other arrangement the Idaho recreation trail system, with the advice of the coordinator created in section 67-4233, Idaho Code, and consistent with the goals of recreation, transportation and public access to outdoor areas.

Approved March 21, 1995.

CHAPTER 333
(S.B. No. 1276)

AN ACT

EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO COOPERATIVE FUNDING FOR LAND MANAGEMENT RESEARCH; AND APPROPRIATING MONEYS FOR THE CENTER FOR BUSINESS DEVELOPMENT AND RESEARCH IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 380, LAWS OF 1994.

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

SECTION 1. It is legislative intent that the continued state financial support of research conducted to ascertain the impact of federal land management policy on selected timber economies in Idaho

be provided in conjunction with resources provided by the local industries and governments impacted by such policy.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 380, Laws of 1994, 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, 1995, through June 30, 1996:

FROM:	
General Fund	$40,000

Approved March 21, 1995.

CHAPTER 334
(S.B. No. 1278, As Amended)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR DESIGNATED AGENCIES; AND EXPRESSING LEGISLATIVE INTENT WITH REGARD TO THE EXPENDITURE OF CERTAIN FUNDS.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for the designated agencies, the following amounts, from the General Fund, to be expended for the period July 1, 1995, through June 30, 1996:

A. BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, UNIVERSITY OF IDAHO, LEWIS-CLARK STATE COLLEGE, COLLEGE OF SOUTHERN IDAHO AND NORTH IDAHO COLLEGE:	
FROM:	
General Fund	$1,000,000
B. BOISE STATE UNIVERSITY:	
FROM:	
General Fund	$ 730,000
C. IDAHO STATE UNIVERSITY:	
FROM:	
General Fund	$ 660,000
D. UNIVERSITY OF IDAHO:	
FROM:	
General Fund	$ 160,000
E. STATE LIBRARY BOARD:	
FROM:	
General Fund	$ 100,000
TOTAL	$2,650,000

SECTION 2. It is legislative intent that the expenditure of funds appropriated in Section 1 of this act shall be at the direction of the State Council for Technology in Learning as approved by the State Board of Education.

Approved March 21, 1995.

CHAPTER 335
(S.B. No. 1282)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1996; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. It is legislative intent that the expenditures for the Attorney General not exceed the following amount for the period July 1, 1995, through June 30, 1996:

FOR:	
Personnel Costs	$ 9,213,900
Operating Expenditures	2,820,600
Capital Outlay	190,300
TOTAL	$12,224,800
FROM:	
General Fund	$ 5,611,700
Federal Grant Fund	297,000
Consumer Protection Fund	207,500
State Legal Services Fund	6,108,600
TOTAL	$12,224,800

SECTION 2. There is hereby appropriated to the Attorney General the following amount, to be expended for designated programs according to designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. STATE LEGAL SERVICES:				
FROM:				
General Fund	$2,903,600	$ 377,800	$60,300	$3,341,700
Federal Grant Fund	228,200	68,800		297,000
Consumer Protection Fund	114,000	83,500	10,000	207,500
State Legal Services Fund	5,968,100	140,500		6,108,600
TOTAL	$9,213,900	$ 670,600	$70,300	$ 9,954,800
II. SPECIAL LITIGATION:				
FROM:				
General Fund		$2,150,000	$120,000	$ 2,270,000
GRAND TOTAL	$9,213,900	$2,820,600	$190,300	$12,224,800

SECTION 3. It is legislative intent that an amount, not to exceed

$1,000, of the amounts appropriated in Section 2 of this act, may be used at the discretion of the Attorney General to assist in defraying expenses relating to or resulting from the discharge of the Attorney General's official duties. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 4. There is hereby reappropriated to the Attorney General for the Special Litigation Program, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of any appropriation made to the Attorney General for the Special Litigation Program for the period July 1, 1994, through June 30, 1995, to be used for nonrecurring expenditures only for the period July 1, 1995, through June 30, 1996.

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, 1995, is zero, the General Fund reappropriation in Section 4 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the General Fund reappropriated in Section 4 of this act shall be in the proportion that the General Fund reappropriation for the Special Litigation Program bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 6. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than one hundred sixty-three and five tenths (163.5) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 336
(S.B. No. 1281)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 1996; APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR THE JUVENILE JUSTICE COMMISSION FOR FISCAL YEAR 1996; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amounts from the listed funds for the period July 1, 1995, through June 30, 1996:

FROM:	
General Fund	$15,500,000
Juvenile Corrections Fund	140,000
State Juvenile Corrections Center Fund	774,200
Federal Grant Fund	2,100,000
Miscellaneous Revenue Fund	502,100
TOTAL	$19,016,300

SECTION 2. There is hereby appropriated to the Department of Juvenile Corrections for the Juvenile Justice Commission the following amounts to be expended according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	$ 62,000	$ 8,500		$ 70,500
Federal Grant Fund	71,100	123,600	$789,300	984,000
Miscellaneous Revenue Fund			150,000	150,000
TOTAL	$133,100	$132,100	$939,300	$1,204,500

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than two hundred twenty and five tenths (220.5) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Sections 1 and 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. There is hereby reappropriated to the Department of Juvenile Corrections, subject to the provisions of Section 5 of this act, the unexpended and unencumbered balance of any appropriation made to the Department of Juvenile Corrections for the period July 1, 1994, through June 30, 1995, to be used for nonrecurring expenditures only for the period July 1, 1995, through June 30, 1996.

SECTION 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, 1995, is zero, the General Fund reappropriation in Section 4 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is greater than zero but less than the total General Fund reappropriation authority granted to all state agencies, the General Fund reappropriated in Section 4 of this act shall be in the proportion that the General Fund reappropriation for the Depart-

ment of Juvenile Corrections bears to the total General Fund reappropriation authority granted to all state agencies.

Approved March 21, 1995.

CHAPTER 337
(S.B. No. 1286)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF FAMILY AND COMMUNITY SERVICES AND THE DIVISION OF COMMUNITY REHABILITATION FOR FISCAL YEAR 1996; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM VARIOUS FUNDS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SUBSTANCE ABUSE PREVENTION; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CHILD CARE; AND EXEMPTING THE DEPARTMENT FROM APPROPRIATION TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Division of Family and Community Services 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, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DIVISION OF FAMILY AND COMMUNITY SERVICES:					
A. CHILDREN'S SERVICES:					
FROM:					
General Fund	$ 7,056,700	$ 3,558,300		$ 2,087,100	$ 12,702,100
Cooperative Welfare Fund (Other)	368,200	1,394,000		977,200	2,739,400
Cooperative Welfare Fund (Federal)	10,001,000	1,544,400		4,088,900	15,634,300
TOTAL	$17,425,900	$ 6,496,700		$ 7,153,200	$ 31,075,800
B. SUBSTANCE ABUSE:					
FROM:					
General Fund	$ 62,100	$ 52,000		$ 805,300	$ 919,400
Cooperative Welfare Fund (Other)		9,000			9,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Alcoholism Treatment Fund	180,700	149,000	$ 31,200	1,413,100	1,774,000
Substance Abuse Treatment Fund				218,000	218,000
Cooperative Welfare Fund (Federal)	475,100	1,136,800		2,299,600	3,911,500
TOTAL	$ 717,900	$ 1,346,800	$ 31,200	$ 4,736,000	$ 6,831,900
C. JUVENILE JUSTICE:					
FROM:					
General Fund	$ 308,800	$ 386,300		$ 966,100	$ 1,661,200
Cooperative Welfare Fund (Other)		13,200			13,200
Idaho Youth Corrections Fund		46,200			46,200
Cooperative Welfare Fund (Federal)		89,100		468,600	557,700
TOTAL	$ 308,800	$ 534,800		$ 1,434,700	$ 2,278,300
D. FAMILY SELF-SUPPORT:					
FROM:					
General Fund	$ 1,128,200	$ 891,900		$ 2,575,000	$ 4,595,100
Cooperative Welfare Fund (Other)		1,700		96,800	98,500
Cooperative Welfare Fund (Federal)	1,795,300	1,617,300		19,843,400	23,256,000
TOTAL	$ 2,923,500	$ 2,510,900		$22,515,200	$ 27,949,600
DIVISION TOTAL	$21,376,100	$10,889,200	$ 31,200	$35,839,100	$ 68,135,600
II. DIVISION OF COMMUNITY REHABILITATION:					
A. COMMUNITY DEVELOPMENTAL DISABILITIES:					
FROM:					
General Fund	$ 6,665,000	$ 1,432,600		$ 1,746,400	$ 9,844,000
Cooperative Welfare Fund (Other)	1,828,000	24,900		31,400	1,884,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Federal)	1,119,000	653,200		1,785,900	3,558,100
TOTAL	$ 9,612,000	$ 2,110,700		$ 3,563,700	$ 15,286,400
B. IDAHO STATE SCHOOL AND HOSPITAL:					
FROM:					
General Fund	$ 4,888,300	$ 796,700	$130,000	$ 90,800	$ 5,905,800
Cooperative Welfare Fund (Other)	111,200	364,600		10,100	485,900
Medical Assistance Fund		3,500			3,500
Cooperative Welfare Fund (Federal)	12,085,000	751,500		173,600	13,010,100
TOTAL	$17,084,500	$ 1,916,300	$130,000	$ 274,500	$ 19,405,300
C. COMMUNITY MENTAL HEALTH SERVICES:					
FROM:					
General Fund	$ 7,456,300	$ 1,362,600	$ 50,100	$ 590,900	$ 9,459,900
Cooperative Welfare Fund (Other)	3,802,100	534,800		7,400	4,344,300
Cooperative Welfare Fund (Federal)	127,000	988,900		93,400	1,209,300
TOTAL	$11,385,400	$ 2,886,300	$ 50,100	$ 691,700	$ 15,013,500
D. STATE HOSPITAL NORTH:					
FROM:					
General Fund	$ 3,728,700				$ 3,728,700
Cooperative Welfare Fund (Other)	276,500				276,500
Alcoholism Treatment Fund	319,900				319,900
State Hospital North Income Fund	165,400	$ 518,500	$ 38,400	$ 20,000	742,300
Cooperative Welfare Fund (Federal)	72,700				72,700
TOTAL	$ 4,563,200	$ 518,500	$ 38,400	$ 20,000	$ 5,140,100
E. STATE HOSPITAL SOUTH:					
FROM:					
General Fund	$ 8,375,300				$ 8,375,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Other)	2,441,200	$ 804,000		$ 10,800	3,256,000
State Hospital South Income Fund	827,700	792,400	$ 91,400	62,400	1,773,900
TOTAL	$11,644,200	$ 1,596,400	$ 91,400	$ 73,200	$ 13,405,200
F. ADULT SERVICES:					
FROM:					
General Fund	$ 1,216,800	$ 151,300		$ 71,000	$ 1,439,100
Cooperative Welfare Fund (Other)		5,900			5,900
TOTAL	$ 1,216,800	$ 157,200		$ 71,000	$ 1,445,000
DIVISION TOTAL	$55,506,100	$ 9,185,400	$309,900	$ 4,694,100	$ 69,695,500
GRAND TOTAL	$76,882,200	$20,074,600	$341,100	$40,533,200	$137,831,100

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. 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 Community Services and the Division of Community Rehabilitation any unexpended and unencumbered balances of the Cooperative Welfare Fund moneys, as appropriated in fiscal year 1995 for the Division of Family and Community Services and the Division of Community Rehabilitation, to be used for nonrecurring expenditures only for the period July 1, 1995, through June 30, 1996.

SECTION 5. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for the Division of Family and Community Services and the Division of Community Rehabilitation is hereby authorized to expend all receipts collected in the Division of Family and Community Services and the Division of Community Rehabilitation as noncognizable funds for the period July 1, 1995, through June 30, 1996.

SECTION 6. It is legislative intent that, of those moneys appropriated for Substance Abuse Prevention, $100,000 be used to purchase radio and television advertising, targeted to adolescents, with factual messages concerning alcohol, drugs, and tobacco. At least half of this amount is to be used for messages on alcohol.

SECTION 7. It is legislative intent that all of the powers, duties, and functions of the Idaho Office for Children and Early Childhood Education, as established by Executive Order No. 91-6, are hereby transferred to the Director of the Department of Health and Welfare. Such powers, duties and responsibilities are hereby established in the Department of Health and Welfare without regard to the existence of Executive Order No. 91-6. The Director shall have all such powers and duties as may have been or could have been exercised by his or her predecessors in law, and shall be the successor in law to all contractual obligations entered into by his or her predecessors in law.

SECTION 8. To provide maximum flexibility in dealing with personnel reductions contained in this act, the Department of Health and Welfare is hereby exempted from the provisions of Section 67-3511(1) and (2), Idaho Code, for all moneys appropriated to it for the period of July 1, 1995, through June 30, 1996. Transfers of moneys between programs in the same appropriation bill and transfers of moneys between programs in different appropriation bills are still subject to the approval of the Division of Financial Management.

Approved March 21, 1995.

CHAPTER 338
(S.B. No. 1199)

AN ACT

RELATING TO THE RECHARGE OF GROUND WATER BASINS; AMENDING SECTION 42-4201, IDAHO CODE, TO EXTEND THE WAIVER OF THE FEE REQUIRED FOR AN APPLICATION FOR A PERMIT TO APPROPRIATE WATER FOR ONE ADDITIONAL YEAR.

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 appropria-

tion 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<u>7</u>, for recharge projects for recharge districts formed under this section.

Approved March 21, 1995.

CHAPTER 339
(S.B. No. 1215, As Amended in the House)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-114, IDAHO CODE, TO DELETE THE DEFINITION OF "MOTOR DRIVEN CYCLE"; AMENDING SECTION 49-306, IDAHO CODE, TO REVISE CERTAIN FEES AND TO DISTRIBUTE A PORTION OF CERTAIN FEES TO THE MOTORCYCLE SAFETY FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-313, IDAHO CODE, TO SHORTEN THE PERIOD OF TIME IN WHICH A PERSON FAILING TO PASS A KNOWLEDGE OR SKILLS TEST MAY RETAKE THE TEST AND TO PROVIDE A GRANDFATHER CLAUSE UNTIL SEPTEMBER 1, 1998 BEFORE A MOTORCYCLE SKILLS TEST FOR A MOTORCYCLE ENDORSEMENT WILL BE REQUIRED; AND AMENDING SECTION 49-318, IDAHO CODE, TO PROVIDE FOR DUPLICATE DRIVER'S LICENSES FOR CLASS D DRIVER'S LICENSES AND TO PROVIDE FOR DUPLICATE ENDORSEMENTS.

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

SECTION 1. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M.

(1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration or use fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Moped" means a limited-speed motor-driven cycle which is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(9) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor and moped.

(10) ~~"Motor--driven-cycle"-means-every-motorcycle,-motor-scooter, or-motorized-bicycle-having-an-engine-with-less-than-one-hundred-fifty (150)-cubic-centimeters-displacement-or-with-five-(5)-brake-horsepower or-less.~~

~~(11)~~ "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American National Standards Institute (ANSI) A119.7 Standard for Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or ice box, self-contained

toilet, heating and/or air conditioning, a portable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(1~~2~~1) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a handicapped person.

(1~~3~~2) "Motor number." (See "Identifying number", section 49-110, Idaho Code)

(1~~4~~3) "Motor vehicle." (See "Vehicle", section 49-123, Idaho Code)

(1~~5~~4) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210 or 49-1211, Idaho Code, as proof of financial responsibility, and issued, except as otherwise provided in section 49-1211, Idaho Code, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

SECTION 2. 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 ..... $2~~3~~4.50
(b) Class D license ..... $~~19~~20.50
(c) Class A, B, C instruction permit $15.50
(d) Class D instruction permit $11.50
(e) Duplicate driver's license or permit issued under section 49-318, Idaho Code $11.50
(f) Driver's license extension issued under section 49-319, Idaho Code ..... $ 6.50
(g) License classification change (upgrade) $15.50
(h) Endorsement addition $11.50
(i) Class A, B, C skills tests $35.00
(j) Class D skills test ..... $ 3.00
(k) Motorcycle endorsement skills test .....$ 5.00
(l) Knowledge test ..... $ 3.00
(m) Seasonal driver's license $23.50
(n) One time mMotorcycle "M" endorsement ..... $~~20.0~~11.50
(o) Motorcycle endorsement instruction permit ..... $~~20.0~~11.50

(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 two dollars and fifty cents ($2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars ($3.00) from each fee for a knowledge test or class D skills test in the current expense fund; and

(d) Deposit an amount equal to five dollars ($5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar ($5.00) fee; and

(e) Remit the remainder to the state treasurer.

(7) When the fees required under this section are collected by a

state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars ($2.00) of each fee for a driver's license or seasonal driver's license shall be deposited in the emergency medical services account II created in section 39-146A, Idaho Code; and

(b) Sixteen dollars and fifty cents ($16.50) of each fee for a seasonal or class A, B, or C driver's license shall be deposited in the state highway account; and

(c) Ten dollars and fifty cents ($10.50) of each fee for a class A, B, or C instruction permit or driver's license classification change shall be deposited in the state highway account; and

(d) Six dollars and fifty cents ($6.50) of each fee for a duplicate seasonal or class A, B, or C driver's license, class A, B, or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(e) Four dollars ($4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(f) Five dollars and thirty cents ($5.30) of each fee for a class D driver's license shall be deposited in the driver training account; and

(g) Seven dollars and twenty cents ($7.20) of each fee for a class D driver's license shall be deposited in the highway distribution account; and

(h) Two dollars and sixty cents ($2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training account; and

(i) Three dollars and ninety cents ($3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution account; and

(j) Five dollars ($5.00) of each fee for a class A, B, or C skills test shall be deposited in the state highway account; and

(k) ~~Thirteen--dollars--and--fifty--cents--($13.50)--of~~ One dollar ($1.00) for each fee for a ~~motorcycle-endorsement--and--motorcycle endorsement-instruction-permit~~ class A, B, C or D driver's license shall be deposited in the motorcycle safety program fund established in section 33-4804, Idaho Code.

(9) The contractor administering the skills test shall be entitled to thirty dollars ($30.00) of the skills test fee. A contractor administering the skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) The department may issue seasonal class B or C driver's licenses that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days

in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one ~~hundred-fifty~~ 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 3. That Section 49-313, Idaho Code, be, and the same is hereby amended to read as follows:

49-313. EXAMINATION OF APPLICANTS. (1) The sheriff or deputy shall examine every applicant for an instruction permit, seasonal driver's license, or a driver's license or a motorcycle endorsement, except as otherwise provided by law. It shall include a test of the applicant's eyesight and hearing, his ability to read and understand highway signs regulating, warning, and directing traffic. At the discretion of the examiner, a skills test which constitutes an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle for a class D driver's license or in the operation of a motorcycle for a motorcycle endorsement may be required, and a skills test shall be required for an applicant not previously licensed or endorsed for operation of a motorcycle. In addition, the applicant's knowledge of traffic laws of this state and a motorcycle endorsement applicant's knowledge of safe motorcycle operating practices and traffic laws specifically relating to motorcycle operation shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skill examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) The skill test for a class A, B, C or D driver's license or for any endorsement other than a motorcycle endorsement shall be given by the department or its authorized agents. The skills examiner for a motorcycle endorsement shall be certified by the department of education.

(4) Any person who has successfully completed an approved driver training course and who applies for a driver's license more than three (3) months after completion of the driver training course shall be required to retake the skill test in addition to any other tests required upon application for a driver's license.

(5) The department shall not issue a tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test. The department shall not issue a passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

(6) Any person failing to pass a knowledge or skill test for a class A, B, C or D driver's license or any endorsement may not retake the test within ~~one (1) week~~ three (3) business days of the failure.

(7) Any person retaking a knowledge endorsement or skill test for a driver's license shall pay the appropriate testing fee as specified in section 49-306, Idaho Code.

(8) A skill examination for a class A, B or C driver's license may be waived for an applicant who certifies within the preceding two (2) years:

(a) He has not violated the single license provisions of 49 CFR part 383;

(b) He has not had any license suspension, revocation or cancellation;

(c) He has not had any conviction for any type of motor vehicle for any of the disqualification offenses contained in 49 CFR part 383.51;

(d) He has not had any violation of state or local laws relating to motor vehicle traffic control, arising in connection with any traffic accident, and has no record of an accident in which he was at fault; and

(e) He is regularly employed in a job requiring operation of a commercial motor vehicle; and

(f) He has previously taken and passed a skills test given by a state classified licensing and testing system and that the test was behind-the-wheel in a representative vehicle for that applicant's driver's license classification; or

(g) He has operated, for at least two (2) years immediately preceding application for a commercial driver's license, a vehicle representative of the commercial motor vehicle he operates or expects to operate.

(9) The motorcycle skills test for a motorcycle endorsement shall be waived by the department:

(a) On and after September 1, 1998, i~~f~~f the applicant presents satisfactory evidence of successful completion of a recognized motorcycle rider training course approved by the department of education;

(b) On and after September 1, 1998, i~~f~~f the applicant presents evidence of a motorcycle endorsement on his current license by a state or province which requires a motorcycle skills test equivalent to that required by Idaho law as determined by the department of education;

(c) Until September 1, 1998.

(10) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(11) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe

that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the eye test, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

(12) The department or its authorized agents may deny issuance or renewal of a driver's license or endorsement to any applicant who does not meet the licensing requirements for the class of driver's license or endorsement being renewed or issued.

(13) Skill examinations for seasonal driver's licenses shall be waived.

SECTION 4. That Section 49-318, Idaho Code, be, and the same is hereby amended to read as follows:

49-318. DUPLICATE DRIVER LICENSES. In the event that any instruction permit, class A, B, C, or D or seasonal driver's license is lost or destroyed, or a name of a licensee is changed by marriage or otherwise legally changed, the person to whom the permit or driver's license was issued may, upon payment of the fee fixed in section 49-306, Idaho Code, and upon furnishing satisfactory proof to the department that the permit, class A, B, C, or D or seasonal driver's license has been lost or destroyed, or the name has been changed, obtain a duplicate or substitute permit or driver's license together with appropriate endorsements that may have existed on the previous permit or license. The applicant shall provide proof of identity and date and place of birth as set forth in a certified copy of his birth certificate and other satisfactory evidence. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

Approved March 21, 1995.

CHAPTER 340
(H.B. No. 318, As Amended, As Amended in the Senate)

AN ACT

RELATING TO TAXATION OF AMUSEMENT DEVICES; AMENDING SECTION 63-3623B, IDAHO CODE, TO REQUIRE A PERMIT FOR EACH AMUSEMENT DEVICE AND A FEE IN LIEU OF SALES TAX, TO PROVIDE FOR APPLICATIONS, TO AUTHORIZE THE STATE TAX COMMISSION TO DEVISE A SYSTEM FOR AFFIXING INDICIA EVIDENCING PAYMENT OF THE ANNUAL PERMIT FEE, TO PROVIDE GROUNDS FOR SUSPENSION OR REVOCATION AND TO PROVIDE PENALTIES.

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

SECTION 1. That Section 63-3623B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3623B. AMUSEMENT DEVICES. (a) For purposes of this section the term "amusement device" shall mean all coin or token operated machines

and devices which are used for amusement including, but not limited to, game machines, pool tables, juke boxes, electronic games and similar devices.

(b) ~~The--charge-for-using-an-amusement-device-shall-be-subject-to the-taxes-imposed-in-this-chapter-and-the-tax--shall--be--computed--by multiplying--seventy--per--cent--(70%)-of-the-gross-proceeds-from-each amusement-device-by-one-hundred-seventeen-per-cent-(117%)-and-applying the-applicable-tax-rate-established-in-this--chapter--to--the--product thus--computed.--The--owner-or-lessee-of-the-amusement-device-shall-be the-person-responsible-for-filing-all-returns-and-remitting-all--taxes due--relating--to-the-proceeds-of-the-amusement-device.~~ In lieu of the imposition of sales tax upon the use of the amusement device, the owner or lessee or person having the right to impose a charge for use of the amusement device must pay an annual permit fee of thirty-five dollars ($35.00) for each such device.

(c) Upon payment of the permit fees, the state tax commission shall issue the permit(s) to the owner or lessee or person having the right to impose a charge for use of the amusement device. Such permit fee may be increased in a proportionate amount by the commission if the state sales tax rate increases.

(d) All applications for a permit renewal must be made to the state tax commission on or before July 1 of each year. Such application shall contain the same information required on an application to secure a seller's permit under this chapter and shall be accompanied by the annual permit fee due for each device.

(e) The state tax commission shall adopt a uniform system of providing, affixing and displaying official decals, labels or other official indicia evidencing that the owner, lessee, or person having the right to impose a charge for the use of the amusement device has paid the annual permit fee for such amusement device. No person subject to a permit fee under this chapter may impose a charge or collect any consideration for use of such amusement device unless such official decal, label, or other official indicia, as required herein, is affixed to such amusement device.

(f) The state tax commission shall suspend or revoke an amusement device permit if it finds that the owner, lessee, or person having the right to impose a charge for the use of the amusement device does not comply with the rules promulgated governing this section, including, but not limited to, failure to answer a question or intentionally make a false statement in or in connection with the application or renewal of an amusement device permit; or allows the use of its amusement device permits by any other business entity or person who owns or operates coin operated amusement devices available for commercial use or available to the public for play. If such unauthorized use occurs, the commission may assess the owner, lessee, or person having the right to impose a charge for the use of the amusement device penalties in the amount of two hundred dollars ($200) for each improper use of a permit sticker.

(g) In addition to the penalties set forth above and in section 63-3634, Idaho Code, the state tax commission may assess the following penalties:

(1) If any owner, lessee, or person having the right to impose a charge for the use of any coin operated amusement device in this

state shall violate any provision of this section or any rule promulgated under this section, the commission may assess penalties, of fifty dollars ($50.00) for each device for failure to pay timely permit sticker fees.

(2) A person who knowingly secures or attempts to secure an amusement device permit sticker under this section by fraud, misrepresentation, or subterfuge or uses any permit issued under this section in a fraudulent manner shall be subject to a penalty of up to twenty-five thousand dollars ($25,000).

(h) The state tax commission shall impose the penalties provided in this section by a notice of deficiency determination in the manner provided in section 63-3629, Idaho Code, which shall be subject to review as provided in section 63-3631, Idaho Code.

(i) The commission may revoke all permits of any person who operates any amusement device without complying with the provisions of this section. Notice of revocation shall be given in the manner provided for deficiencies in taxes in section 63-3629, Idaho Code, which shall be subject to review as provided in section 63-3631, Idaho Code.

Approved March 21, 1995.

CHAPTER 341
(H.B. No. 100, As Amended in the Senate)

AN ACT

RELATING TO MANUFACTURED HOUSING; AMENDING CHAPTER 22, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-2206, IDAHO CODE, TO PROVIDE FOR INSTALLATION OF ELECTRICAL SERVICE EQUIPMENT IN OR ON A MANUFACTURED HOME IF CERTAIN CONDITIONS ARE MET.

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

SECTION 1. That Chapter 22, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 44-2206, Idaho Code, and to read as follows:

44-2206. INSTALLATION OF ELECTRICAL SERVICE EQUIPMENT. Electrical service equipment shall be permitted to be installed in or on a manufactured home, provided that all of the following conditions are met:

(1) The service equipment must be completely installed by either the manufacturer of the structure or an Idaho licensed electrical contractor. On site installations by an electrical contractor may be made only when the following conditions are met:

(a) The manufactured home must have been manufactured after January 1, 1992, be multisectional, have all of its running gear removed and be permanently affixed to a concrete foundation in accordance with this chapter and all other applicable building codes;

(b) The manufactured home will qualify for assessment as real property for purposes of ad valorem taxation, as provided in sec-

tion 63-307B, Idaho Code, and all other applicable Idaho law;

(c) The manufacturer certifies that the structure is physically capable of carrying the structural loads imposed by the installation of the electrical service equipment on the exterior of the home.

(2) The installation of the service equipment must otherwise comply with article 230 of the national electrical code, 1993 edition, or as provided in such later edition as may be adopted by the Idaho electrical board.

(3) Means must be provided for the connection of a grounding electrode conductor to the service equipment and routing it outside the structure.

Approved March 21, 1995.

CHAPTER 342
(H.B. No. 370)

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 governance of the higher educational system the following amount from the listed fund for the period from the effective date of this act through June 30, 1996:

FROM:

General Fund $100,000

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

Approved March 21, 1995.

CHAPTER 343
(H.B. No. 391)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1996; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1996; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Water Resources the following amounts to be expended for the designated program according to the designated standard classifications from the listed fund for the period July 1, 1995, through June 30, 1996:

SNAKE BASIN ADJUDICATION:

FROM:	
Water Claims Adjudication Fund	$133,800
FOR:	
Personnel Costs	$125,600
Operating Expenses	8,200
TOTAL	$133,800

SECTION 2. There is hereby appropriated to the Attorney General the following amounts to be expended for the State Legal Services Program according to the designated standard classifications from the listed fund for the period July 1, 1995, through June 30, 1996:

FROM:	
State Legal Services Fund	$133,800
FOR:	
Personnel Costs	$125,600
Operating Expenses	8,200
TOTAL	$133,800

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than three (3) full-time equivalent positions, in addition to the full-time equivalent positions authorized by Senate Bill 1282, as enacted by the First Regular Session of the Fifty-third Idaho Legislature, at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 344
(H.B. No. 387)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INEL OVERSIGHT AND THE DIVISION OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 1996; AMENDING CHAPTER 36, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3605C, IDAHO CODE, TO CREATE THE ENVIRONMENTAL REMEDIATION FUND; AMENDING CHAPTER 36, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3606C, IDAHO CODE, TO ESTABLISH PURPOSES FOR THE FUND; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM VARIOUS FUNDS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO AUTHORIZED OR MANDATED SERVICES; SUPER-

SEDING THE PROVISIONS OF SECTION 39-3606, IDAHO CODE; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF MONEYS; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; EXEMPTING THE DEPARTMENT FROM APPROPRIATION TRANSFER LIMITATIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS TO THE ENVIRONMENTAL REMEDIATION FUND; EXPRESSING LEGISLATIVE INTENT REGARDING THE ENVIRONMENTAL REMEDIATION FUND AND REQUIRING AN ANNUAL REPORT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE ENVIRONMENTAL CLEANUP, REMEDIATION AND RESTORATION OF BUNKER HILL FOR FISCAL YEAR 1996.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare the following amounts to be expended for the designated programs according to the designated standard classifications from the various funds listed for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INEL OVERSIGHT:					
FROM:					
Hazardous Waste Training, Emergency and Monitoring Fund	$ 207,000	$ 17,400			$ 224,400
Cooperative Welfare Fund (Federal)	1,647,100	924,400		$ 1,046,400	3,617,900
TOTAL	$ 1,854,100	$ 941,800		$ 1,046,400	$ 3,842,300
II. DIVISION OF ENVIRONMENTAL QUALITY:					
A. PLANNING AND SUPPORT SERVICES:					
FROM:					
General Fund	$ 122,800	$ 141,000			$ 263,800
Air Quality Permitting Fund	123,400	197,400			320,800
Cooperative Welfare Fund (Other)	88,500	26,000			114,500
Water Pollution Control Fund	509,100	566,400			1,075,500
Hazardous Waste Training, Emergency and Monitoring Fund	374,500	407,000			781,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Federal)	1,184,900	584,700			1,769,600
TOTAL	$ 2,403,200	$1,922,500			$ 4,325,700
B. PERMITS AND ENFORCEMENT:					
FROM:					
General Fund	$ 425,800	$ 78,700			$ 504,500
Cooperative Welfare Fund (Other)	389,600	14,300			403,900
Water Pollution Control Fund	441,800	57,300			499,100
Hazardous Waste Training, Emergency and Monitoring Fund	596,400	152,800			749,200
Air Quality Permitting Fund	872,800	232,600			1,105,400
Cooperative Welfare Fund (Federal)	747,100	82,000			829,100
TOTAL	$ 3,473,500	$ 617,700			$ 4,091,200
C. COMMUNITY PROGRAMS:					
FROM:					
General Fund	$ 278,300	$ 102,600			$ 380,900
Cooperative Welfare Fund (Other)	827,700	300,400	$ 32,000	$ 11,000	1,171,100
Water Pollution Control Fund	2,933,800	2,049,800	118,200	13,348,600	18,450,400
Hazardous Waste Training, Emergency and Monitoring Fund	751,500	204,600	18,000		974,100
Air Quality Permitting Fund	241,100	98,200	13,700	189,000	542,000
State Agricultural Smoke Management Fund		30,400			30,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Federal)	3,973,400	1,171,600	64,700	1,003,700	6,213,400
TOTAL	$ 9,005,800	$3,957,600	$246,600	$14,552,300	$27,762,300
DIVISION TOTAL	$14,882,500	$6,497,800	$246,600	$14,552,300	$36,179,200
GRAND TOTAL	$16,736,600	$7,439,600	$246,600	$15,598,700	$40,021,500

SECTION 2. That Chapter 36, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3605C, Idaho Code, and to read as follows:

39-3605C. ENVIRONMENTAL REMEDIATION FUND ESTABLISHED. There is hereby created in the state treasury a fund to be known as the environmental remediation fund. Surplus moneys in the environmental remediation fund shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury under section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the environmental remediation fund. The fund may have paid into it:

(1) Legislative appropriations and transfers from other funds;

(2) All donations and grants from any source which may be used for the provisions of this act;

(3) Any other funds which may hereafter be provided by law.

SECTION 3. That Chapter 36, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3606C, Idaho Code, and to read as follows:

39-3606C. APPROPRIATION OF ENVIRONMENTAL REMEDIATION FUND -- PURPOSE OF CHAPTER. Moneys in the environmental remediation fund may be used for annual legislative appropriations for the purpose of environmental cleanup and remediation and restoration in, but not limited to, the following areas:

(1) To provide the state's matching share of grants for remediation including superfund grants;

(2) To provide for the operations of remediation activities.

SECTION 4. As appropriated, the State Controller shall make transfers of the General Fund, the Water Pollution Control Fund, and the Hazardous Waste Training, Emergency and Monitoring 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 5. 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 6. It is legislative intent that the appropriation of moneys from the Water Pollution Control Fund specifically supersedes the provisions of Section 39-3606, Idaho Code.

SECTION 7. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances of the Cooperative Welfare Fund moneys as appropriated in the current fiscal year, to be used for nonrecurring expenditures only.

SECTION 8. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all receipts collected as noncognizable funds.

SECTION 9. To provide maximum flexibility in dealing with personnel reductions contained in this act, the Department of Health and Welfare is hereby exempted from the provisions of Section 67-3511(1) and (2), Idaho Code, for all moneys appropriated to it for the period July 1, 1995, through June 30, 1996. Transfers of moneys between programs in the same appropriation bill and transfers of moneys between programs in different appropriation bills are still subject to the approval of the Division of Financial Management.

SECTION 10. Of the appropriation contained in Section 1 of this act for the Bunker Hill Superfund Site, the State Controller is hereby directed to transfer $2,380,000 from the Water Pollution Control Fund to the Environmental Remediation Fund for the period July 1, 1995, through June 30, 1996.

SECTION 11. It is legislative intent that moneys deposited into the Environmental Remediation Fund are to be used solely for Bunker Hill remediation within the site and that in accordance with the Bunker Hill Remedial Action Management Plan an annual report shall be filed no later than January 1 of each year with the Governor, the Legislature, and the Bunker Hill Superfund Task Force on the remediation progress and the expenditures involved.

SECTION 12. There is hereby appropriated to the Department of Health and Welfare for the environmental cleanup, remediation, and restoration of Bunker Hill the following amount according to the designated expense classes from the listed fund for the period July 1, 1995, through June 30, 1996:

FOR:	
Personnel Costs	$ 120,000
Operating Expenditures	1,060,000
Trustee and Benefit Payments	1,200,000
TOTAL	$2,380,000
FROM:	
Environmental Remediation Fund	$2,380,000

Approved March 21, 1995.

CHAPTER 345
(H.B. No. 388)

AN ACT

APPROPRIATING MONEYS FOR THE HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 1996; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR THE SEVERAL DESIGNATED PROGRAMS; AND SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. WOI VETERINARY EDUCATION PROGRAM:					
FROM:					
General Fund	$ 378,400	$833,300			$1,211,700
B. WAMI MEDICAL EDUCATION PROGRAM:					
FROM:					
General Fund	$ 536,000	$ 66,400	$13,700	$1,784,800	$2,400,900
Unrestricted Current Fund	31,600			79,000	110,600
TOTAL	$ 567,600	$ 66,400	$13,700	$1,863,800	$2,511,500
C. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General Fund	$ 137,200	$ 12,400	$ 5,000	$ 351,700	$ 506,300
Unrestricted Current Fund	56,500				56,500
TOTAL	$ 193,700	$ 12,400	$ 5,000	$ 351,700	$ 562,800

D. WICHE AND UNIVERSITY OF UTAH MEDICAL EDUCATION PROGRAM:					
FROM:					
General Fund				$ 634,100	$ 634,100
E. FAMILY PRACTICE RESIDENCY PROGRAM:					
FROM:					
General Fund	$ 318,000	$ 16,000	$ 7,900	$ 341,900	$ 683,800
GRAND TOTAL	$1,457,700	$928,100	$26,600	$3,191,500	$5,603,900

SECTION 2. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than nineteen and forty-seven one hundredths (19.47) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the Board of Regents of the University of Idaho and to the State Board of Education for the WOI Veterinary Education Program, WAMI Medical Education Program, Idaho Dental Education Program and Family Practice Residency Program, subject to the provisions of Section 4 of this act, the unexpended and unencumbered balance of any General Fund appropriation made to each respective program under Section 1, Chapter 155, Laws of 1994, for each respective program to be used for nonrecurring expenditures for the period July 1, 1995, through June 30, 1996.

SECTION 4. The reappropriation granted in Section 3 of this act shall be subject to the following conditions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is zero, the reappropriation in Section 3 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is greater than zero but less than the total reappropriation authority granted to all state agencies, the amounts reappropriated in Section 3 shall be in the proportion that the reappropriation for each program bears to the total reappropriation authority granted to all state agencies.

Approved March 21, 1995.

CHAPTER 346
(H.B. No. 389)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES, VETERANS SERVICES, AND INDEPENDENT COMMISSIONS AND COUNCILS FOR FISCAL YEAR 1996; PROVIDING THAT THE STATE

CONTROLLER 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; AUTHORIZING THE EXPENDITURE OF ALL RECEIPTS COLLECTED; EXEMPTING THE DEPARTMENT FROM APPROPRIATION TRANSFER LIMITATIONS; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils the following amounts to be expended for the designated programs according to the designated standard classifications from the funds listed for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. INDIRECT SUPPORT SERVICES:					
FROM:					
General Fund	$ 5,619,000	$ 5,405,300	$144,600		$11,168,900
Cooperative Welfare Fund (Other)		124,600			124,600
Cooperative Welfare Fund (Federal)	4,848,000	4,135,400	61,900		9,045,300
TOTAL	$10,467,000	$ 9,665,300	$206,500		$20,338,800
II. VETERANS SERVICES:					
FROM:					
General Fund	$ 2,295,700	$ 356,100		$ 50,700	$ 2,702,500
Cooperative Welfare Fund (Other)	3,765,300	1,155,700			4,921,000
Idaho Veterans Home Income Fund		497,000		1,000	498,000
Cooperative Welfare Fund (Federal)	2,297,400	587,300			2,884,700
TOTAL	$ 8,358,400	$ 2,596,100		$ 51,700	$11,006,200
III. INDEPENDENT COMMISSIONS AND COUNCILS:					
A. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Domestic Violence Fund	$ 90,100	$ 61,900		$ 344,300	$ 496,300
Cooperative Welfare Fund (Federal)	8,900	10,000		688,500	707,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare Fund (Other)		10,000			10,000
TOTAL	$ 99,000	$ 81,900		$1,032,800	$ 1,213,700
B. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
General Fund	$ 52,500	$ 20,600		$ 11,200	$ 84,300
Cooperative Welfare Fund (Federal)	222,200	102,100		136,100	460,400
TOTAL	$ 274,700	$ 122,700		$ 147,300	$ 544,700
C. COUNCIL FOR THE DEAF AND HEARING-IMPAIRED:					
FROM:					
General Fund	$ 62,800	$ 30,000			$ 92,800
DIVISION TOTAL	$ 436,500	$ 234,600		$1,180,100	$ 1,851,200
GRAND TOTAL	$19,261,900	$12,496,000	$206,500	$1,231,800	$33,196,200

SECTION 2. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 3. Notwithstanding any other provision of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources.

SECTION 4. There is hereby reappropriated to the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils any unexpended and unencumbered balances of the Cooperative Welfare Fund moneys as appropriated for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils for fiscal year 1995, to be used for nonrecurring expenditures only for the period July 1, 1995, through June 30, 1996.

SECTION 5. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare for Indirect Support Services, Veterans Services, and the Independent Commissions and Councils is hereby authorized to expend all receipts collected in Indirect Support Services, Veterans Services, and the Independent Commissions and Councils as noncognizable funds for the period July 1, 1995,

through June 30, 1996.

SECTION 6. To provide maximum flexibility in dealing with personnel reductions contained in this act, the Department of Health and Welfare is hereby exempted from the provisions of Section 67-3511(1) and (2), Idaho Code, for all moneys appropriated to it for the period July 1, 1995, through June 30, 1996. Transfers of moneys between programs in the same appropriation bill and transfers of moneys between programs in different appropriation bills are still subject to the approval of the Division of Financial Management.

SECTION 7. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than three thousand eight hundred sixty-six and sixty-six hundredths (3,866.66) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, unless authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 21, 1995.

CHAPTER 347
(H.B. No. 383)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1996; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT AS TO PAYMENTS FOR HOUSING STATE PRISONERS; AND EXPRESSING LEGISLATIVE INTENT AS TO INMATE MEDICAL SERVICE CONTRACTS.

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, 1995, through June 30, 1996:

FROM:	
General Fund	$57,884,800
Miscellaneous Revenue Fund	91,100
Parolee Supervision Fund	1,284,700
Penitentiary Endowment Fund	1,071,500
Work Crews - Inmate Labor Fund	2,194,700
Community Work Centers - Inmate Labor Fund	294,700
Federal Grant Fund	812,900
TOTAL	$63,634,400

SECTION 2. There is hereby appropriated to the Department of Correction the following amounts, to be expended for designated programs according to designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Fund	$ 2,422,400	$1,666,300	$ 328,200	$4,000,800	$ 8,417,700
Parolee Supervision Fund	39,900	14,300			54,200
Miscellaneous Revenue Fund	800	7,000			7,800
TOTAL	$ 2,463,100	$ 1,687,600	$ 328,200	$4,000,800	$ 8,479,700
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 8,975,400	$ 986,100	$ 184,600		$10,146,100
Penitentiary Endowment Fund		1,071,500			1,071,500
Federal Grant Fund	119,900	1,600			121,500
Miscellaneous Revenue Fund	52,500				52,500
TOTAL	$ 9,147,800	$ 2,059,200	$ 184,600		$11,391,600
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General Fund	$ 3,787,500	$ 1,016,200	$ 336,800	$ 49,700	$ 5,190,200
Work Crews - Inmate Labor Fund	185,700	47,400			233,100
Miscellaneous Revenue Fund		800			800
TOTAL	$ 3,973,200	$ 1,064,400	$ 336,800	$ 49,700	$ 5,424,100
D. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General Fund	$ 1,876,500	$ 688,600	$ 129,200	$ 223,000	$ 2,917,300
Work Crews - Inmate Labor Fund	91,200	96,200	5,900		193,300
TOTAL	$ 1,967,700	$ 784,800	$ 135,100	$ 223,000	$ 3,110,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General Fund	$ 3,543,300	$ 987,300	$ 139,300		$ 4,669,900
Work Crews - Inmate Labor Fund	625,400	384,300			1,009,700
TOTAL	$ 4,168,700	$ 1,371,600	$ 139,300		$ 5,679,600
F. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General Fund	$ 6,698,500	$ 1,389,600	$ 217,200		$ 8,305,300
G. ST. ANTHONY WORK CAMP:					
FROM:					
General Fund	$ 1,232,500	$ 304,800	$ 77,100		$ 1,614,400
Federal Grant Fund		22,800			22,800
Work Crews - Inmate Labor Fund	294,700	347,300	43,400		685,400
TOTAL	$ 1,527,200	$ 674,900	$ 120,500		$ 2,322,600
H. POCATELLO WOMENS CORRECTIONAL CENTER:					
FROM:					
General Fund	$ 2,489,100	$ 688,800			$ 3,177,900
I. FIELD AND COMMUNITY SERVICES:					
FROM:					
General Fund	$ 7,466,400	$ 1,251,200	$ 642,300		$ 9,359,900
Parolee Supervision Fund	1,099,200	118,900	12,400		1,230,500
Federal Grant Fund	292,500	84,200			376,700
Miscellaneous Revenue Fund	13,300	16,700			30,000
Community Work Centers - Inmate Labor Fund		294,700			294,700
TOTAL	$ 8,871,400	$ 1,765,700	$ 654,700		$ 11,291,800
J. PAROLE COMMISSION:					
FROM:					
General Fund	$ 391,600	$ 134,200	$ 4,300		$ 530,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
K. INSTITUTIONAL SUPPORT:					
FROM:					
General Fund	$ 1,249,600	$ 2,240,700	$ 65,700		$ 3,556,000
Federal Grant Fund	231,100	60,800			291,900
Work Crews - Inmate Labor Fund	70,000	3,200			73,200
TOTAL	$ 1,550,700	$ 2,304,700	$ 65,700		$ 3,921,100
GRAND TOTAL	$43,249,000	$13,925,500	$2,186,400	$4,273,500	$63,634,400

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than one thousand one hundred sixty-three and fifty-three one hundredths (1,163.53) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. 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.

SECTION 5. It is legislative intent that the Department of Correction negotiate provider contracts at the state medicaid reimbursement rate for inmate medical services which the department cannot provide.

Approved March 21, 1995.

CHAPTER 348
(H.B. No. 272, As Amended)

AN ACT

RELATING TO TAXATION OF SPECIAL FUELS; AMENDING SECTION 63-2401, IDAHO CODE, RELATING TO DEFINITIONS, TO FURTHER DEFINE TERMS; AMENDING SECTION 63-2410, IDAHO CODE, TO PROVIDE FOR MONTHLY REFUNDS OF TAXES PAID ON MOTOR FUEL NOT SUBJECT TO TAX AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-2416, IDAHO CODE, TO IMPOSE

SPECIAL FUELS TAX AT THE TIME OF RECEIPT AND TO PROVIDE EXEMPTIONS FOR DYED FUEL, CERTAIN EXPORTED FUEL AND CERTAIN GASEOUS FUEL, TO IMPOSE FUEL USE TAX ON SPECIAL FUEL USED IN CERTAIN RECREATIONAL VEHICLES AND CERTAIN MOTOR BOATS AND TO PROVIDE A FLOOR STOCKS TAX; AMENDING SECTION 63-2423, IDAHO CODE, TO PROVIDE EXEMPTIONS FOR SPECIAL FUEL FOR FUEL USED BY CERTAIN GOVERNMENTAL ENTITIES AND TO PROVIDE THAT NO SPECIAL FUEL REFUNDS SHALL BE PAID FOR FUEL USED IN CERTAIN BOATS; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2425, IDAHO CODE, TO PROHIBIT THE USE OF DYED FUEL ON A HIGHWAY OF THIS STATE AND TO PROVIDE EXCEPTIONS; AMENDING SECTION 63-2443, IDAHO CODE, RELATING TO PENALTIES, TO PROVIDE THAT UNLAWFUL USE OF DYED OR UNTAXED FUEL IS A MISDEMEANOR AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING AN EFFECTIVE DATE.

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

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

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

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

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

(2) "Bond" means:

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

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

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

(3) ~~"Bulk-storage-tank"-means-a-tank-with-a--capacity--of--fifty-five--(55)--gallons-capacity-or-more-which-meets-both-of-the-following criteria:~~

~~(a)--It-is-physically-attached-to-the-real-property-of-a-purchaser of-special-fuels-which-are-delivered-into-the-tank.~~

~~(b)--It-is-primarily-used-to-store-special-fuels-which-are-used-by the-purchaser-of-the-special-fuels-for-purposes-other-than-propelling-a-motor-vehicle-on-a-highway.~~

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

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

(~~6~~5) "Distributor" means any person who receives gasoline, special fuels, and/or aircraft fuel in this state. Any person who sells or receives gaseous fuels will not be considered a distributor unless the gaseous fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

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

(7) "Gasohol" means 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~~ 63-2427A, 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 gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles or motor boats.

(1~~3~~2) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(1~~4~~3) "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~~4~~) "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.

(1~~7~~5) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(18~~6~~) "Special fuels" mean:

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

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

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

(19~~7~~) "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--person--who--is--not--a licensed--special--fuels-dealer~~ "distributor" under subsection (5) of this section.

(~~20~~18) "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~~19) "Use" means either:

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

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

~~(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 63-2410, Idaho Code, be, and the same is hereby amended to read as follows:

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

filing of a receipt or proof showing the payment of tax on the gasoline used in any other state.

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

(a) Operating stationary gasoline engines;

(b) Propelling equipment or vehicles, other than motor vehicles, which are not operated on a highway; and

(c) Operating commercial motor boats.

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

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

(b) Aircraft engine fuel placed in aircraft; or

(c) Gasoline used in recreational vehicles; or

(d) Gasoline used in noncommercial motor boats.

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

(5) (a) All claims for refund of gasoline taxes arising under subsection (1) or (2) of this section shall be filed in conjunction with the claimant's income tax return due pursuant to chapter 30, title 63, Idaho Code. The gasoline tax refund claimed shall be tax paid on gasoline actually purchased during the taxable year to which the income tax return relates. The gasoline tax refund due shall be offset against any other taxes, penalties or interest due before any balance is refunded by the commission to the claimant. Subject to a limitation as to the amount of refund to be claimed as the commission may provide by ~~regulation~~ rule, refund claims may be submitted and paid on a ~~quarterly~~ monthly basis and reconciled on the income tax return when it is filed.

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

(c) Claims for refunds under subsection (1) or (2) of this section shall be filed within the time and in the manner prescribed in section 63-3072, Idaho Code.

(d) The commission may require that all claims be accompanied by the original signed invoice or invoices issued to the claimant, showing the total amount of gasoline on which a refund is claimed and the reason, the amount of the tax and any additional information required by the commission. Each separate delivery shall constitute a purchase and a separate invoice shall be prepared, at

least in duplicate, to cover the delivery. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or double-spaced carbon shall be used between the original and first duplicate.

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

(b) The commission has authority, in order to establish the validity of any claim, to examine the books and records of the claimant for that purpose, and failure of the claimant to accede to the demand for the examination may constitute a waiver of all rights to the refund claimed.

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

SECTION 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~~ special fuels are received, in the same manner as for gasoline under section 63-2403, Idaho Code, and is to be paid by the licensed distributor.

(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~~

(a) Which have been dyed at a refinery or terminal; or

(b) Exported, other than in the supply tanks of motor vehicles, but only if any tax due in the jurisdiction to which the special fuel is destined is paid; or

(c) Dispensed into a motor vehicle ~~to~~ which uses gaseous special fuels ~~is delivered~~ and which 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.~~

~~(4)--Special fuels delivered into a bulk storage tank 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.~~

~~(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.~~

~~(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 63-2430, Idaho Code~~ or

(d) Which are gaseous special fuels, as defined in section 63-2401, Idaho Code, unless any part thereof is delivered into the fuel supply tank or tanks of a motor vehicle.

(~~7~~3) If special fuels on which tax is not collected under subsection (1) of this section~~, including special--fuels--delivered--into--a bulk storage tank~~ or fuel on which a claim for refund has been allowed under section 63-2423, Idaho Code, is used or consumed:

(a) I~~i~~n the operation or propulsion of a motor vehicle on a highway, or

(b) In a recreational vehicle, or

(c) In noncommercial motor boats or in motor boats operated by a governmental entity,

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.

(4) A floor stocks tax is hereby imposed upon every licensed special fuels dealer on all undyed diesel fuel at the rate imposed in

subsection (1) of this section on each gallon of fuel in their possession or under their control on January 1, 1996. The tax shall be reported with the return due under this chapter for the month of January, 1996, in the manner required by the state tax commission. The tax due under this subsection shall be paid in full to the state tax commission on or before July 31, 1996.

SECTION 4. That Section 63-2423, Idaho Code, be, and the same is hereby amended to read as follows:

63-2423. CREDITS AND REFUNDS TO CONSUMERS. (1) Any person who has paid his special fuels tax directly to the vendor from whom it was purchased shall be refunded the amount of:

(a) Any special fuels tax paid on special fuels used for purposes other than propulsion of motor vehicles upon the highways in the state of Idaho;

(b) Any tax paid on special 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;

(c) Any tax paid on special fuels used in motor vehicles to which gaseous special fuel is delivered and which displays a valid gaseous special fuels permit under section 63-2424, Idaho Code;

(d) Any special fuels tax paid on special fuels exported for use outside the state of Idaho. Special fuels carried from the state in the fuel tank of a motor vehicle will not be deemed to be exported from the state unless it is subject to a like or similar tax in the state to which it is taken and that tax is actually paid to the other state; and

(~~c~~e) Any tax, penalty or interest erroneously or illegally paid or collected.

(2) No refund of special fuels tax shall be paid on:

(a) S~~s~~pecial fuels used in a recreational vehicle; or

(b) Special fuels used in noncommercial motor boats or in motor boats operated by a governmental entity.

(3) Refunds authorized in this section shall be claimed in the same manner as applies to refunds of gasoline tax under section 63-2410, Idaho Code.

SECTION 5. That Chapter 24, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2425, Idaho Code, and to read as follows:

63-2425. DYED FUEL AND OTHER UNTAXED FUEL PROHIBITED FOR USE ON A HIGHWAY. (1) Except as provided in subsection (2) of this section, no person shall operate a motor vehicle on a highway in this state if the fuel supply tanks of the vehicle contain diesel fuel which has been dyed or marked under the provisions of 26 U.S.C. 4082 and regulations adopted thereunder, or under the clean air act and regulations adopted thereunder, or contain other fuel on which the tax under section 63-2416, Idaho Code, has not been paid.

(2) The following vehicles may use dyed fuel on the highway but are subject to the tax under section 63-2416, Idaho Code, unless exempt under other provisions of this chapter:

(a) State and local government vehicles;

(b) Any vehicles which may use dyed fuel on the highway under the provisions of 26 U.S.C. 4082 or regulations adopted thereunder.

SECTION 6. That Section 63-2443, Idaho Code, be, and the same is hereby amended to read as follows:

63-2443. VIOLATIONS AND PENALTIES. (a) Acts forbidden: It shall be unlawful for any person to:

(1) Refuse, or knowingly and intentionally fail to make and file any statement required by this chapter in the manner ~~of~~ or within the time required;

(2) Wilfully fail to pay any tax due or any fee required by this chapter or any related penalties or interest;

(3) Knowingly and with intent to evade or to aid in the evasion of the tax imposed by this chapter to make any false statement or conceal any material fact in any record, return, or affidavit provided for in this chapter;

(4) Conduct any activities requiring a license under this chapter without a license or after a license has been surrendered, canceled, or revoked;

(5) Fail to keep and maintain the books and records required by this chapter;

(6) Use dyed or untaxed fuel in a manner prohibited in this chapter.

(b) Penalties and remedies: Any person violating any provision of this section is guilty of a misdemeanor, unless the act is by any other law of this state declared to be a felony, and upon conviction is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(c) Penalties are cumulative: The fine and imprisonment provided for in this section shall be in addition to any other penalty imposed by any other provision of this chapter.

SECTION 7. This act shall be in full force and effect on and after January 1, 1996.

Approved March 22, 1995.

CHAPTER 349
(H.B. No. 346)

AN ACT

RELATING TO THE DEFINITION OF THE TERM "PUBLIC UTILITY"; AMENDING SECTION 63-114A, IDAHO CODE, TO PROVIDE THAT THE TERM "PUBLIC UTILITY" DOES NOT INCLUDE COMPANIES OR PERSONS ENGAGED IN THE BUSINESS OF PROVIDING SOLELY ON A RESALE BASIS, ANY TELEPHONE OR TELECOMMUNICATION SERVICE WHICH IS PURCHASED FROM A TELEPHONE CORPORATION

OR COMPANY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-114A, Idaho Code, be, and the same is hereby amended to read as follows:

63-114A. PUBLIC UTILITY DEFINED. (1) That the term "public utility," when used in chapters 1 through 22, title 63, Idaho Code, includes electrical companies, telephone companies, telegraph companies, pipeline companies, natural gas distribution companies, cogenerators or small power producers within the meaning of section 210 of the public utility regulator policy act of 1980, telecommunication companies providing intercounty or interstate service or charging their users a separately stated fee for the use of its services, and water transportation companies. It also includes water companies, which are under the jurisdiction of the Idaho public utilities commission.

(2) The term "company" as used in this section, includes a corporation, a company, an association and a joint stock association.

(3) The term "public utility" does not include mobile telephone service or companies, nor does it include pager service or companies, except when such services are an integral part of services provided by a certificated utility company, nor does the term "public utility" include companies or persons engaged in the business of providing solely on a resale basis, any telephone or telecommunication service which is purchased from a telephone corporation or company.

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 22, 1995.

CHAPTER 350
(H.B. No. 365, As Amended)

AN ACT

RELATING TO BINGO GAMES OPERATED BY CHARITABLE OR NONPROFIT ORGANIZATIONS; AMENDING SECTION 67-7702, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7703, IDAHO CODE, TO ESTABLISH THE BINGO ADVISORY BOARD; AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7704, IDAHO CODE, TO PROVIDE THE MEMBERSHIP OF THE BINGO ADVISORY BOARD; AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7705, IDAHO CODE, TO PROVIDE FOR A QUORUM, MEETINGS AND MINUTES OF THE BINGO ADVISORY BOARD; AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7706, IDAHO CODE, TO DESCRIBE THE POWERS AND DUTIES OF THE BINGO ADVISORY BOARD; AMENDING SECTION 67-7703, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO AUTHORIZE

BINGO GAMES BY QUALIFIED CHARITABLE AND NONPROFIT ORGANIZATIONS; AMENDING SECTION 67-7704, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR TEMPORARY STATUTORY LIMITS ON THE AMOUNT THAT CAN BE PAID FOR BINGO PRIZES FOR GAMES AND SESSIONS AND TO PROVIDE THAT AFTER JULY 1, 1997, LIMITS ON PRIZES FOR BINGO GAMES AND SESSIONS SHALL BE SET BY RULE OF THE STATE LOTTERY COMMISSION; AMENDING SECTION 67-7705, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR THE ACCOUNTING AND USE OF BINGO PROCEEDS; AMENDING SECTION 67-7706, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 67-7707, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE LICENSING PROCEDURES FOR CHARITABLE AND INCORPORATED AND UNINCORPORATED NONPROFIT ORGANIZATIONS AND TO PROVIDE FOR BINGO CONTRACTS WITH OTHER STATES; AMENDING SECTION 67-7708, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR LICENSE FEES AND LICENSE SUSPENSION AND REVOCATION; AMENDING SECTION 67-7710, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE EXEMPTIONS FROM LICENSING REQUIREMENTS; AMENDING SECTION 67-7711, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO PROVIDE FOR RULEMAKING AND CREATION OF FORMS; AMENDING CHAPTER 77, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7715, IDAHO CODE, TO PROVIDE FOR THE LICENSING OF VENDORS OF BINGO AND RAFFLE EQUIPMENT; AND DECLARING AN EMERGENCY.

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" 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 winner determined either by the appearance of a preselected designation on the card or by covering a card with preselected winning numbers.

(2) "Bingo advisory board" means a board of six (6) persons chosen by the governor to make advisory recommendations to and approved by the state lottery commission regarding bingo operations and regulation in Idaho.

(3) "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.

(4) "Commission" means the Idaho state lottery commission as defined in section 67-7404, Idaho Code.

(~~3~~5) "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~~6) "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.

(7) "Nonprofit organization" means an organization incorporated under chapter 3, title 30, Idaho Code, or an unincorporated association recognized under chapter 7, title 53, Idaho Code.

(8) "Organization" means a charitable organization or a nonprofit organization.

(~~5~~9) "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 Chapter 77, 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 67-7703, Idaho Code, and to read as follows:

67-7703. BINGO ADVISORY BOARD ESTABLISHED. There is established the bingo advisory board, which is responsible for reviewing bingo operations and making recommendations for the improvement of bingo operations and regulation to the state lottery commission, the governor and the legislature, including recommendations for administrative rules.

SECTION 3. That Chapter 77, 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 67-7704, Idaho Code, and to read as follows:

67-7704. BINGO ADVISORY BOARD -- MEMBERS -- APPOINTMENT -- QUALI-

FICATIONS. The bingo advisory board shall consist of six (6) members appointed by the governor and confirmed by the senate. Members shall be selected and appointed because of their ability and disposition to serve the state's interest and for knowledge of bingo operations. Members appointed by the governor shall serve at the pleasure of the governor, and must be residents over twenty-five (25) years of age who have experience in administrating, conducting or regulating bingo operations. There shall be one (1) member from each of the following six (6) districts initially established as follows:

District No. 1. The counties of Benewah, Bonner, Boundary, Kootenai and Shoshone.

District No. 2. The counties of Clearwater, Idaho, Latah, Lewis and Nez Perce.

District No. 3. The counties of Ada, Adams, Boise, Canyon, Elmore, Gem, Payette, Owyhee, Valley and Washington.

District No. 4. The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

District No. 5. The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power.

District No. 6. The counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.

The terms of appointed members shall expire as designated by the governor at the time of appointment. The first six (6) members shall be appointed for staggered terms. At the end of a term, a member continues to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. A vacancy of the board shall be filled in the same manner as regular appointments are made, and the term shall be for the unexpired portion of the regular term. No member of the board shall have a direct or indirect pecuniary interest in any contract or agreement entered into by the board. No more than three (3) members of the board shall belong to the same political party.

SECTION 4. That Chapter 77, 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 67-7705, Idaho Code, and to read as follows:

67-7705. QUORUM -- MEETINGS -- MINUTES. A majority of the qualified membership of the bingo advisory board is a quorum. The advisory board may not act unless at least four (4) members agree. The advisory board shall meet at least three (3) times per year, and may meet more often as it deems necessary. Written notice of the time and place of each meeting shall be given to each board member. The advisory board shall select by drawing lots one (1) of its members to be chairman and one (1) of its members to be secretary. The secretary of the advisory board shall promptly send the lottery commission a certified copy of the minutes of each meeting of the advisory board. The minutes shall include a copy of the current recommendations of the board, including recommended administrative rules.

SECTION 5. That Chapter 77, 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 67-7706, Idaho Code, and to read as follows:

67-7706. BINGO ADVISORY BOARD -- POWERS -- DUTIES. The bingo advisory board shall review the operation and regulation of bingo games in Idaho, and shall make recommendations to the state lottery commission regarding, but not limited to, the following issues:

(1) The issuances of licenses for the operation of bingo sessions and games, including the denial, suspension or revocation of licenses;

(2) The collection of fees, penalties, fines and other moneys from organizations conducting or applying to conduct bingo sessions or games;

(3) The maintenance by bingo operators of records and the efficacy of the statutes and rules requiring maintenance of records;

(4) The recordation and reporting of income from bingo games to the state lottery commission, and the efficacy of the statutes and rules governing recordation and reporting;

(5) The efficacy and profitability of income and expenditure limits placed on organizations, by statute or rule, operating bingo sessions or games in the state;

(6) The type, scope, manner, and frequency of bingo sessions or games conducted in Idaho, and the efficacy of the statutes or rules governing those considerations;

(7) Possible cooperative agreements with county, city, and other local and state agencies that would enhance the safety and profitability of bingo sessions and games;

(8) Possible written agreements or contracts with other states or any agency or contractor of another state for the operation and promotion of joint bingo games that would enhance the safety and profitability of bingo operations in Idaho;

(9) What rules should be promulgated by the state lottery commission to ensure the safe, orderly and trustworthy operation of bingo games in Idaho.

The bingo advisory board shall, at least twice a year, report to the state lottery commission addressing the operations and activities of the advisory board and the major issues facing bingo operators in the state. A final annual report shall be provided to the governor, the lottery commission, the president pro tempore of the senate and the speaker of the house of representatives of the Idaho legislature.

SECTION 6. That Section 67-7703, Idaho Code, be, and the same is hereby amended to read as follows:

67-7703~~7~~. ~~CONDUCT OF~~ BINGO BY CHARITABLE ~~BINGO~~ OR NONPROFIT ORGANIZATIONS. (1) It is lawful for a charitable or nonprofit organization to conduct ~~charitable~~ bingo sessions or games in accordance with the provisions of this chapter and the rules of the state lottery commission. Any charitable or nonprofit organization, ~~or~~ any member of ~~such~~ a charitable or nonprofit organization, or any person that conducts a bingo session or game in violation of any provision of this chapter or the rules of the state lottery commission may be assessed a civil penalty not in excess of ten thousand dollars ($10,000). Additionally,

any person knowingly conducting a bingo session or game in violation of the provisions of this chapter or the rules of the state lottery commission 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 7. That Section 67-7704, Idaho Code, be, and the same is hereby amended to read as follows:

67-770~~4~~8. LIMIT ON SESSIONS AND BINGO PRIZES. The number of sessions or games of bingo conducted or sponsored by a charitable or nonprofit organization shall be limited to three (3) sessions per week and such sessions shall not exceed a period of eight (8) hours per day. Until July 1, 1997, t~~T~~he maximum prize in cash or merchandise at fair market value that may be offered or paid for any one (1) game of bingo is one thousand ~~two~~ five hundred dollars ($1,~~2~~500)~~.~~ and, t~~T~~he maximum aggregate amount of prizes, in cash or merchandise at fair market value that may be offered or paid at any one (1) session of bingo is ~~five~~ ten thousand dollars ($~~5~~10,000). After July 1, 1997, the maximum prize that may be offered or paid for any one (1) game of bingo, and the maximum aggregate amount of prizes that may be offered or paid for any one (1) session of bingo, shall be set by rule of the state lottery commission. Provided however, that the maximums to be set by the state lottery commission shall not be below the amounts described in this statute.

SECTION 8. That Section 67-7705, Idaho Code, be, and the same is hereby amended to read as follows:

67-7705~~9~~. 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 and the rules of the state lottery commission shall be placed in a separate bank account. No funds may be disbursed from this account except the charitable or nonprofit organization may expend proceeds for prizes, advertising, utilities and the purchase of supplies and equipment in playing bingo, taxes and license fees related to ~~charitable~~ bingo, ~~and~~ the payment of compensation ~~as-authorized-in-this-subsection~~, and for the purposes set forth below for the remaining proceeds. Any proceeds available in the account after payment of the above expenses shall inure to the charitable or nonprofit 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, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable or nonprofit 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 or nonprofit organization must be disbursed in the following manner, unless otherwise provided in section 67-7708, Idaho Code: not more than sixty-five percent (65%) of the gross revenues shall be utilized for prizes in the charitable bingo game, not less than twenty percent (20%) of gross revenues shall be used for charitable purposes enumerated in this subsection and not more than fifteen percent (15%) 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. Two hundred fifty dollars ($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 fifteen percent (15%) gross revenues used for administrative expenses. An organization requesting an exemption from the disbursement percentages provided in this subsection for administrative costs may request an exemption from the bingo advisory board.

(2) Any ~~person or entity~~ charitable or nonprofit organization conducting ~~charitable~~ bingo games 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 bingo games conducted or sponsored by the ~~charitable~~ licensed 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~~ one hundred dollars ($10~~.00~~); and

(h) An accounting of all gross revenues and the disbursements required ~~in subsection (1) of this section~~ by statute and rule of the state lottery commission.

(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 of an organization shall be kept as determined by rule of 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 or nonprofit organization whose annual gross revenues exceed one hundred fifty thousand dollars ($10~~0~~50,000)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 9. That Section 67-7706, Idaho Code, be, and the same is hereby amended to read as follows:

67-77~~06~~10. 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 10. That Section 67-7707, Idaho Code, be, and the same is hereby amended to read as follows:

67-77~~07~~11. LICENSING PROCEDURE. (1) Any charitable or nonprofit

organization not exempt pursuant to section 67-771~~0~~4, Idaho Code, desiring to operate ~~charitable~~ bingo sessions or games or charitable raffles shall make application for a license to the state lottery. 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. The state lottery may deny the application if ~~either~~ it determines that the applicant has not met requirements imposed in this act and rules promulgated pursuant ~~hereto~~ to this act. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When a license application is approved by the state lottery, the state lottery shall issue a license to the applicant. No person or charitable or nonprofit organization shall operate or conduct a ~~charitable~~ bingo session or game or charitable raffle until it has received a license from the state lottery. ~~Such~~ The license shall expire one (1) year after the ~~issuance of the license~~ date it was issued. 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 session or game or sell charitable raffle tickets before a ~~charitable~~ bingo session or game or a charitable raffle is conducted by the licensee.

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

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

(c) (i) In the case of charitable organizations, a ~~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~~

(ii) In the case of incorporated nonprofit organizations, a copy of a certificate of existence issued by the secretary of state pursuant to chapter 3, title 30, Idaho Code, establishing the organization's good standing in the state; and

(iii) In the case of unincorporated nonprofit associations operating pursuant to chapter 7, title 53, Idaho Code, a statement meeting the requirements of section 53-710, Idaho Code, for appointing an agent for service of process.

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

(3) The operation of ~~charitable~~ bingo sessions or 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 sessions or games or raffles. No directors or officers of an ~~charitable~~ organization or persons related to them either by marriage or 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. An ~~charitable~~ organization shall not contract with any person not employed by, or a volunteer for, the organization for the purpose of conducting a bingo game or raffle on the organization's behalf. However, if the state lottery commission has entered into an agreement or contract with another state for the operation or promotion of joint bingo games, the charitable or nonprofit organization may participate in that contract or agreement.

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

67-770812. LICENSE FEES -- SUSPENSION OR REVOCATION. (1) Each ~~charitable~~ organization that ~~makes application~~ applies to the state lottery for a license pursuant to this chapter shall pay annually to the state lottery a nonrefundable license fee ~~of one hundred dollars ($100)~~ which shall be due upon submission of the application. License fees shall be based on the organization's gross revenues from bingo or raffle operations as required to be reported by statute or rule of the commission. Organizations with gross revenues of twenty-five thousand dollars ($25,000) or less shall pay a fee of one hundred dollars ($100). Organizations with gross revenues of twenty-five thousand dollars ($25,000) to seventy-five thousand dollars ($75,000) shall pay a fee of two hundred dollars ($200). Organizations with gross revenues exceeding seventy-five thousand dollars ($75,000) shall pay a fee of three hundred dollars ($300). New organizations with no history of gross revenues shall pay a fee of one hundred dollars ($100), and the gross revenues indicated in the organization's first annual audit shall determine the license renewal fee.

(2) Any license issued pursuant to this chapter shall be suspended or revoked by the state lottery if it is found that the licensee or any person connected ~~therewith~~ with the licensee 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 sessions or games after losing its tax exempt or nonprofit 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 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 state lottery commission;

(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 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 state lottery or any investigating law enforcement officer any material fact;

(i) Fails to demonstrate to the 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 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~~ the person in ~~charitable~~ gaming operations by charitable or nonprofit organizations would be harmful to the proper operation of a lawful ~~charitable gaming operation~~ bingo or raffle.

(3) The 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~~ purportedly authorized in this chapter. If the state lottery has reasonable cause to believe that any ~~charitable~~ gaming as described in this chapter violates any of the provisions of this chapter or rules ~~relating to charitable gaming~~ promulgated pursuant to this chapter, it may, in its discretion revoke, cancel, rescind or suspend any license 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~~ to this act. If the 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 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 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 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 state lottery final and not subject to further appeal.

SECTION 12. That Section 67-7710, Idaho Code, be, and the same is hereby amended to read as follows:

67-771~~0~~3. EXEMPTION FROM LICENSURE REQUIREMENTS. A charitable or nonprofit organization conducting a bingo game shall not be required to obtain a license, file reports or pay fees pursuant to this chapter if the ~~charitable~~ organization conducts a bingo game and the maximum prize offered or paid for any one (1) game of bingo does not exceed ~~one~~ two hundred fifty dollars ($~~1~~0250) and the maximum amount of prizes, in cash and/or merchandise at fair market value offered during any one (1) session of bingo does not exceed ~~five--hundred~~ one thousand dollars ($~~5~~1,000). A charitable organization conducting a raffle shall not be required to register, obtain a license, file reports or pay fees pursuant to this chapter if the charitable organization conducts a raffle in which the aggregate amount of prizes does not exceed one hundred dollars ($100) in cash or if merchandise used as a prize or prizes does not have a maximum fair market value in excess of one thousand dollars ($1,000).

SECTION 13. That Section 67-7711, Idaho Code, be, and the same is hereby amended to read as follows:

67-771~~1~~4. RULES AND FORMS. The state lottery commission is authorized to promulgate rules consistent with this act in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this act and shall prescribe standardized forms for implementation of this act.

SECTION 14. That Chapter 77, 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 67-7715, Idaho Code, and to read as follows:

67-7715. VENDORS -- LICENSING. No person or entity shall manufacture, sell, distribute, furnish or supply to any person or entity any gambling device, equipment or material, in this state or for use in this state, without first obtaining a vendor's license from the state lottery commission. Vendor licenses shall not be issued by the state lottery except respecting devices, equipment or material designed and

permitted to be used in connection with activities authorized under this chapter. Provided however, that this licensing requirement shall apply only insofar as the state lottery commission has adopted rules implementing it as to particular categories of gambling devices and related material and equipment.

SECTION 15. 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 22, 1995.

CHAPTER 351
(H.B. No. 328, As Amended in the Senate)

AN ACT

RELATING TO NURSING EDUCATION; AMENDING SECTION 54-1404, IDAHO CODE, TO REQUIRE COMPLIANCE WITH LIMITATIONS IN GOVERNING NURSING EDUCATION PROGRAMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1406, IDAHO CODE, TO REQUIRE APPROVAL BY THE STATE BOARD OF EDUCATION PRIOR TO SPECIFIED CHANGES IN NURSING EDUCATION REQUIREMENTS; AMENDING SECTION 54-1408, IDAHO CODE, TO FURTHER DEFINE REQUIREMENTS FOR LICENSURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1404, Idaho Code, be, and the same is hereby amended to read as follows:

54-1404. BOARD OF NURSING -- POWERS AND DUTIES. The board shall have all powers and duties necessary and incident to regulation of nursing and to enforcement of this act, including but not limited to, the power and duty:

(1) to license qualified persons for practice of nursing in Idaho; to renew licenses; to limit, restrict, amend, deny, suspend or revoke licenses; and to accept the voluntary surrender of a license;

(2) to establish standards, criteria, conditions and requirements for licensure and to investigate and determine eligibility and qualifications for licensure, and to administer examinations for licensure;

(3) to establish standards of conduct and practice and to regulate the use of titles, abbreviations and designations for the practice of nursing;

(4) to establish standards, criteria, and requirements for curricula for nursing education programs and to evaluate, survey, review and approve nursing education programs <u>subject to the provisions of section 54-1406, Idaho Code;</u>

(5) to evaluate continuing competency of persons licensed pursuant to this act and to develop standards which will advance the competency of licensees in accordance with developing scientific

understanding and methods relating to the practice of nursing;

(6) to receive and collect license and renewal fees assessed pursuant to this act and to assess, receive and collect additional reasonable fees for approval of nurse practitioners, administration of examinations, investigations and evaluations of applicants, issuance of temporary licenses, duplication and verification of records, surveying and evaluating nursing education programs, and administrative fines not to exceed one hundred dollars ($100) for each count or separate offense of practicing nursing without current licensure, to be deposited in the state board of nursing account in the manner provided by this act;

(7) to employ personnel necessary to administer this act and rules ~~and regulations~~ promulgated pursuant to this act and perform such other duties as the board may require. Such personnel shall include an executive director, who shall be currently licensed to practice professional nursing in Idaho and who shall not be a member of the board;

(8) to maintain a record of board proceedings, annually report to the governor and maintain a public register of names and addresses of licensed nurses;

(9) to make, adopt and publish rules ~~and regulations~~ pursuant to chapter 52, title 67, Idaho Code, as may be necessary or appropriate to carry out the provisions and purposes of this act.

SECTION 2. That Section 54-1406, Idaho Code, be, and the same is hereby amended to read as follows:

54-1406. NURSING EDUCATION PROGRAMS. Approval.

(a) Qualifications. Persons and institutions desiring to offer or conduct approved nursing education programs in the state of Idaho shall comply herewith. Approval shall be conditioned upon and subject to continuing compliance with standards adopted by the board respecting faculty, staff, curriculum, administration, financial stability and other matters affecting the quality of nursing education. <u>However, any curriculum or rule change considered by the board which may alter existing articulation agreements between educational institutions, or existing nursing programs of the eleven (11) month LPN, the two (2) year associate degree/RN, or the four (4) year baccalaureate degree must be approved by the state board of education prior to implementation.</u>

(b) Initial compliance. Upon receipt of an application hereunder, a survey of the program, including clinical facilities and affiliated institutions, shall be made under the direction of the executive director and a written report of the findings shall be submitted to the board. If the board determines that the standards have been met, it shall issue a certificate of approval.

(c) Continuing compliance. To insure the continuing compliance with adopted standards, all approved nursing education programs shall be surveyed and reviewed periodically under the direction of the executive director. Written reports of the findings shall be submitted to the board. In the event any program fails to maintain compliance required by this section, the board may withdraw its prior certification, or impose such conditions and restrictions as may secure compli-

ance within a reasonable period of time by notification in writing and specifying the reasons for the action. Action against any existing program must be based upon fact and subject to appeal as provided for administrative action pursuant to chapter 52, title 67, Idaho Code.

SECTION 3. That Section 54-1408, Idaho Code, be, and the same is hereby amended to read as follows:

54-1408. LICENSE FOR PRACTICAL NURSING. (a) Qualifications. To qualify for a license to practice practical nursing a person must:

(1) have successfully completed the basic curriculum of an approved eleven (11) month practical nursing education program or its equivalent; and

(2) pass an examination adopted and used by the board to measure knowledge and judgment essential for safe practice of practical nursing or have a practical nursing license in good standing, without restriction or limitation, issued upon successful similar examination, approved by the board, conducted in another state, territory or foreign county; and

(3) be of sufficiently sound physical and mental health as will not impair or interfere with the ability to practice nursing.

(b) Fees. A qualified applicant shall be entitled to a license to practice practical nursing upon payment of a license fee to the board in an amount designated by the board not less than forty dollars ($40.00) nor more than eighty-five dollars ($85.00).

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

Approved March 22, 1995.

CHAPTER 352
(S.B. No. 1284)

AN ACT

RELATING TO WATER QUALITY; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 36, TITLE 39, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE A GENERAL WATER QUALITY STANDARD AND ANTIDEGRADATION POLICY, TO PROVIDE DESIGNATION OF INSTREAM BENEFICIAL USES, TO PROVIDE IDENTIFICATION OF REFERENCE STREAMS OR WATER BODIES, TO PROVIDE USE OF REFERENCE STREAMS OR WATER BODIES TO DETERMINE FULL SUPPORT OF BENEFICIAL USES, TO PROVIDE MONITORING TO DETERMINE SUPPORT OF BENEFICIAL USES, TO PROVIDE REGULATORY ACTIONS FOR WATER BODIES WHERE BENEFICIAL USES ARE FULLY SUPPORTED, TO PROVIDE REGULATORY ACTIONS FOR WATER BODIES WHERE BENEFICIAL USES ARE NOT FULLY SUPPORTED, TO PROVIDE GENERAL LIMITATIONS ON POINT AND NONPOINT SOURCES WITHIN WATERSHEDS NOT FULLY SUPPORTING BENEFICIAL USES, TO PROVIDE FOR DEVELOPMENT AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOAD PROCESSES, TO PROVIDE INTEGRATION OF TOTAL MAXIMUM DAILY LOAD PROCESSES WITH OTHER PRO-

GRAMS, TO PROVIDE FOR CREATION OF BASIN ADVISORY GROUPS, TO PROVIDE DUTIES OF BASIN ADVISORY GROUPS, TO PROVIDE CREATION OF WATERSHED ADVISORY GROUPS, TO PROVIDE DUTIES OF EACH WATERSHED ADVISORY GROUP, TO PROVIDE DESIGNATION OF OUTSTANDING RESOURCE WATERS, TO PROVIDE RESTRICTIONS FOR NEW NONPOINT SOURCE ACTIVITIES ON OUTSTANDING RESOURCE WATERS, TO PROVIDE FOR CONTINUATION FOR EXISTING ACTIVITIES ON OUTSTANDING RESOURCE WATERS, TO PROVIDE FOR APPROVAL PROVISIONS FOR BEST MANAGEMENT PRACTICES FOR NEW NONPOINT SOURCE ACTIVITIES ON OR AFFECTING OUTSTANDING RESOURCE WATERS, TO PROVIDE MONITORING PROVISIONS, TO PROVIDE ENFORCEMENT PROVISIONS AND TO GOVERN EFFECT OF RULES; AMENDING SECTION 38-1303, IDAHO CODE, TO DELETE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 38-1305, IDAHO CODE, TO PROVIDE THE EFFECT OF SITE-SPECIFIC BMPS APPROVED ON THIS ACT'S EFFECTIVE DATE; AMENDING SECTION 38-1306, IDAHO CODE, TO DELETE REFERENCES TO STREAM SEGMENTS OF CONCERN; REPEALING SECTIONS 38-1314, 39-3614, 39-3615, 39-3616, 39-3617, 39-3618, 39-3619, 39-3620 AND 39-3621, IDAHO CODE; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-113, IDAHO CODE, TO PROVIDE DUTIES OF THE DEPARTMENT OF FISH AND GAME REGARDING ELECTROFISHING PERMITS AND WATER QUALITY DATA; TO PROVIDE APPLICATION; AMENDING SECTIONS 39-3601, 39-3602, 39-3603, 39-3604, 39-3605, 39-3605B, 39-3606, 39-3606A, 39-3606B, 39-3607, 39-3608, 39-3609, 39-3610, 39-3611, 39-3612 AND 39-3613, IDAHO CODE, TO REDESIGNATE THE SECTIONS, PROVIDE CORRECT CITATIONS AND TO MAKE TECHNICAL CORRECTIONS; AND TO PROVIDE APPLICATION TO CHAPTER 66, TITLE 39, IDAHO CODE.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 36, Title 39, Idaho Code, and to read as follows:

CHAPTER 36
WATER QUALITY

39-3601. DECLARATION OF POLICY AND STATEMENT OF LEGISLATIVE INTENT. The legislature, recognizing that surface water is one of the state's most valuable natural resources, has approved the adoption of water quality standards and authorized the administrator of the division of environmental quality of the department of health and welfare in accordance with the provisions of this chapter, to implement these standards. In order to maintain and achieve existing and designated beneficial uses and to conform to the expressed intent of congress to control pollution of streams, lakes and other surface waters, the legislature declares that it is the purpose of this act to enhance and preserve the quality and value of the surface water resources of the state of Idaho, and to define the responsibilities of public agencies in the control, and monitoring of water pollution, and, through implementation of this act, enhance the state's economic well-being. In consequence of the benefits resulting to the public health, welfare and economy, it is hereby declared to be the policy of the state of Idaho to protect this natural resource by monitoring and controlling

water pollution; to support and aid technical and planning research leading to the control of water pollution, and to provide financial and technical assistance to municipalities, soil conservation districts and other agencies in the control of water pollution. The director, in cooperation with such other agencies as may be appropriate, shall administer this act. It is the intent of the legislature that the state of Idaho fully meet the goals and requirements of the federal clean water act and that the rules promulgated under this act not impose requirements beyond those of the federal clean water act.

39-3602. DEFINITIONS. Whenever used or referred to in this act, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Applicable water quality standard" means those water quality standards identified in the rules of the department.

(2) "Best management practice" means practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective, practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(3) "Board" means the board of health and welfare.

(4) "Department" means the department of health and welfare.

(5) "Designated agency" means the department of lands for timber harvest activities, for oil and gas exploration and development and for mining activities; the soil conservation commission for grazing activities and for agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the department of health and welfare's division of environmental quality for all other activities.

(6) "Designated use or designated beneficial use" means those uses assigned to waters as identified in the rules of the department whether or not the uses are being attained. Designated uses may include subcategories of existing uses that the director determines are not fully attainable.

(7) "Director" means the director of the department of health and welfare, or his or her designee.

(8) "Discharge" means any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For the purposes of this chapter, discharge shall not include surface water runoff from nonpoint sources or natural soil disturbing events.

(9) "Existing use" means those surface water uses actually attained on or after November 28, 1975, whether or not they are designated uses. Existing uses that are not fully attainable may form the basis for subcategories of designated uses.

(10) "Full protection, full support, or full maintenance of designated beneficial uses of water" means compliance with those levels of water quality criteria listed in the appropriate rules of the department, or with the reference streams or conditions approved by the director in consultation with the appropriate basin advisory group.

(11) "Lower water quality" means a measurable adverse change in a chemical, physical, or biological parameter of water relevant to a designated beneficial use, and which can be expressed numerically.

Measurable adverse change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices.

(12) "National pollutant discharge elimination system (NPDES)" means the point source permitting program established pursuant to section 402 of the federal clean water act.

(13) "New nonpoint source activity" means a new nonpoint source activity or a substantially modified existing nonpoint source activity on or adversely affecting an outstanding resource water which includes, but is not limited to, new silvicultural activities, new mining activities and substantial modifications to an existing mining permit or approved plan, new recreational activities and substantial modifications to existing recreational activities, new residential or commercial development that includes soil disturbing activities, new grazing activities and substantial modifications to existing grazing activities, except that reissuance of existing grazing permits, or grazing activities and practices authorized under an existing permit, is not considered a new activity. It does not include naturally occurring events such as floods, landslides, and wildfire including prescribed natural fire.

(14) "Nonpoint source activities" includes grazing, crop production, silviculture, log storage or rafting, construction, mining, recreation, septic systems, runoff from storms and other weather related events and other activities not subject to regulation under the federal national pollutant discharge elimination system. Nonpoint source activities on waters designated as outstanding resource waters do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments.

(15) "Nonpoint source runoff" means water which may carry pollutants from nonpoint source activities into the waters of the state.

(16) "Outstanding resource water" means a high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. It constitutes an outstanding national or state resource that requires protection from point source and nonpoint source activities that may lower water quality.

(17) "Person" means any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties.

(18) "Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition.

(19) "Pollutant" means dredged spoil, solid waste, incinerator

residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged or released to water in excessive quantities cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.

(20) "Reference stream or condition" means a stream or other water body which represent the following:

(a) The minimum conditions necessary to fully support the designated beneficial uses.

(b) Natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin.

In highly mineralized areas or in the absence of such reference streams or water bodies, the director, in consultation with the basin advisory group and the technical advisers to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported.

(21) "Short-term or temporary activity" means an activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the director. Short-term or temporary activities include, but are not limited to, maintenance of existing structures, limited road and trail reconstruction, soil stabilization measures, and habitat enhancement structures.

(22) "Silviculture" means those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber.

(23) "Soil conservation commission" means an agency of state government as created in section 22-2718, Idaho Code.

(24) "Soil conservation district" means an entity of state government as defined in section 22-2717, Idaho Code.

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

(26) "State water quality management plan" means the state management plan developed and updated by the department in accordance with sections 205, 208, and 303 of the federal clean water act.

(27) "Total maximum daily load (TMDL)" means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, and natural background levels of all pollutants. Acceptable pollutant levels established through TMDLs shall be at a level necessary to implement the applicable water quality standards for the identified pollutants with seasonal variations.

(28) "Waters or water body" means all the accumulations of surface water, natural and artificial, public and private, or parts thereof

which are wholly or partially within, flow through or border upon this state. For the purposes of this chapter, water bodies shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state.

(29) "Water pollution" is such alteration of the thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge or release of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

(30) "Watersheds" means the land area from which water flows into a stream or other body of water which drains the area. For the purposes of this chapter, the area of watersheds shall be recommended by the basin advisory group described in section 39-3613, Idaho Code.

39-3603. GENERAL WATER QUALITY STANDARD AND ANTIDEGRADATION POLICY. The existing instream beneficial uses of each water body and the level of water quality necessary to protect those uses shall be maintained and protected. Where the quality of waters exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained unless the department finds, after full satisfaction of the intergovernmental coordination and public participation provisions of this chapter, and the department's planning processes, along with appropriate planning processes of other agencies, that lowering water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such reductions in water quality, the department shall assure water quality adequate to protect existing uses fully.

39-3604. DESIGNATION OF INSTREAM BENEFICIAL USES. For each surface water body, the director shall designate, pursuant to chapter 52, title 67, Idaho Code, and specifically list in the rules of the department, the beneficial use which that water body can reasonably be expected to support without regard to whether that use is fully supported at the time of such designation. In making such designations, the director shall consider the existing use of the water body and such physical, geological, chemical and biological measures as may affect the water body and shall make such designations utilizing fully the public participation provisions set forth in this chapter. Designated uses as set forth in this chapter shall fully support existing uses and shall supersede existing uses. Designations of beneficial uses shall be reviewed as necessary and revised when such physical, chemical or biological measures indicate the need to do so. In revising a designated beneficial use, the director shall consider the economic impact of the revision and the economic costs required to fully support the revised designated beneficial use. There shall be no requirement for persons who either conduct nonpoint activities or who conduct operations on waters described in section 39-3609, Idaho Code, pursuant to a national pollution discharge elimination system permit

to meet water quality criteria other than those necessary for the full support of the existing beneficial use for the water body pertinent to either the nonpoint activity or point source permit in question, except as provided in section 39-3611, Idaho Code.

39-3605. IDENTIFICATION OF REFERENCE STREAMS OR WATER BODIES. The director shall, in a manner consistent with the public participation provisions set forth in this chapter and in accordance with chapter 52, title 67, Idaho Code, identify reference streams, water bodies or conditions to assist in determining when designated beneficial uses are being fully supported. Streams, water bodies or conditions shall be selected to represent the land types, land uses and geophysical features of the basins described in this chapter. Such reference streams or conditions shall be representative of each of the following:

(1) A stream or other water body reflecting natural conditions with few impacts from human activities and which is representative of the highest level of support attainable in the basin.

(2) A stream or water body reflecting the minimum conditions necessary to fully support the designated beneficial uses.

39-3606. USE OF REFERENCE STREAMS OR WATER BODIES TO DETERMINE FULL SUPPORT OF BENEFICIAL USES. The director, in consultation with the basin advisory group, shall conduct monitoring to determine if designated beneficial uses are fully supported. In making such determination, the director shall compare the physical, chemical and biological measures of the water body in question with the reference stream or condition appropriate to the land type, land uses and geophysical features of the water body in question as described in section 39-3605(2), Idaho Code. If the water body in question has such physical, chemical or biological measures as the reference water body or condition, even though such measures may be diminished from the conditions set forth in section 39-3605(1), Idaho Code, then the director shall deem the designated beneficial uses for the water in question to be fully supported and as having achieved the objectives of the federal clean water act and of this chapter. When site-specific standards have been developed for an activity pursuant to the rules of the department, the use of reference streams as described in this section shall not be necessary.

39-3607. MONITORING TO DETERMINE SUPPORT OF BENEFICIAL USES. The director shall conduct a beneficial use attainability and status survey to identify appropriate designated uses and to determine the status of designated beneficial uses in each water body. Measures to determine appropriate designated uses and the status of designated beneficial uses shall include appropriate water quality standards as identified in the rules of the department in conjunction with biological or aquatic habitat measures that may include, but are not limited to: stream width, stream depth, stream shade, sediment, bank stability, water flows, physical characteristics of the stream that affect habitat for fish, macroinvertebrate species or other aquatic life, and the variety and number of fish or other aquatic life.

Previous assessments of beneficial use attainability and status

which are of a quality and content acceptable to the director shall constitute the baseline data against which future assessments shall be made to determine changes in the water body and what beneficial uses can be attained in it. In addition, the director, to the extent possible, may determine whether changes in the condition of the water body are the result of past or ongoing point or nonpoint source activities. The director shall also seek information from appropriate public agencies regarding land uses and geological or other information for the watershed which may affect water quality and the ability of the water body in question to fully support or attain designated beneficial uses. In carrying out the provisions of this section, the director may contract with private enterprises or public agencies to provide the desired data.

39-3608. REGULATORY ACTIONS FOR WATER BODIES WHERE BENEFICIAL USES ARE FULLY SUPPORTED. For streams or other water bodies where the director has determined that designated beneficial uses are being fully supported, the director shall assure, in a manner consistent with other existing applicable statutes, and rules, that all programs deemed necessary to maintain full support of designated beneficial uses are employed. In providing such assurances, the director may enter together into an agreement with public agencies in accordance with sections 67-2326 through 67-2333, Idaho Code.

39-3609. REGULATORY ACTIONS FOR WATER BODIES WHERE BENEFICIAL USES ARE NOT FULLY SUPPORTED. In accordance with the provisions set forth in the federal clean water act and the public participation provisions set forth in this chapter, the director shall notify the appropriate public agencies of any water bodies in which the designated beneficial uses are not fully supported. For water bodies so identified, the director shall place such water bodies into one (1) of the following priority classifications for the development of total maximum daily load or equivalent processes:

(1) "High," wherein definitive and generally accepted water quality data indicate that unless remedial actions are taken in the near term there will be significant risk to designated or existing beneficial uses of a particular water body. The director in establishing this category, shall consider public involvement as set forth in this chapter.

(2) "Medium," wherein water quality data indicate that unless remedial actions are taken there will be risks to designated or existing beneficial uses.

(3) "Low," wherein limited or subjective water quality data indicate designated uses are not fully supported, but that risks to human health, aquatic life, or the recreational, economic or aesthetic importance of a particular water body are minimal.

39-3610. GENERAL LIMITATIONS ON POINT AND NONPOINT SOURCES FOR WATER BODIES NOT FULLY SUPPORTING BENEFICIAL USES. The director shall assure, in a manner consistent with existing statutes or rules, that for each category of water body, as described in section 39-3609(1) through (3), Idaho Code, the following limitations shall apply:

(1) For waters in the "high," category a total maximum daily load

or equivalent process as described in this chapter shall be undertaken. Provided however, that nothing in this section shall be interpreted as requiring best management practices for agricultural operations which are not adopted on a voluntary basis.

(2) For waters in the "medium" category, such changes in permitted discharges from point sources on the water body or to the best management practices for nonpoint sources within the watershed deemed necessary to prohibit further impairment of the designated or existing beneficial uses.

(3) For waters in the "low" category, such changes in permitted discharges from point sources on the water body or to the best management practices for nonpoint sources within the watershed deemed necessary to prohibit further impairment of the designated or existing beneficial uses.

39-3611. DEVELOPMENT AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOAD OR EQUIVALENT PROCESSES. For water bodies described in section 39-3609, Idaho Code, the director shall, in accordance with the priorities set forth in section 39-3610, Idaho Code, and in accordance with sections 39-3614 and 39-3616, Idaho Code, and as required by the federal clean water act, initiate development of a total maximum daily load process to control point source and nonpoint sources of pollution on the water body. For water bodies where an applicable water quality standard has not been attained due to impacts that occurred prior to 1972, no further restrictions under a total maximum daily load process shall be placed on a point source discharge unless the point source contribution of a pollutant exceeds twenty-five percent (25%) of the total load for that pollutant. Existing uses shall be maintained on all such water bodies. Total maximum daily load processes developed pursuant to this section shall include, but not be limited to:

(1) An inventory of all point and nonpoint sources of the identified pollutants;

(2) An analysis of why current control strategies are not effective in assuring full support of designated beneficial uses;

(3) A plan to monitor and evaluate progress toward water quality progress and to ascertain when designated beneficial uses will be fully supported;

(4) Pollution control strategies for both point sources and nonpoint sources for reducing those sources of pollution;

(5) Identification of the period of time necessary to achieve full support of designated beneficial uses. Point source discharges for which a national pollutant discharge elimination system permit is approved after January 1, 1995, shall be deemed to have met the requirements of this section.

39-3612. INTEGRATION OF TOTAL MAXIMUM DAILY LOAD PROCESSES WITH OTHER PROGRAMS. Upon completion of total maximum daily load processes as set forth in section 39-3611, Idaho Code, the director shall, subject to the provisions of chapter 52, title 67, Idaho Code, adopt such processes as part of the state's water quality management plan developed pursuant to the federal clean water act. Upon such adoption, the provisions of these processes shall be enforced through normal enforcement practices of designated agencies as set forth in the

state's water quality management plan.

39-3613. CREATION OF BASIN ADVISORY GROUPS. The director, in consultation with the designated agencies, shall name, for each of the state's major river basins, no less than one (1) basin advisory group which shall generally advise the director on water quality objectives for each basin and work in a cooperative manner with the director to achieve these objectives. Each such group shall establish by majority vote, operating procedures to guide the work of the group. Members shall be compensated pursuant to section 59-509(c), Idaho Code. The membership of each basin advisory group shall be representative of the industries and interests directly affected by the implementation of water quality programs within the basin and each member of the group shall either reside within the basin or represent persons with a real property interest within the basin. Recognized groups representing those industries or interests in the basin may nominate members of the group to the director. Each basin advisory group named by the director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include a representative from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. In addition, the director shall name one (1) person to represent the public at large who may reside outside the basin. Members named to the basin advisory groups shall, in the opinion of the director, have demonstrated interest or expertise which will be of benefit to the work of the basin advisory group. The director may also name as may be needed those who have expertise necessary to assist in the work of the basin advisory group who shall serve as technical nonvoting advisers to the basin advisory group.

39-3614. DUTIES OF THE BASIN ADVISORY GROUP. Each basin advisory group shall meet as necessary to conduct the group's business and to provide general coordination of the water quality programs of all public agencies pertinent to each basin. Duties of the basin advisory groups shall include, but not be limited to, providing advice to the director for:

(1) Determining priorities for monitoring;

(2) Revisions in the beneficial uses designated for each stream and the status and attainability of designated or existing beneficial uses for the water bodies within the basin;

(3) Assigning water bodies to the categories described in section 39-3609, Idaho Code;

(4) Reviewing the development and implementation of total maximum daily load processes as described in section 39-3611, Idaho Code;

(5) Suggesting members of the watershed advisory groups described in section 39-3615, Idaho Code; and

(6) Establishing priorities for water quality programs within the basin based on the economic resources available to implement such programs.

In carrying out the provisions of this chapter, the director and the basin advisory groups shall employ all means of public involvement

deemed necessary, including the public involvement required by section 39-3603, Idaho Code, or required in chapter 52, title 67, Idaho Code, and shall cooperate fully with the public involvement or planning processes of other appropriate public agencies.

39-3615. CREATION OF WATERSHED ADVISORY GROUPS. The director, with the advice of the appropriate basin advisory group, may name watershed advisory groups which will generally advise the department on those specific actions needed to control point and nonpoint sources of pollution within the watersheds of those water bodies where designated beneficial uses are not fully supported. For each such water body in the "high" category, the director shall name a watershed advisory group to provide guidance on those pollution control efforts needed to achieve, within a reasonable amount of time, full support of designated beneficial uses. For water bodies in other categories, the director may name watershed advisory groups, as economic resources and the interest of those affected by the management of the watershed in question allows. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. Members of each watershed advisory group shall serve and shall not be reimbursed for their expenses during their term of service.

39-3616. DUTIES OF EACH WATERSHED ADVISORY GROUP. Each watershed advisory group shall generally be responsible for recommending those specific actions needed to control point and nonpoint sources of pollution within the watershed so that, within reasonable periods of time, designated beneficial uses are fully supported. The duties of the watershed advisory group shall include those actions pertinent to total maximum daily loads as described in section 39-3611, Idaho Code. Watershed advisory groups shall, as described in this chapter, develop and recommend actions needed to effectively control sources of pollution. In carrying out the provisions of this section, the director and the watershed advisory groups shall employ all means of public involvement deemed necessary or required in chapter 52, title 67, Idaho Code, and shall cooperate fully with the public involvement or planning processes of other appropriate public agencies.

39-3617. DESIGNATION OF OUTSTANDING RESOURCE WATERS. Any person may request, in writing to the board of health and welfare, that a stream segment may be considered for designation as an outstanding resource water. The board shall recommend to the legislature those stream segments the board proposes for designation as outstanding resource waters. The legislature shall determine by law which such stream segments to designate as outstanding resource waters. Stream segments so designated shall be included in a list of outstanding resource waters to be compiled and updated by the department of health and welfare in its rules governing water quality standards. Interim status or special protection shall not be provided to streams recommended by the board prior to legislative designation as an outstanding

resource water. No state agency shall delay actions, or deny or delay the processing or approval of any permit for a nonpoint source activity based on nomination of a segment for designation as an outstanding resource water, or while the legislature is considering such designation.

39-3618. RESTRICTION PROVISIONS FOR NEW NONPOINT SOURCE ACTIVITIES ON OUTSTANDING RESOURCE WATERS. No person shall conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of an outstanding resource water, except for short-term or temporary nonpoint source activities which do not alter the essential character or special uses of a segment, issuance of water rights permits or licenses, allocation of water rights, or operation of water diversions or impoundments.

39-3619. CONTINUATION PROVISIONS FOR EXISTING ACTIVITIES ON OUTSTANDING RESOURCE WATERS. Existing activities may continue and shall be conducted in a manner that maintains and protects the current water quality of an outstanding resource water. The provisions of this section shall not affect short-term or temporary activities that do not alter the essential character or special uses of a segment, allocation of water rights, or operations of water diversions or impoundments, provided that such activities shall be conducted in conformance with applicable laws and regulations.

39-3620. APPROVAL PROVISIONS FOR BEST MANAGEMENT PRACTICES FOR NEW NONPOINT SOURCE ACTIVITIES ON OR AFFECTING OUTSTANDING RESOURCE WATERS. No person may conduct a new nonpoint source activity on or affecting an outstanding resource water, except for a short-term or temporary activity as set forth in section 39-3602, Idaho Code, prior to approval by the designated agency as provided in this section.

(1) Within six (6) months of designation of an outstanding resource water by the legislature, the designated agency shall develop best management practices for reasonably foreseeable nonpoint source activities. In developing best management practices the designated agencies shall:

(a) Solicit technical advice from state and federal agencies, research institutions, and universities and consult with affected landowners, land managers, operators, and the public; and

(b) Shall assure that all public participation processes required by law have been completed, but if no public participation process is required by law, will require public notification and the opportunity to comment;

(c) Recommend proposed best management practices to the board of health and welfare.

(2) The board of health and welfare and designated agencies shall adopt the proposed best management practices that are in compliance with the rules and regulations governing water quality standards, and based on the recommendations of the designated agency and the comments received during the public participation process;

(3) After adoption, these best management practices will be known as the outstanding resource water best management practices and will be published by the designated agency. Outstanding resource water

approved best management practices will be reviewed and revised where needed by the designated agency every four (4) years in consultation with the department, landowners, federal managers, operators and the public to determine conformance with objectives of this act;

(4) Following adoption of best management practices, the designated agency shall require implementation of applicable outstanding resource water best management practices which will assure that water quality of an outstanding resource water is not lowered;

(5) Where outstanding resource water best management practices have not been adopted as set forth in subsections (1) through (4) of this section, the designated agency shall:

(a) Assure that all public participation processes required by law have been completed, but if no public participation process is required by law, the designated agency shall provide for public notification of the new activity and the opportunity to comment;

(b) Determine that the site-specific best management practices selected for a new nonpoint source activity are designed to ensure that water quality of the outstanding resource water is not lowered; and

(c) Provide for review by the department that the activity is in compliance with rules and regulations governing water quality standards.

(6) When the applicable outstanding resource water best management practices are applied, the landowner, land manager, or operator applying those practices will be in compliance with the provisions of this act. In the event water quality is lowered, the outstanding resource water best management practices will be revised within a time frame established by the designated agency to ensure water quality is restored.

39-3621. MONITORING PROVISIONS. The designated agencies, in cooperation with the appropriate land management agency and the department shall ensure best management practices are monitored for their effect on water quality. The monitoring results shall be presented to the department on a schedule agreed to between the designated agency and the department.

39-3622. ENFORCEMENT PROVISIONS. (1) The designated agency shall ensure that the approved outstanding resource water best management practices are implemented for new nonpoint source activities. If a person fails to obtain approval from a designated agency for a new nonpoint source activity as set forth in section 39-3620, Idaho Code, or if a person fails to implement approved best management practices and water quality is lowered, the designated agency may institute a civil action for an immediate injunction to halt the activity or pursue other remedies provided by law.

(2) Nothing in this act shall restrict the enforcement authority of the department or designated agencies as provided by law.

39-3623. EFFECT OF RULES. Every rule promulgated within the authority conferred in sections 39-3617 through 39-3622, Idaho Code, shall be of temporary effect and shall become permanent only by enactment of statute at the first regular session following adoption of the

rule. Rules not approved in the above manner shall be rejected, null, void and of no force and effect on July 1, following submission of the rules to the legislature. The rules promulgated within the authority conferred in this act and adopted by the board of health and welfare on January 31, 1990, and contained in IDAPA 16.01.2003,31 and 16.01.2003,32 and 16.01.2053,01 through 16.01.2053,07, are hereby approved by the legislature.

SECTION 2. That Section 38-1303, Idaho Code, be, and the same is hereby amended to read as follows:

38-1303. DEFINITIONS. Unless the context requires otherwise, in this chapter:

(1) "Forest practice" means (a) the harvesting of forest tree species; (b) road construction associated with harvesting of forest tree species; (c) reforestation; (d) use of chemicals or fertilizers for the purpose of growing or managing forest tree species; (e) the management of slashings resulting from harvest, management or improvement of forest tree species; or (f) the prompt salvage of dead or dying timber or timber that is threatened by insects, disease, windthrow, fire or extremes of weather.

(2) "Forest land" means federal, state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes federal, state and private land from which forest tree species have been removed but have not yet been restocked, but it does not include land affirmatively converted to uses other than the growing of forest tree species.

(3) "Operator" means a person who conducts or is required to conduct a forest practice.

(4) "Harvesting" means a commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use.

(5) "Rules" means rules adopted by the board pursuant to section 38-1304, Idaho Code.

(6) "Landowner" means a person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest land, including the state and federal government.

(7) "Timber owner" means a person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land.

(8) "Forest regions" means two (2) regions of forest land, one (1) region being north of the Salmon River and one (1) being south of the Salmon River.

(9) "Director" means the director of the Idaho department of lands.

(10) "Department" means the Idaho department of lands.

(11) "Board" means the Idaho board of land commissioners.

(12) "State" means the state of Idaho or any political subdivision thereof.

(13) "Forest practices advisory committee to the board" means that committee appointed by the director as provided in subsection (2)(a)

of section 38-1305, Idaho Code.

(14) "Contract area" means the entire acreage which is subject to a single contract as specified in the notification of forest practices, pursuant to section 38-1306, Idaho Code.

(15) "Best management practice (BMP)" means a practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices.

(16) "Salvage" means the timely removal of dead and dying timber or timber that is threatened by insects, disease or such physical elements as fire, windthrow, or extremes of weather, and where the removal of such timber will help contain insect or disease outbreaks, aid in the prevention of wildfire, or, over the long term, help protect such resources and values as wildlife, water, soils or air quality.

~~(17) "Stream-segment-of-concern" means a specific--stream--segment or--body-of-water-that-has-been-published-in-a-final-basin-area-report and-subsequently-published-every-two-(2)-years-as-an-addendum--to--the water--quality-standards-and-waste-water-treatment-requirements-of-the department-of-health-and-welfare.~~

(17) "Cumulative effects" means the impact on water quality and/or beneficial uses which result from the incremental impact of two (2) or more forest practices. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

SECTION 3. That Section 38-1305, Idaho Code, be, and the same is hereby amended to read as follows:

38-1305. DUTIES, POWERS OF DEPARTMENT. The department:

(1) Shall administer and enforce this act;

(2) (a) Shall, through the director, appoint a forest practices advisory committee to the board for the purpose of providing technical advice to the board in carrying out the board's powers and duties as set forth in section 38-1304, Idaho Code. The forest practices advisory committee is composed of eight (8) members, three (3) residing in the north forest region and three (3) residing in the south forest region. The remaining member shall be residing in Idaho. Members of the committee shall be qualified by experience and/or training to provide technical advice related to forest practices. One (1) member residing in each forest region shall be a private landowner, a private timber owner, or authorized representative of the landowner or timber owner who regularly engages in forest practices. One (1) member residing in each forest region shall be an operator. One (1) member residing in each forest region shall be a representative of the general public. One (1) member shall be qualified by training and experience as a fisheries biologist. Members of the forest practices advisory committee shall be appointed by the director for three (3) year terms. Appointments under this subsection shall be made by the director within sixty (60) days after the effective date of this section. If there is a vacancy, for any cause, the director shall

make an appointment to become immediately effective for the unexpired term. Said appointee shall possess the same qualifications under this act as the person being replaced. The committee shall select a chairman from among its members. A member of the department of lands shall be designated by the director to serve as secretary, without voting power, for the committee.

(b) Notwithstanding the terms of the committee members specified by subsection (2)(a) of this section, of the members first appointed to each such committee:

(A) Two (2) shall serve for a term of one (1) year;

(B) Two (2) shall serve for a term of two (2) years;

(C) Three (3) shall serve for a term of three (3) years.

(3) Shall advise and assist the board in the discharge of its duties as set forth in this act;

(4) Shall achieve coordination among state agencies which are concerned with the forest environment;

(5) Shall cooperate with and provide advice to landowners and timber owners in the management of forest lands;

(6) May enter into cooperative agreement or contracts which may be necessary in the administration of this act;

(7) ~~May enter into written agreements with landowners incorporating site-specific BMPs which the director has determined are necessary to protect water quality in an affected stream segment of concern. Such agreements shall be binding on all parties and enforceable in an action for specific performance~~ All site-specific BMPs approved at the time of the effective date of this act shall remain in force and be enforced by the designated agency;

(8) Shall develop methods for controlling watershed impacts resulting from cumulative effects. The department shall form a cumulative effects watershed cooperative including, but not limited to, state and federal land managing agencies and owners of industrial private forest land, to serve as a clearinghouse for comparing and evaluating shared watershed information. The director shall select an interdisciplinary task force including appropriate technical specialists and affected landowners and shall, in consultation with the task force, formulate methods for controlling cumulative effects.

SECTION 4. That Section 38-1306, Idaho Code, be, and the same is hereby amended to read as follows:

38-1306. NOTIFICATION OF FOREST PRACTICE. (1) Before commencing a forest practice, the department shall be notified as required in subsection (2) of this section. The notice shall be given by the operator; however, the timber owner or landowner satisfies the responsibility of the operator under this subsection. When more than one (1) forest practice is to be conducted in relation to harvesting of forest tree species, one (1) notice including each forest practice to be conducted shall be filed with the department. A woodland management plan prepared by the woodland foresters of the department or approved by the board of supervisors of a soil conservation district shall constitute suitable notification of a forest practice when filed with the department, provided the woodland management plan contains the information required in subsection (2) of this section.

(2) The notification required in subsection (1) of this section shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner, the legal description of the area in which the forest practice is to be conducted, ~~whether the forest practice borders a stream segment of concern~~ and other information the department considers necessary for the administration of the rules adopted by the board under section 38-1304, Idaho Code. All notifications must be formally accepted by the department before any forest practice may begin. ~~If the forest practice will be conducted in an area bordering a stream segment of concern, this notice must be received by the department no less than ten (10) business days before the commencement of the forest practice. If there is no written agreement between the landowner and/or the operator and the department concerning implementation of site-specific BMPs which the department has determined are necessary to protect water quality in the affected stream segment of concern, the department shall not accept the notification until temporary rules have been enacted establishing the site-specific BMPs. The director shall have the authority to adopt temporary rules pursuant to chapter 52, title 67, Idaho Code.~~ The initial purchaser of ties, logs, posts, cordwood, pulpwood and other similar forest products which have been cut from lands within the state of Idaho shall make no such purchase from anyone not having a proper acceptance of forest practice notice. Promptly upon formal acceptance of the notice, but not more than fifteen (15) days from formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, the timber owner, and landowner a copy of the rules.

(3) An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notification within thirty (30) days of the change. Promptly upon receipt of notice of change, but not to exceed fifteen (15) days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change.

(4) The notification is valid for the same period as set forth in the certificate of compliance under section 38-122, Idaho Code. At the expiration of the notification, if the forest practice is continuing, the notification shall be renewed using the same procedures provided for in this section.

(5) If the notification required by subsection (1) of this section indicates that at the expiration of the notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) days prior to the expiration of the notification, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fifteen (15) days from receipt of the request, the department shall mail a copy of the renewed notification to whichever of the operator, timber owner, or landowner that did not submit the request for renewal.

SECTION 5. That Sections 38-1314, 39-3614, 39-3615, 39-3616, 39-3617, 39-3618, 39-3619, 39-3620 and 39-3621, Idaho Code, be, and the same are hereby repealed.

SECTION 6. That Chapter 1, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-113, Idaho Code, and to read as follows:

36-113. ELECTROFISHING PERMITS -- WATER QUALITY DATA. The department of fish and game shall enter into an agreement with the director to grant necessary permits and licenses for electrofishing needed to accomplish water quality monitoring pursuant to chapter 36, title 39, Idaho Code. Additionally, the department of fish and game shall provide as requested by basin advisory groups created pursuant to chapter 36, title 39, Idaho Code, any information regarding the presence or absence of aquatic species listed as "threatened," "endangered" or "candidate" pursuant to the federal endangered species act, together with any special water quality requirements necessary to the recovery or maintenance of those individual species.

SECTION 7. APPLICATION. For the purposes of Chapter 36, Title 39, Idaho Code, groups implementing nutrient management plans pursuant to Section 39-105, Idaho Code, shall be considered "watershed advisory groups." Additionally, legislatively mandated acts for the management of Priest Lake or existing planning efforts for the lower Boise River Water Quality Group, the Potlatch River Basin Study, the Lemhi Model Watershed Project, all existing state agriculture water quality projects, Payette Lake, Cascade Reservoir, Lake Coeur d'Alene or Lake Pend Oreille shall continue and for the purposes of Chapter 36, Title 39, Idaho Code, their various advisory groups shall be considered "watershed advisory groups." The work of the watershed advisory groups shall constitute the functional equivalent of a TMDL as set forth in this chapter. Nothing in this chapter shall be deemed to modify the membership or operating procedures of the groups identified in this section.

SECTION 8. That Section 39-3601, Idaho Code, be, and the same is hereby amended to read as follows:

39-360~~1~~24. DECLARATION OF POLICY -- DESIGNATION OF DIRECTOR. The legislature, recognizing that water is one (1) of the state's most valuable natural resources, has adopted water quality standards and authorized the director of the department of health and welfare to implement these standards. In order to provide and maintain maximum water quality in the state for domestic, industrial, agricultural (irrigation and stockwatering), mining, manufacturing, electric power generation, municipal, fish culture, artificial ground water recharge, transportation and recreational purposes at the earliest possible date, and to conform to the expressed intent of congress to abate pollution of ground waters, streams and lakes, the legislature declares the purpose of this act is to enhance and preserve the quality and value of the water resources of the state of Idaho and to assist in

the prevention, control, abatement and monitoring of water pollution. In consequence of the benefits resulting to the public health, welfare and economy it is hereby declared to be the policy of the state of Idaho to protect this natural resource by assisting in monitoring, preventing and controlling water pollution; to support and aid technical and planning research leading to the prevention and control of water pollution, and to provide financial and technical assistance to municipalities, soil conservation districts and other agencies in the abatement and prevention of water pollution. The director of the department of health and welfare shall administer this act and nothing herein shall be construed as impairing or in any manner affecting the statutory authority or jurisdiction of municipalities in providing domestic water, sewage collection and treatment.

SECTION 9. That Section 39-3602, Idaho Code, be, and the same is hereby amended to read as follows:

39-360~~2~~25. DEFINITIONS. A. "Sewage treatment works" means any facility for the purpose of collecting, treating, neutralizing or stabilizing sewage or industrial wastes of a liquid nature, including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishings thereof and their appurtenances.

B. "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of sewage treatment works or best management practices, preliminary planning to determine the economic and engineering feasibility of sewage treatment works or best management practices, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of sewage treatment works or best management practices, and the inspection and supervision of the construction of sewage treatment works or best management practices.

C. "Eligible construction project" means a project for construction of sewage treatment works or for a project for the application of best management practices as set forth in the approved state water quality plan, in related project areas:

1. For which approval of the Idaho board of health and welfare is required under section 39-118, Idaho Code;
2. Which is, in the judgment of the Idaho board of health and welfare, eligible for water pollution abatement assistance, whether or not federal funds are then available therefor;
3. Which conforms with applicable rules ~~and regulations~~ of the Idaho board of health and welfare;
4. Which is, in the judgment of the Idaho board of health and welfare, necessary for the accomplishment of the state's policy of water purity as stated in section 39-3601, Idaho Code; and
5. Which is needed, in the judgment of the Idaho board of health and welfare, to correct existing water pollution problems or public health hazards and to provide reasonable reserve capacity to prevent future water pollution problems or public health hazards.

D. "Municipality" means any county, city, special service dis-

trict, nonprofit corporation or other governmental entity having authority to dispose of sewage, industrial wastes, or other wastes, any Indian tribe or authorized Indian tribal organization, or any combination of two (2) or more of the foregoing acting jointly, in connection with an eligible project.

E. "Board" means the Idaho board of health and welfare.

F. "Department" means the Idaho department of health and welfare.

G. "Director" means the director of the Idaho department of health and welfare.

H. "Nondomestic wastewater" means wastewater whose source of contamination is not principally human excreta.

I. "Best management practice" means practices, techniques or measures identified in the state water quality plan which are determined to be the most effective, practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

J. "Soil conservation district" means an entity of state government as defined in section 22-2717, Idaho Code.

K. "Soil conservation commission" means an agency of state government as created by section 22-2718, Idaho Code.

L. "Nonpoint source pollution" means water pollution that comes from many varied, nonspecific and diffused sources and can be categorized by the general land disturbing activity that causes the pollution.

M. "Training program" means any course of training established to provide sewage treatment plant operating personnel with increased knowledge to improve their ability to operate and maintain sewage treatment works.

SECTION 10. That Section 39-3603, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~03~~26. AUTHORIZATION OF GRANTS AND LOANS -- DESIGNATION OF ADMINISTERING AGENCY -- RESERVATION OF FUNDS FOR OPERATIONS -- CRITERIA -- PRIORITY PROJECTS -- ELIGIBLE PROJECTS. A. The state of Idaho is hereby authorized to make grants and loans at or below market interest rates, as funds are available, to any municipality or soil conservation district to assist said municipality or soil conservation district in the construction of sewage treatment works or application of best management practices and to provide for training of treatment plant operating personnel.

B. The Idaho board of health and welfare through the department of health and welfare shall be the agency for administration of funds authorized for grants or loans under this act, and may reserve up to four percent (4%) of the moneys accruing annually to the water pollution control and wastewater facility loan accounts to be appropriated annually for the purpose of operating the water quality programs established pursuant to this chapter. The board may also reserve up to six percent (6%) of the moneys accruing annually to the water pollution control account to be appropriated annually for the purpose of conducting water quality studies including monitoring.

C. In allocating state construction grants and loans under this act, the Idaho board of health and welfare shall give consideration to

water pollution control needs and protection of public health.

D. Pursuant to subsection C the Idaho board of health and welfare shall establish a list of priority municipal sewage facility projects. The Idaho board of health and welfare with the approval of the Idaho soil conservation commission shall establish a list of priority projects for control of agricultural nonpoint source pollution. These priority lists shall be used as the method for allocation of funds granted or loaned under this act.

SECTION 11. That Section 39-3604, Idaho Code, be, and the same is hereby amended to read as follows:

39-360~~4~~27. PAYMENTS BY STATE BOARD OF HEALTH AND WELFARE ~~--~~ CONTRACTS WITH MUNICIPALITIES, SOIL CONSERVATION DISTRICTS OR SOIL CONSERVATION COMMISSION -- RULES ~~AND REGULATIONS~~ -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. A. The Idaho board of health and welfare may make payments not to exceed ninety percent (90%) of the estimated reasonable cost of an eligible construction project funded by a grant. Payments may be made which are equal to one hundred percent (100%) of the estimated reasonable cost of an eligible construction project funded by a loan.

B. The Idaho board of health and welfare may, in the name of the state of Idaho, enter into contracts with municipalities or soil conservation districts, and any such municipality or soil conservation district may enter into a contract with the Idaho board of health and welfare, concerning eligible construction projects. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

1. An estimate of the reasonable cost of the project as determined by the Idaho board of health and welfare.

2. An agreement by the municipality, binding for the actual service life of the sewage treatment works:

a. To proceed expeditiously with, and complete, the project in accordance with plans approved pursuant to section 39-118, Idaho Code.

b. To commence operation of the sewage treatment works on completion of the project, and not to discontinue operation or dispose of the sewage treatment works without the approval of the board of health and welfare.

c. To operate and maintain the sewage treatment works in accordance with applicable provisions~~,~~ and rules ~~and regulations~~ of the board.

d. To make available on an equitable basis the services of the sewage treatment works to the residents and commercial and industrial establishments of areas it was designed to serve.

e. To provide for the payment of the municipality's share of the cost of the project when the project is built using grant funds.

f. To develop and to secure the approval of the department of plans for the operation and maintenance of the sewage treatment works; and of plans and programs for the recovery of the capital costs and operating expenses of the works or

system.

g. To allow the board to make loans of up to one hundred percent (100%) and supplemental grants based upon financial capability to a municipality for the estimated reasonable cost of an eligible project, which may include treatment of nondomestic wastewater.

h. To provide for the accumulation of funds through the use of taxing powers, through charges made for services, through revenue bonds, or otherwise, for the purposes of (1) capital replacement, (2) future improvement, betterment, and extension of such works occasioned by increased wastewater loadings on the works, and (3) establishing a fund dedicated solely to repayment of principal and interest of loans made subsequent to this chapter.

i. To commence annual principal and interest payments not later than one (1) year from the date construction is completed and to provide for full amortization of loans not later than twenty (20) years from the date project construction is completed.

3. The terms under which the Idaho board of health and welfare may unilaterally terminate the contract and/or seek repayment from the municipality or soil conservation district of sums already paid pursuant to the contract for noncompliance by the municipality or soil conservation district with the terms and conditions of the contract and the provisions of this chapter.

4. An agreement by the soil conservation district, binding for the life of the eligible project:

a. To develop water quality plans for landowners in the project areas and provide cost-share payments to landowners for installation of best management practices.

b. To determine cost-share rates in conjunction with the state soil conservation commission for best management practices.

c. In conjunction with the state soil conservation commission establish a method for project administration and provisions for technical assistance to landowners.

d. To allow the state to give grants of up to ninety percent (90%) of the estimated reasonable cost for best management practices installation, technical assistance and project administration of an eligible project.

e. To develop and to secure the approval of the department and the state soil conservation commission of plans for operation of the eligible project.

f. To ensure that the local matching share of the cost of the project is provided.

g. To assure an adequate level of landowner participation and application of best management practices to insure water quality goals are met.

C. The Idaho board of health and welfare may, in the name of the state of Idaho, enter into contracts with the soil conservation commission, and the soil conservation commission may enter into contracts with the Idaho board of health and welfare, to provide technical assistance to soil conservation districts which have entered grant

agreements pursuant to this chapter. Any such contract may include such provisions agreed upon by the parties thereto, and shall include, in substance, the following provisions:

1. An estimate of the reasonable cost of technical assistance as determined by the Idaho board of health and welfare.

2. The terms under which the Idaho board of health and welfare may unilaterally terminate the contract, and/or seek repayment of sums paid pursuant to the contract, for noncompliance by the soil conservation commission with the terms and conditions of the contract, the provisions of this chapter, or ~~regulations~~ rules adopted pursuant thereto.

D. The board may adopt rules ~~and regulations~~ necessary for the making and enforcing of contracts hereunder and establishing procedures to be followed in applying for state construction grants or loans or training grants herein authorized as shall be necessary for the effective administration of the grants and loans program.

E. All contracts entered into pursuant to this section shall be subject to approval by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant as provided by law on vouchers approved by the director.

SECTION 12. That Section 39-3605, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~05~~28. WATER POLLUTION CONTROL ACCOUNT ESTABLISHED. There is hereby created and established in the state treasury a separate account to be known as the water pollution control account. The account shall have paid into it:

1. The moneys provided for in section 14-425, Idaho Code, that are paid over to the state treasurer shall be deposited to the credit of the water pollution control account, and not to the credit of the state general account;

2. All donations and grants from any source which may be used for the provisions of this act;

3. Any other funds which may hereafter be provided by law.

SECTION 13. That Section 39-3605B, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~05~~B29. WASTEWATER FACILITY LOAN ACCOUNT ESTABLISHED. There is hereby created and established in the agency asset fund in the state treasury an account to be known as the wastewater facility loan account. Surplus moneys in the wastewater facility loan account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury under section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the wastewater facility loan account. The account shall have paid into it:

1. Federal funds which are received by the state to provide for wastewater facility loans together with required state matching funds coming from a portion of the moneys in the water pollution control account as established in section 39-36~~05~~28, Idaho Code;

2. All donations and grants from any source which may be used for the provisions of this section;

3. All principal and interest repayments of loans made pursuant to this chapter; and

4. Any other moneys which may hereafter be provided by law.

SECTION 14. That Section 39-3606, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~06~~30. APPROPRIATION OF WATER POLLUTION CONTROL ACCOUNT -- PURPOSE OF CHAPTER. Moneys in the water pollution control account are hereby perpetually appropriated for the following purposes:

1. To provide the state's matching share of grants made under the provisions of this chapter.

2. To provide revenue for the payment of general obligation bonds issued pursuant to section 39-36~~07~~33, Idaho Code, and general obligation refunding bonds issued pursuant to chapter 115, 1973 laws of the state of Idaho.

3. To provide for the operations of the water quality programs established pursuant to this chapter.

4. To provide direct grants or contracts for the purpose of providing training for water and sewage treatment plant operating personnel.

5. To provide payments for contracts entered into pursuant to this chapter.

6. To provide funds to capitalize the wastewater facility loan account established in section 39-36~~05B~~29, Idaho Code, including the required matching share of federal capitalization funds.

SECTION 15. That Section 39-3606A, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~06A~~31. APPROPRIATION OF WASTEWATER FACILITY LOAN ACCOUNT -- PURPOSE OF CHAPTER. Moneys in the wastewater facility loan account are hereby perpetually appropriated for the following purposes:

1. To provide loans and other forms of financial assistance authorized under title VI of the federal water quality act of 1987, P.L. 100-4, to any municipality for construction of sewage treatment works.

2. To provide funds, subject to annual federal and state appropriation and applicable federal limitations, for operation of the wastewater facility loan program by the department of health and welfare.

SECTION 16. That Section 39-3606B, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~06B~~32. GRANTS AND LOANS FOR DESIGN, PLANNING OR CONSTRUCTION -- LIMITS ON AMOUNT OF GRANTS AND LOANS. (1) The board of health and welfare may divide financial assistance for eligible construction projects into separate grants, loans or a combination of grants and loans for the design, planning, and construction stages of project development. The making of a grant or loan for early stages of a project does not obligate the state to make a grant or loans for later stages of the same project.

(2) The board may make grants from the water pollution control account; provided, that the projected payments for such grants would not cause the projected balance in the account to fall below zero at any time. All grant payments shall be subject to the availability of moneys in the account.

(3) The board may make loans from the wastewater facility loan account, provided that the projected payments for such loans would not cause the projected balance in the account to fall below zero at any time. All loan payments shall be subject to the availability of moneys in the account.

SECTION 17. That Section 39-3607, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~07~~33. WATER POLLUTION CONTROL BONDS. A. Water pollution control bonds, as provided by section 5, article VIII of the constitution of the state of Idaho, shall be authorized by resolution of the state board of health and welfare. The bonds may be issued in one or more series, may bear such date or dates, may be in such denomination or denominations, may mature at such time or times, may mature in such amount or amounts, may bear interest at the most advantageous rate or rates available to the state at the time offered, payable semiannually, may be in such form, either coupon or registered, may carry such registration and such conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without premium, as such resolution or other resolutions may provide. The bonds, if sold to a federal agency, may be sold at a private sale at not less than par and accrued interest, without advertising the same at competitive bidding. If not sold to a federal agency, the bonds shall be sold publicly in a manner to be provided by the state board of health and welfare. The bonds shall be fully negotiable within the meaning and for all purposes of the Uniform Commercial Code.

B. The moneys derived from the sale of any bonds shall be deposited in the state treasury to the credit of the water pollution control fund for the purposes of that fund.

C. All bonds issued pursuant to this act shall be obligations of the state and shall be payable in accordance with the terms of this act and the provisions of section 5, article VIII of the constitution of the state of Idaho.

SECTION 18. That Section 39-3608, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~08~~34. COTTAGE SITE DEFINED. "Cottage site" is defined as a state owned lot containing one (1) acre or less which is or may be leased by the state of Idaho primarily for recreational or homesite use by a lessee.

SECTION 19. That Section 39-3609, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~09~~35. COTTAGE SITE LEASES -- REQUIREMENTS -- CONSTRUCTION OF

SEWAGE DISPOSAL FACILITIES -- CONNECTION TO WATER AND SEWER DISTRICT SYSTEMS -- PAYMENT OF CHARGES -- NOTIFICATION OF DEFAULTS -- SATISFACTION OF REQUIREMENTS. (1) After the effective date of this act all cottage site leases authorized by the state of Idaho shall require that each lessee must construct, at his cost and expense, sewage disposal facilities, certified by the director of the department of health and welfare as adequate, as follows:

(a) For all new cottage or house construction completed after July 1, 1971 on any cottage site the certificate shall be issued prior to occupancy.

(b) Those cottages or houses existing on the cottage sites prior to the effective date of this act shall meet those standards required by the director of the department of health and welfare for certification within two (2) years of the effective date of this act, unless a public or private sewage collection or disposal system is being planned or constructed in which case the director of the department of health and welfare may grant extensions on a year by year basis but not exceed three (3) such extensions for any one (1) cottage site.

(c) Isolated dwellings on sites situated on mining, grazing or other similar types of state land board leases shall not be affected unless within two hundred (200) yards of any flowing stream or a lake.

(2) Wherever any cottage site is located within the boundaries of a district organized for water or sewer purposes, or a combination thereof, pursuant to the provisions of chapter 32, title 42, Idaho Code, as amended, the cottage site lessee shall connect his property to the sewer system of the district within sixty (60) days after written notice from the district so to do, provided, however, no cottage site lessee shall be compelled to connect his property with such sewer system unless a service line is brought by the district to a point within two hundred (200) feet of his dwelling place. All cottage site leases hereafter issued shall require, as a condition of acceptance thereof by the lessee, that the lessee will connect his property to a district sewer system as required in this subsection (2). With respect to all cottage site leases issued subsequent to July 1, 1970, filing with the department issuing the lease of evidence of connection to the district sewer system as contemplated in this subsection (2) shall be conclusive evidence of compliance by the cottage site lessee with the requirements of subsection (1) of this section and of the provisions of the cottage site lease to provide sewage disposal facilities at the expense of the cottage site lessee. Each cottage site lessee whose cottage site is subject to connection to a district sewer system as required in this subsection (2) shall pay to the district to which the cottage site is required to be connected, in a timely manner and ~~and~~ when due, all connection fees and charges, all monthly rates, tolls and charges, as provided by chapter 32, title 42, Idaho Code, as amended, and all special benefits payments in lieu of tax payments provided for in subsection (3) of this section.

(3) Notwithstanding that title to a cottage site remains in the state of Idaho, each cottage site lessee shall pay to any district operating a sewer system to which the cottage site is connected as provided in subsection (2) of this section, each year in the same man-

ner and at the same time as county taxes are paid and collected a sum of money in lieu of taxes equal to the sum which would have been paid had the cottage site been held in private ownership, hereinafter called special benefits payments. The special benefits payments shall be computed by applying the millage levy of the district to the cottage site in the ordinary course to the assessed valuation of the property as determined by the county assessor of the county in which the cottage site is located. No special benefits payments shall be imposed prior to January 1, 1980. The cottage site lessee shall have such rights of protest, hearings and appeals with respect to the valuation of the cottage site for purposes of determining the special benefits payments as if such cottage site were held in private ownership.

It shall be the duty of the county assessor to establish the value of each cottage site as compared to like property upon the request, in writing, of the district.

(4) Each water and sewer district shall immediately notify the department issuing a cottage site lease of the failure of any cottage site lessee to connect to the district sewer system, or to pay any connection fee or charge, monthly rate, toll or charge, or any special benefits payments, all as required or provided for in subsection (3) of this section. Any such notification shall set forth the amount of any such fees, charges or payments which are delinquent.

(5) Approval, pursuant to the provisions of section 39-118, Idaho Code, by the department of health and welfare of the plans and specifications of a sewer system to be constructed, acquired, improved or extended by a water and sewer district shall, as to all cottage sites connected to the district sewer system, satisfy the requirements of section 39-36~~11~~37, Idaho Code.

(6) The state of Idaho, its boards, agencies or departments, shall not be liable, directly or indirectly, for any connection fees and charges, monthly rates, tolls and charges, or special benefits payments charged to cottage site lessees beyond those fees or payments collected from new lessees pursuant to section 58-304A, Idaho Code, and placed in the revolving fund created by section 58-141A, Idaho Code.

SECTION 20. That Section 39-3610, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~10~~36. FAILURE TO PROVIDE SEWAGE DISPOSAL -- PENALTIES. Failure to provide certified sewage disposal as provided in section 39-36~~09~~35(1), Idaho Code, or failure to connect to a district sewer system or to pay, when due, any connection fee or charge, any monthly rate, toll or charge, or any special benefits payment, all as required and provided for in subsections (2) and (3) of section 39-36~~09~~35, Idaho Code, shall result in the following:

(a) Forfeiture of lease to the state of Idaho after reasonable notice and hearing, as shall be prescribed in rules ~~and regulations~~ to be adopted by the department issuing the lease pursuant to the applicable provisions of chapter 52, title 67, Idaho Code, as now or hereafter in force.

(b) Loss of sewage treatment facility credit on any transfer of lease or new lease of such site after notice and hearing before the

department issuing such lease.

The department issuing any cottage site lease, upon its own motion or upon receiving notice from a water and sewer district pursuant to the provisions of section 39-36~~09~~35(4), Idaho Code, of the failure of a cottage site lessee to connect to a district sewer system or to pay any connection fee or charge, any monthly rate, toll or charge, or any special benefits payments, when due, is authorized to invoke either or both remedies at its discretion or may take such other action allowed by law to enforce the provisions of the lease and the requirements of section 39-36~~09~~35, Idaho Code, that each cottage site lessee connect to a district sewer system and pay all fees, charges and payments when due.

SECTION 21. That Section 39-3611, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~11~~37. STATE BOARD OF HEALTH AND WELFARE -- RULES ~~AND REGULATIONS~~ -- INSPECTION. The state board of health and welfare shall adopt reasonable rules~~,--regulations~~ and standards for the installation and operation of cottage site sewage treatment facilities, and shall provide adequate inspection services so as not to delay unreasonably the construction of any lessee. Duplicate originals of all certificates issued by the director of the department of health and welfare shall be filed with the director of the department issuing a cottage site lease.

The director of the department of health and welfare shall initiate on or before July 1, 1971, a site by site inventory of such sewage disposal systems that may exist. The inventory shall ascertain:

(a) If the existing system meets the board standards. If the system meets all standards and ~~regulations~~ rules for cottage sewage disposal systems a certificate shall be issued immediately.

(b) If the system does not meet the board standards. In such case, the lessee shall be advised in writing of the actions necessary to meet the proper standards. A copy of such report shall be filed with the state agency granting the lease. The modifications, unless specifically exempted from the time limit, as provided in this act, shall be completed within two (2) years of the date of the written notice.

SECTION 22. That Section 39-3612, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~12~~38. FINAL DETERMINATION BY ISSUING DEPARTMENT AUTHORIZED. In the event of dispute, unreasonable delay on the part of lessee or the department of health and welfare, the department issuing a cottage site lease may, upon notice and hearing, make a final determination consistent with control of water pollution and public health.

SECTION 23. That Section 39-3613, Idaho Code, be, and the same is hereby amended to read as follows:

39-36~~13~~39. CONTINUATION OF COTTAGE SITE LEASE PROGRAM. (1) The legislature of the state of Idaho recognizes that certain state lands

are presently leased for cottage site uses and are subject to leases and contracts duly authorized by law. It is legislative intent to continue to recognize such leases. However, it is also legislative intent that no new or additional lands be platted, subdivided or leased for cottage site leases, unless and until the condition and precedents listed below have been met.

(2) No additional state lands shall be further platted or subdivided, nor any new cottage site leases entered into, unless and until the following provisions have been met:

(a) The department of lands shall have completed a comprehensive planning process, as to its further participation in, and extension of, the cottage site lease program;

(b) The department of lands shall complete a comprehensive planning process as to the extension of cottage site leasing for that immediate geographic area;

(c) No new cottage site leases shall be entered into unless and until an adequate water system and an adequate sewage collection and treatment system have been installed. Both of these systems shall meet applicable state health standards and ~~regulations~~ rules. (i) The costs for providing these systems shall be incorporated into the annual lease rates for the newly created serviced lots, unless other specific provisions for payment have been required by the state board of land commissioners. (ii) As an alternate means of securing the necessary funds for the construction of water and sewer systems which must meet state standards and ~~regulations~~ rules, the state board of land commissioners may include as a condition of the new lease the requirement that the lessee must prepay his share of the construction costs of the water and sewer system. In all cases, however, such prepayment shall be made, and adequate water and sewer systems shall be installed and in operation before such cottage sites may be inhabited.

(3) The provisions of subsection (1) herein shall not apply to unimproved lots within cottage subdivisions in which at least eighty per cent (80%) of the lots already have cottages upon them.

SECTION 24. Nothing in this act shall be deemed to alter, amend or repeal Chapter 66, Title 39, Idaho Code.

Approved March 22, 1995.

CHAPTER 353
(S.B. No. 1177, As Amended)

AN ACT

RELATING TO RECREATION DISTRICTS; AMENDING CHAPTER 43, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-4304A, IDAHO CODE, TO PROVIDE FOR THE CREATION OF A PLANNED UNIT DEVELOPMENT RECREATION DISTRICT; AMENDING SECTION 31-4307, IDAHO CODE, TO REVISE WHAT PERSONS MAY VOTE IN AN ELECTION; AMENDING SECTION 31-4314, IDAHO CODE, TO PROVIDE AN ADDITIONAL AMOUNT OF INDEBTEDNESS THAT MAY BE INCURRED IF A RECREATION DISTRICT IS A PLANNED UNIT DEVELOPMENT RECREATION DISTRICT AND TO DELETE REFERENCE TO AN OBSOLETE CODE

SECTION; AMENDING SECTION 31-4316, IDAHO CODE, TO AUTHORIZE A DISTRICT TO HAVE PUBLIC TRANSPORTATION SYSTEMS AND FACILITIES SERVING THE DISTRICT; AMENDING SECTION 31-4317, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS TO ALLOW A DISTRICT TO CONTRACT WITH A COUNTY OR HIGHWAY DISTRICT TO MAINTAIN AND IMPROVE PUBLIC TRANSPORTATION SYSTEMS WITHIN AND PROVIDING ACCESS TO THE DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 31-4318, IDAHO CODE, TO AUTHORIZE AN ADDITIONAL LEVY FOR PLANNED UNIT DEVELOPMENT RECREATION DISTRICTS; AMENDING SECTION 31-4323, IDAHO CODE, TO REVISE PURPOSES FOR WHICH INDEBTEDNESS MAY BE INCURRED AND TO ALLOW PLANNED UNIT DEVELOPMENT RECREATION DISTRICTS TO INCUR ADDITIONAL INDEBTEDNESS; AND AMENDING SECTION 31-4328, IDAHO CODE, TO ALLOW A HIGHER LEVY FOR A RECREATION FACILITIES RESERVE FUND FOR PLANNED UNIT DEVELOPMENT RECREATION DISTRICTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Chapter 43, 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 31-4304A, Idaho Code, and to read as follows:

31-4304A. CREATION OF A PLANNED UNIT DEVELOPMENT RECREATION DISTRICT. A recreation district may be created by a planned unit development created pursuant to section 67-6515, Idaho Code, applicable to the boundaries of the planned unit development as created by county permit pursuant to the following special terms and provisions:

(a) A "qualified elector" as defined in section 31-4303, Idaho Code, shall include a person owning real property in the proposed district.

(b) Upon receipt of a petition signed by sixty percent (60%) of the qualified electors in a planned unit development to form a recreation district, the board of county commissioners shall issue an order so finding a district has been formed as if an election had been held pursuant to section 31-4304, Idaho Code.

(c) The provisions of subsections (f) and (g) of section 31-4304, Idaho Code, shall apply to initial appointment of a board of directors for a district organized pursuant to this section. Additionally, the provisions of this chapter shall apply to the provisions of a district organized pursuant to this section.

SECTION 2. That Section 31-4307, Idaho Code, be, and the same is hereby amended to read as follows:

31-4307. PERSONS WHO MAY VOTE IN ELECTION. Any person may vote at a district election who is a qualified elector ~~and a resident of such district~~ as defined in section 34-104, Idaho Code, for a recreation district created pursuant to section 31-4304, Idaho Code, or as defined in section 31-4304A, Idaho Code, for a recreation district created pursuant to that section; except that elector registration shall not be required in order to qualify as an elector under the provisions of this chapter.

SECTION 3. That Section 31-4314, Idaho Code, be, and the same is hereby amended to read as follows:

31-4314. LIMITATION OF POWER TO INCUR DEBT. Neither the board nor any officer shall have power to incur any debt or liability on behalf of the district, whether by issuance of bonds or otherwise, in excess of the express provisions of this act and any such debt or liability so incurred shall be void; except that for the purpose of organization or for any of the purposes of this act, the board may before making the tax levy in the fiscal year of organization, incur debts not exceeding in the total a sum equal to one-tenth of one percent (0.1%) of market value for assessment purposes of the taxable property within the district or five-tenths of one percent (0.5%) of market value for assessment purposes of the taxable property within a district that is created pursuant to section 31-4304A, Idaho Code. The provisions of section 63-921, Idaho Code, shall not apply to any recreation district if that district is created prior to June 1.

The levy authorized herein shall be exempt from the limitation imposed by the provisions of section 63-923(1), Idaho Code~~,--and--from the provisions of section 63-2220, Idaho Code~~.

SECTION 4. That Section 31-4316, Idaho Code, be, and the same is hereby amended to read as follows:

31-4316. PURPOSE OF DISTRICT. Each district is organized for the uses and purposes of acquiring, providing, maintaining and operating public recreation centers, swimming facilities, pools, picnic areas, camping facilities, ball parks, handball courts, tennis courts, marine and snowmobile facilities, recreational pathways, ski areas, and golf courses and public transportation systems and facilities serving the district together with all related grounds, buildings, equipment and apparatus for the use of the residents of the district and the public generally.

SECTION 5. That Section 31-4317, Idaho Code, be, and the same is hereby amended to read as follows:

31-4317. POWERS OF DISTRICT. Each district is a body politic and corporate and as such shall, in the name of and for the uses and purposes of the district, have power:

(a) to adopt a seal which may be changed or altered at the pleasure of the board;

(b) to sue and be sued;

(c) to designate one (1) or more banks to be the official depository of the district funds as provided by law;

(d) to make and execute all contracts necessary or convenient;

(e) to acquire, hold, occupy, use, manage, possess, lease, exchange, sell and convey such property, both real and personal, as may be necessary or convenient;

(f) to accept gifts and donations of such property, both real or personal, as may be necessary or convenient;

(g) to construct or erect all buildings or structures which are necessary or convenient;

(h) to cooperate with and to contract with the state and federal governments or any bureau or agency thereof and with any county, city, school district, other recreation districts, other political subdivisions or municipal corporations to provide funds for district facilities or to provide joint facilities;

(i) to operate and provide all concessions necessary or convenient;

(j) to provide classes in water safety and swimming to the public;

(k) to hire and to dismiss all necessary agents, attorneys and other employees and to fix and pay their compensation and expenses out of the district funds;

(l) to require a bond for the faithful performance of their duties as such officers, agents or employees of the district and to pay the costs thereof from district funds;

(m) to fix and collect fees and charges for the use of the district's facilities, and to reduce or waive the same as to any person not ~~resonably~~ reasonably able to pay therefor;

(n) to make and enforce all rules and regulations for the operation and use of the district facilities;

(o) to invest any funds of the district not then required for district purposes in any securities of the state or the United States or in time certificates of deposit of authorized public depositories;

(p) to levy and apply such taxes for such purposes as are authorized by law;

(q) to exercise such other powers as may be conferred by law;

(r) may contract with the county, or highway district to maintain and improve public transportation systems within and providing access to the district. The district shall be entitled to all fees levied within the district each year on real and personal property for such purposes.

SECTION 6. That Section 31-4318, Idaho Code, be, and the same is hereby amended to read as follows:

31-4318. LEVY OF TAX. The board is empowered to levy a tax for the uses and purposes of the district in an amount not exceeding three (3) mills in any one (1) year on each one dollar ($1.00) of the assessed valuation upon all of the taxable property within the district or in an amount not exceeding ten (10) mills in any one (1) year on each one dollar ($1.00) of the assessed valuation upon all of the taxable property within a district created pursuant to section 31-4304A, Idaho Code. The board shall by resolution fix the levy to be made for such district for such year and the secretary shall transmit a certified copy of such resolution to the county commissioners at the time and in the manner provided by sections 63-621 through 63-624, Idaho Code. Such taxes shall be collected as provided by section 63-918, Idaho Code, and remitted to the treasurer of the district as provided by section 63-2104, Idaho Code.

SECTION 7. That Section 31-4323, Idaho Code, be, and the same is hereby amended to read as follows:

31-4323. CREATION OF INDEBTEDNESS FOR WORKS OR IMPROVEMENTS -- ELECTION ON PROPOSED INDEBTEDNESS. Whenever the board of a recreation district shall, by resolution, determine that the interest of said district and the public interest or necessity demand the acquisition, construction, installation, completion or maintenance of any ~~buildings~~ purpose stated in section 43-4316, Idaho Code, equipment or apparatus to carry out the objects or purposes of said district requiring the creation of an indebtedness ~~of five thousand dollars ($5,000) or more, and -- in any event, when the indebtedness will~~ exceeding the income and revenue provided for the year, the board shall order the submission of the proposition of issuing such obligations or bonds or creating other indebtedness to the qualified electors, at an election held for that purpose. The declaration of public interest or necessity, herein required, and the provision for the holding of such election, may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolutions shall also fix the date upon which such election shall be held, and the manner of holding the same, and the method of voting for or against the incurring of the proposed indebtedness; such resolution shall also fix the compensation to be paid the officers of the election and shall designate the polling place or places and shall appoint for each polling place, from the qualified electors who are taxpayers of the district, the officers of such election, consisting of three (3) judges, one (1) of whom shall act as the clerk, provided, however, that no district shall issue or have outstanding its coupon bonds in excess of two percent (2%) of market value for assessment purposes of the real estate and personal property within the said district or in excess of ten percent (10%) of market value for assessment of purposes of real estate and personal property within a district created pursuant to section 31-4304A, Idaho Code, according to the assessment of the year preceding any such issuance of such evidence of indebtedness for any or all of the propositions specified in this election.

SECTION 8. That Section 31-4328, Idaho Code, be, and the same is hereby amended to read as follows:

31-4328. RECREATION FACILITIES RESERVE FUND ELECTION. In any recreation district in which a recreation facilities reserve fund has been created, the board may submit to the qualified electors of the district, the question of applying the levy of three (3) mills in a district or ten (10) mills in a district created pursuant to section 31-4304A, Idaho Code, authorized in section 31-4318, Idaho Code, or a portion thereof, to the credit of the recreation facilities reserve fund.

The notice of such election shall state the number of mills proposed to be levied, the period of years in each of which the levy is proposed to be made, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be conducted and

the returns canvassed as provided in sections 31-4323 through 31-4326, Idaho Code, and the levy shall be approved only if a majority, in the amount which is now, or may hereafter be, set by the constitution of the state of Idaho for approval of indebtedness, ~~of~~ if the qualified voters vote in favor.

If the question be approved, the board may make a levy in each year according to the terms so approved, and may again submit the question at the expiration of the period of such levy, for the number of mills and the number of years which the board may at that time determine, or, during the period approved at any such election, if such period be less than ten (10) years or the number of mills be less than three (3), the board may submit to the qualified electors in the same manner as before, the question whether the number of years, or the number of mills, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

Approved March 22, 1995.

CHAPTER 354
(S.B. No. 1013, As Amended, As Amended in the House)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; AMENDING SECTION 16-1815, IDAHO CODE, TO CHANGE NOMENCLATURE, TO PROVIDE THAT THE COURT MAY ORDER THE PARENTS, FOSTER PARENTS OR OTHER LEGAL GUARDIAN OF A JUVENILE IN DETENTION TO PAY AN AMOUNT TOWARD THE COSTS OF DETENTION, TO PROVIDE LEGISLATIVE INTENT REGARDING THE CONTINUANCE WHILE THE JUVENILE IS DETAINED OF PUBLIC ASSISTANCE PAYMENTS OR OTHER PAYMENTS BEING RECEIVED BY THE PARENTS, FOSTER PARENTS OR LEGAL GUARDIAN FOR THE CARE OF THE JUVENILE, TO PROVIDE THAT AN ORDER FOR PAYMENT SHALL HAVE THE EFFECT OF A CIVIL JUDGMENT AND TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE SHALL PAY DETENTION COSTS FOR HOUSING A JUVENILE AT A DETENTION FACILITY FOR MORE THAN FIVE DAYS AFTER RECEIPT BY THE DEPARTMENT OF AN ORDER COMMITTING THE JUVENILE TO THE CUSTODY OF THE DEPARTMENT.

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

SECTION 1. That Section 16-1815, Idaho Code, be, and the same is hereby amended to read as follows:

16-1815. SUPPORT OF ~~CHILD~~ JUVENILE -- REIMBURSEMENT FOR COSTS INCURRED -- PAYMENT OF DETENTION COSTS. (1) Whenever a ~~child~~ juvenile is placed by the court in custody other than that of ~~his or her~~ the juvenile's parents, guardian or custodian, after due notice to the parent, guardian or other persons legally obligated to care for and support the ~~child~~ juvenile, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay

in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the ~~child~~ juvenile. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(2) If the juvenile is detained, the court may order that the parents or other legal guardian of the juvenile contribute to the costs of detention in an amount to be set by the court. The order may be filed and shall have the effect of a civil judgment. It is the intent of the legislature that foster parents or a parent or legal guardian receiving public assistance relating to that juvenile should not benefit from the continued receipt of payments or public assistance from any state or federal agency while the juvenile is detained. The department of health and welfare is directed to promulgate a rule implementing this intent.

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

(~~3~~4) Failure to include these provisions does not affect the validity of the support order or decree. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

(5) If the juvenile is committed to the custody of the department of health and welfare pursuant to chapter 18, title 16, Idaho Code, the department shall reimburse the county for the period of time in excess of five (5) days during which the juvenile is housed at a detention facility. The time period shall begin to run from the day the department receives a copy of the order of commitment executed by the court. Facsimile transmissions of the order are acceptable.

Approved March 22, 1995.

CHAPTER 355
(S.B. No. 1274, As Amended in the House)

AN ACT

EXPRESSING LEGISLATIVE INTENT FOR GOALS 2000 FUNDS; APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION IN ADDITION TO THE APPROPRIATION MADE IN SECTION 1, CHAPTER 154, LAWS OF 1994; APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1996; LIMITING FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; SETTING FORTH CONDITIONS FOR THE REAPPROPRIATION; AND DECLARING AN EMERGENCY FOR SECTION 2 OF THIS ACT.

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

SECTION 1. It is legislative intent that all federal funds received by the State of Idaho for Goals 2000 may be expended by the Superintendent of Public Instruction as approved by the State Board of Education.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 154, Laws of 1994, there is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amount, to be expended according to the designated standard classification from the listed fund for the period July 1, 1994, through June 30, 1995:

FOR:	
Operating Expenditures	$15,700
FROM:	
General Fund	$15,700

SECTION 3. There is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amounts to be expended according to the designated standard classifications from the listed fund for the period July 1, 1995, through June 30, 1996:

FOR:	
Personnel Costs	$687,000
Operating Expenditures	237,700
Capital Outlay	5,000
TOTAL	$929,700
FROM:	
General Fund	$929,700

SECTION 4. In accordance with Section 67-3519, Idaho Code, the agency is authorized no more than ten and eighty-five one hundredths (10.85) full-time equivalent positions at any point during the period July 1, 1995, through June 30, 1996, for the program specified in Section 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. There is hereby reappropriated to the State Board of Education for the Office of the State Board of Education the unexpended and unencumbered balance of any General Fund appropriation contained in Section 1, Chapter 154, Laws of 1994, to be used for nonrecurring expenditures for the period July 1, 1995 through June 30, 1996.

SECTION 6. The reappropriation granted in Section 5 of this act shall be subject to the following provisions:

(1) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is zero, the reappropriation in Section 5 is hereby declared to be null and void.

(2) If the unexpended and unencumbered balance in the General Fund on June 30, 1995, is greater than zero but less than the total

General Fund reappropriation authority granted to all state agencies, the amount reappropriated in Section 5 of this act shall be in the proportion that the reappropriation for the Office of the State Board of Education bears to the total General Fund reappropriation authority granted to all state agencies.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 1995.

CHAPTER 356
(S.B. No. 1221, As Amended in the House)

AN ACT

RELATING TO LICENSES TO CARRY CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REVISE PROCEDURES AND CRITERIA FOR THE ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS BY COUNTY SHERIFFS AND TO PROVIDE FOR TEMPORARY EMERGENCY LICENSES; AMENDING SECTION 9-340, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM DISCLOSURE FOR RECORDS OF APPLICANTS AND LICENSEES TO CARRY CONCEALED WEAPONS; AND DECLARING AN EMERGENCY.

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~~ ninety (6~~9~~0) 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~~ is not disqualified from possessing or receiving a firearm under state or federal law, 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; or

(n) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

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 shall require 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 application shall indicate that provision of the social security number is optional. 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 sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this subsection. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the department of law enforcement for

a records check of state and national files. The department of law enforcement shall conduct a national fingerprint-based records check and return the results to the sheriff within seventy-five (75) days. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in paragraphs (a) through (n) of subsection (1) of this section.

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, expiration date 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~~ notify the department of law enforcement on a form or in a manner prescribed by the department. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or department of law enforcement is confidential and exempt from disclosure under section 9-338, Idaho Code.

(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 lawfully required by any state or federal agency or department, and the cost of materials for the license 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~~ The sheriff may collect any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state. If a licensee applying for renewal has not previously been required to submit fingerprints, the sheriff shall require the licensee to do so and may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department.

(4) A licensee may renew a license if the licensee applies for renewal at any time before or 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~~ complete an application. The sheriff shall submit the ~~fingerprints~~ application to the department of law enforcement for a records check of state and national databases. The department of law enforcement shall conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (1), paragraphs (a) through (n) of this section. 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. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) shall be easily distinguishable from regular licenses.

(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~~ prosecutors 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~~5~~, 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. However, a temporary emergency license issued under subsection (5) of this section shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(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.

SECTION 2. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

(4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a

private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(11) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records;

(f) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

(i) Such information shall be available upon request to a law enforcement agency; and

(ii) The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name, date of birth and social security number of the person for whom the information is requested.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(13) Retired employees' and retired public officials' home

addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(14) Any personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(15) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

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

(18) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public

disclosure.

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

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

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

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the child. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the

Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision making, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

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

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

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

(34) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status,

workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(37) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(38) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(39) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(40) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims

evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided, however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(41) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(42) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

(43) Records of the sheriff or department of law enforcement received or maintained pursuant to section 18-3302, Idaho Code, relating to an applicant or licensee.

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 22, 1995.

CHAPTER 357
(S.B. No. 1048, As Amended, As Amended in the House)

AN ACT

RELATING TO DOMESTIC VIOLENCE PROTECTION ORDERS; AMENDING SECTIONS 39-6306 AND 39-6311, IDAHO CODE, TO PROVIDE THAT A PROTECTION ORDER MAY BE RENEWED FOR ADDITIONAL TERMS OF ONE YEAR EACH.

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

SECTION 1. That Section 39-6306, Idaho Code, be, and the same is hereby amended to read as follows:

39-6306. HEARING ON PETITION FOR PROTECTION ORDER -- RELIEF PROVIDED AND REALIGNMENT OF DESIGNATION OF PARTIES. (1) Upon filing of a petition based upon a sworn affidavit for a protection order, the court shall hold a hearing to determine whether the relief sought shall be granted within fourteen (14) days. If either party is represented by counsel at a hearing seeking entry of a protection order, the court shall permit a continuance, if requested, of the proceedings so that counsel may be obtained by the other party. If the court finds that it is necessary for both parties to be represented by counsel, the court shall enter appropriate orders to insure that counsel is retained. The order entered may require either the petitioner or respondent, or both, to pay for costs of counsel. Upon a showing that

there is an immediate and present danger of domestic violence to the petitioner the court may, if requested, order for a period not to exceed three (3) months that:

(a) Temporary custody of the minor children of the petitioner or of the parties be awarded to the petitioner or respondent if exercise of such jurisdiction is consistent with the provisions of section 32-1103, Idaho Code, and consistent with prior custody orders entered by a court of competent jurisdiction unless grounds exist pursuant to section 32-717, Idaho Code;

(b) A party be restrained from committing acts of domestic violence;

(c) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(d) The respondent be ordered to participate in treatment or counseling services. The council on domestic violence, in recognition of the particular treatment requirements for batterers, shall develop minimal program and treatment standards to be used as guidelines for recommending approval of batterer programs to the court;

(e) Other relief be ordered as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter;

(f) The respondent be required to pay service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee;

(g) The respondent be restrained from contacting, molesting, interfering with or menacing the minor children whose custody is awarded to the petitioner; and/or

(h) The respondent be restrained from entering any premises when it appears to the court that such restraint is necessary to prevent the respondent from contacting, molesting, interfering with or menacing the petitioner or the minor children whose custody is awarded to the petitioner.

(2) Immediate and present danger under this section includes, but is not limited to, situations in which the respondent has recently threatened the petitioner with bodily harm or engaged in domestic violence against the petitioner.

(3) No order made under this chapter shall in any manner affect title to real property.

(4) Relief shall not be denied because petitioner used reasonable force in self-defense against respondent, or because petitioner or respondent was a minor at the time of the incident of domestic violence.

(5) Any relief granted by the protection order, other than a judgment for costs, shall be for a fixed period not to exceed three (3) months; provided, that an order obtained pursuant to this chapter may, upon motion and upon good cause shown, be renewed for ~~an~~ additional terms not to exceed one (1) year each if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered.

(6) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where

the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

SECTION 2. That Section 39-6311, Idaho Code, be, and the same is hereby amended to read as follows:

39-6311. ORDER -- TRANSMITTAL TO LAW ENFORCEMENT AGENCY -- RECORD IN IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM -- ENFORCEABILITY. (1) The orders issued under sections 39-6306 and 39-6308, Idaho Code, shall be in a form approved by the supreme court of the state of Idaho to be effective January 1, 1991.

(2) (a) A copy of a protection order granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

(b) Upon receipt of the order, the law enforcement agency shall forthwith enter the order and its expiration date into the Idaho law enforcement telecommunications system available in this state used by law enforcement agencies to list outstanding warrants. Notification of service as required in section 39-6310, Idaho Code, shall also be entered into the Idaho law enforcement telecommunications system upon receipt. Entry into the Idaho law enforcement telecommunications system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. Renewals of the order shall be recorded in the same manner as original orders. The information entered shall specifically state that the protection order is civil in nature.

(3) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident of domestic violence may be informed of the existence and terms of such protection order.

(4) A protection order shall remain in effect for the term set by the court or until terminated by the court. A protection order may, upon motion <u>and upon good cause shown,</u> be renewed for ~~an~~ additional terms not to exceed one (1) year <u>each</u> if the requirements of this chapter are met. The motion to renew an order may be granted without a hearing, if not timely objected to by the party against whom the order was entered. If the petitioner voluntarily and without duress consents to the waiver of any portion of the protection order vis-a-vis the respondent pursuant to section 39-6313, Idaho Code, the order may be modified by the court.

Approved March 22, 1995.

CHAPTER 358
(S.B. No. 1045, As Amended in the House)

AN ACT

RELATING TO THE RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING SECTION 23-903, IDAHO CODE, TO PROVIDE AN ADDITIONAL DEFINITION OF SKI

RESORT FOR WHICH THE OWNER OR LESSEE MAY QUALIFY FOR ISSUANCE OF A LIQUOR LICENSE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby amended to read as follows:

23-903. LICENSE TO RETAIL LIQUOR. The director of the department of law enforcement is hereby empowered, authorized, and directed to issue licenses to qualified applicants, as herein provided, whereby the licensee shall be authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the rules ~~and regulations~~ promulgated by the director and the provisions of this chapter. No license shall be issued for the sale of liquor on any premises outside the incorporated limits of any city except as provided in this chapter and the number of licenses so issued for any city shall not exceed one (1) license for each one thousand five hundred (1,500) of population of said city or fraction thereof, as established in the last preceding census, or any subsequent special census conducted by the United States bureau of the census or by an estimate that is statistically valid including adding the number of new residential utility connections or including adding the population of areas annexed into the city after the last census or special census was conducted, except that upon proper application thereof not more than two (2) licenses may be issued for each incorporated city with a population of one thousand five hundred (1,500) or less, unless the retail licensing of liquor by the drink has been previously disapproved under the provisions of sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided, however, that any license heretofore issued may be renewed from year to year without regard to the population or status of the city for which such license is issued. Any license issued and which has remained in effect at its location for a consecutive period of ten (10) years or more shall be deemed to have been validly issued and may be renewed from year to year provided, however, that the applicant for the renewal of such license is not otherwise disqualified for licensure pursuant to section 23-910, Idaho Code, and, if the premises required special characteristics for original licensure, other than being either within or without the incorporated limits of a city, that said premises continue to have such special characteristics at the time of the application for renewal.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide golf course whether located within or without the limits of any city, or ski resort, or to the lessee of any premises situate thereon, no part of which ski resort or the premises thereon is situate within the incorporated limits of any city. For the purpose of this section a golf course shall comprise an actual, bona fide golf course, which is regularly used for the playing of the game of golf, and having not less than nine (9) tees, fairways and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a

total yardage of at least one thousand (1,000) yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members, or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof.

Also for the purpose of this section a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator, or lessee of the ski resort has made available himself, or through others, including but not limited to the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs, and which real property is regularly operated as a ski resort in the winter time, and where the owner, operator, or lessee of the ski resort is also the owner, operator, or lessee of the area served by a bona fide chair ski lift facility or facilities. Alternatively, for the purpose of this section a ski resort may also be defined as a downhill ski area, open to the public, comprising real property of not less than two hundred fifty (250) skiable acres, operating two (2) or more chair lifts with a vertical lift of one thousand (1,000) feet or more, and capable of transporting a minimum of one thousand eight hundred (1,800) skiers per hour. A ski resort qualifying under this definition shall also have on the premises a lodge facility providing shelter and food service to the public, the operator of which shall also be the valid owner or lessee of the grounds and facilities upon which the ski resort offers downhill skiing services to the public. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual, bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1) licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. The license shall be solely for the equestrian facility and shall not be transferred to any other location. The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of a restaurant operated on an air-

port owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America. Not more than one (1) license shall be issued on any airport.

Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club which possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (a), (b) and (c) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(f), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide convention center which is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid convention center license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least thirty-five thousand (35,000) square feet of floor space or a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room which will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (c) of section 23-904, Idaho Code. No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall the holder of a convention center license be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of

this section, the term holder shall include an owner, operator or lessee and shall include a stockholder, director, or officer of a corporation, or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a food, beverage and/or lodging facility that has been in continuous operation in the same location for at least seventy-five (75) years, except for temporary closings for refurbishing or reconstruction. The provisions of section 23-910, Idaho Code, shall apply to licenses issued to continuous operation facilities. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued to continuous operation facilities are not transferable.

Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of the lodging, dining and entertainment facilities owned by a gondola resort complex and operated in conjunction with the other public services provided by a gondola resort complex located within the ownership/leasehold boundaries of a gondola resort complex.

A gondola resort complex means an actual, bona fide gondola capable of transporting people for recreational and/or entertainment purposes at least three (3) miles in length with a vertical rise of three thousand (3,000) feet, portions of which may be located within or over the limits of one (1) or more cities.

The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this subsection. The fees 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 subsection are not transferable.

Approved March 22, 1995.

CHAPTER 359
(S.B. No. 1142, As Amended, As Amended in the House)

AN ACT

RELATING TO ENVIRONMENTAL AUDITS; AMENDING TITLE 9, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 8, TITLE 9, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSE, TO DEFINE TERMS, TO PROHIBIT COMPELLED DISCLOSURE OF ENVIRONMENTAL AUDITS, TO PROVIDE FOR REQUIRED DISCLOSURE, TO PROVIDE EXCEPTIONS TO THE PROHIBITION AGAINST COMPELLED DISCLOSURE, TO PROVIDE FOR INFORMATION, DOCUMENTS AND OTHER MATERIALS THAT MAY BE DISCLOSED, TO PROVIDE APPLICATION TO THE IDAHO RULES OF EVIDENCE, TO PROVIDE FOR IMMUNITY FOR VOLUNTARY DISCLOSURE ARISING FROM AN ENVIRONMENTAL AUDIT, TO PROVIDE FOR PROMULGATION OF RULES GOVERNING THE TREATMENT OF ENVIRONMENTAL AUDIT REPORTS, CONFIDENTIAL BUSINESS

INFORMATION AND TIMETABLES FOR REMEDIAL ACTION, AND TO PROVIDE FOR ACCESS TO AND RELEASE OF CERTAIN INFORMATION BY THE GOVERNOR UPON CERTAIN CIRCUMSTANCES AND TO PROVIDE SEVERABILITY; AMENDING SECTION 9-340, IDAHO CODE, TO PROVIDE THAT VOLUNTARILY PREPARED ENVIRONMENTAL AUDITS AND VOLUNTARY DISCLOSURES OF INFORMATION SUBMITTED TO AN ENVIRONMENTAL AGENCY WHICH ARE CLAIMED TO BE CONFIDENTIAL BUSINESS INFORMATION SHALL BE EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340, IDAHO CODE, AS AMENDED IN SECTION 2 OF THIS ACT, TO PROVIDE FOR CONFIDENTIALITY OF ENVIRONMENTAL AUDITS AND VOLUNTARY DISCLOSURE OF CERTAIN INFORMATION SUBMITTED TO AN ENVIRONMENTAL AGENCY ON OR BEFORE DECEMBER 31, 1997; PROVIDING A SUNSET CLAUSE AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Title 9, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 9, Idaho Code, and to read as follows:

CHAPTER 8
ENVIRONMENTAL AUDIT

9-801. SHORT TITLE. This act may be known and cited as the "Environmental Audit Protection Act."

9-802. LEGISLATIVE FINDINGS AND PURPOSES. (1) The legislature of the state of Idaho finds:

(a) That the purpose of this act is to encourage owners and operators of facilities and other persons conducting activities regulated under applicable environmental laws to conduct voluntary internal environmental audits of their activities, operations, compliance programs and management systems and to assess and improve compliance with applicable environmental laws while protecting confidentiality of communications relating to voluntary internal environmental audits;

(b) That all persons should comply with environmental laws and regulations;

(c) That voluntary compliance with environmental laws and regulations will protect the public health, safety and welfare in the most efficient and effective manner;

(d) That all persons, corporations, government agencies and associations should be encouraged to conduct detailed audits or self-evaluations of compliance with environmental statutes and regulations; and

(e) That voluntary environmental audits are in the public interest.

(2) Therefore, to encourage owners and operators of facilities, and persons conducting activities regulated under federal, state and local environmental laws, regulations, rules, ordinances and permits, to conduct voluntary internal environmental audits, to develop compliance programs and to implement management systems, the legislature of the state of Idaho recognizes that an environmental audit privilege is necessary. The legislature of the state of Idaho further recognizes

that voluntary disclosure of information developed during an environmental audit to regulatory agencies should be encouraged and that the development of an environmental program to correct environmental problems and to achieve compliance with regulations should also be encouraged. To that end the legislature is establishing immunities for violations of laws and rules voluntarily disclosed to environmental agencies. The legislature of the state of Idaho is further strengthening protections for confidential business information including environmental audits that are submitted to environmental agencies.

9-803. DEFINITIONS. As used in this chapter:

(1) "Document," as used in this legislation, includes writings, drawings, graphs, charts, photographs, phone records and other data compilations, including electronic, from which information can be obtained or translated.

(2) "Environmental agency" shall mean any department or division of the state, local government or health board with authority to enforce any state environmental law.

(3) "Environmental audit" means an internal evaluation done pursuant to a plan or protocol that is designed to identify and prevent noncompliance and to improve compliance with statutes, regulations, permits and orders. An environmental audit may be conducted by an owner or operator, by an owner or operator's employees or by an independent contractor. An environmental audit may include:

(a) One (1) or more facilities;

(b) Any activity at one (1) or more facilities;

(c) Impacts on one (1) or more environmental media at a facility or facilities; or

(d) Management systems related to a facility, an activity or an impact on environmental media.

(4) "Environmental audit report" means a set of documents, each labeled "Environmental Audit Report" (or a substantive equivalent label), and prepared as a result of an environmental audit. An environmental audit report may include field notes, records of observations, findings, opinions, suggestions, implementation plans, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, data, charts, graphs and surveys, provided such supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report may include memoranda and documents analyzing portions or all of the audit report.

(5) "Environmental law" means any federal, state or local law, regulation, rule, ordinance or permit terms and conditions designed to protect or enhance the quality of land, water or air for the protection of human health, wildlife, other biota, or the environment.

(6) "Person" means any individual, firm, association, partnership, 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 the law as the subject of rights and duties.

(7) "In camera review" means a hearing or review in a courtroom, hearing room or chambers, to which the general public is not admitted. After such hearing or review, the content of the oral and other evi-

dence and statements of the judge, hearing officer and counsel shall be held in confidence by those participating in or present at the hearing or review, and any transcript of the hearing or review shall be sealed and not considered a public record until or unless its contents are disclosed by a court having jurisdiction over the matter.

9-804. PROHIBITION AGAINST COMPELLED DISCLOSURE. Notwithstanding any other provision of law to the contrary, no state of Idaho public official, employee or environmental agency shall require to be disclosed an environmental audit report prepared by or on behalf of any person, except from the state of Idaho or any political subdivision.

9-805. REQUIRED DISCLOSURES. Nothing in this act shall be construed to prohibit a request for information, investigation or disclosure of information required to be disclosed pursuant to federal and state law, rule or regulation. Documents, communications, data, reports and other information which must be collected, developed and reported pursuant to federal and state law, rule and regulation must be disclosed in accordance with the applicable law, rule or regulation.

9-806. EXCEPTIONS. (1) The environmental audit prohibition against compelled disclosure does not apply to the extent that it is waived expressly by the owner or operator of a facility. The waiver shall apply only to the portions of the environmental audit report which is specifically waived.

(2) The prohibition against disclosure does not apply if the environmental agency or court after in camera review determines that:

(a) Protection for the audit report is for a fraudulent purpose; or

(b) The material is not an appropriate subject for an environmental audit.

(3) A party seeking disclosure of the environmental audit report has the burden of proving the disclosure is appropriate. The existence of a written environmental compliance policy or adoption of a plan of action to meet applicable environmental laws shall constitute prima facie evidence that an environmental audit report was designed to prevent noncompliance and improve compliance with environmental laws and that the environmental audit is protected from disclosure. A party seeking disclosure under the provisions of subsection (2)(a) of this section has the burden of proving that the privilege is asserted for a fraudulent purpose.

9-807. LIMITATIONS ON PREVENTING DISCLOSURE. The prohibition against disclosure of the environmental audit report shall not extend to:

(1) Documents, communications, data, reports or other information required to be collected, developed, maintained, reported or otherwise made available to an environmental agency pursuant to any environmental law or permit;

(2) Information obtained by observation, sampling or monitoring by an environmental agency; or

(3) Information obtained from a source independent of the envi-

ronmental audit.

9-808. EXISTING EVIDENTIARY PRIVILEGES RETAINED. Nothing in this chapter is inconsistent with the Idaho rules of evidence or in any way limits, waives or abrogates the scope or nature of any statutory or common law privilege, including the work product doctrine and the attorney-client privilege.

9-809. IMMUNITY FOR VOLUNTARY DISCLOSURE ARISING FROM ENVIRONMENTAL AUDIT. (1) Any person that makes a voluntary disclosure of an environmental audit report, or relevant portions thereof, which identifies circumstances which may constitute a violation of any state environmental law to the appropriate environmental agency, shall be immune from state prosecution, suit or administrative action for any civil or criminal penalties or incarceration for acts associated with the issues disclosed.

(2) A disclosure is rebuttably presumed voluntary if:

(a) The disclosure is made by the owner or operator in a timely manner, after receipt of the environmental audit report to the environmental regulatory agency having regulatory authority;

(b) The disclosure arises out of an environmental audit; and

(c) The owner or operator making the disclosure immediately initiates appropriate efforts to achieve compliance, pursues compliance with due diligence, and expeditiously achieves compliance within a reasonable period after the completion of the environmental audit.

(3) Where audit evidence shows the noncompliance to be the failure to obtain a permit, or other governmental permission, appropriate efforts to correct the noncompliance may be demonstrated by the submittal of a permit application or equivalent document within a reasonable time.

(4) A person may, but is not required, to enter into a voluntary consent order with the environmental regulatory agency to achieve compliance.

(5) Any disclosure to an environmental agency required by law or pursuant to a specific permit condition or order is not considered a voluntary disclosure to the environmental agency.

(6) Immunity against administrative, civil or criminal penalties or incarceration or other type of enforcement action in this section does not apply if a person or entity has been found by a court to have committed serious violations that constitute a pattern of continuous or repeated violations of environmental laws, regulations, permit conditions, settlement agreements, consent orders, and were due to separate and distinct events giving rise to the violations within the three (3) year period prior to date of the disclosure. Such a pattern of continuous repeated violations may also be demonstrated by multiple settlement agreements related to substantially the same alleged violations concerning serious instances of noncompliance with environmental laws that occur within the three (3) year period immediately prior to the date of the voluntary disclosure.

(7) Except as specifically provided, this section does not affect any authority of an environmental agency to require remedial action through a consent order or action in district court or to abate an

imminent hazard, associated with the information disclosed in any voluntary disclosure of an environmental violation.

9-810. RULES, CONFIDENTIAL BUSINESS INFORMATION, AUDIT, TIMETABLES -- ACCESS TO OR RELEASE OF CERTAIN INFORMATION. (1) The environmental agencies shall promulgate rules further defining an environmental audit and timetables for remedial actions to be performed and rules governing the treatment of environmental audit reports and confidential business information within one hundred eighty (180) days of the effective date of this chapter.

(2) In addition to, and notwithstanding other provisions of this chapter and section 9-340, Idaho Code, in circumstances where the governor deems an imminent and substantial danger to the public health or the environment, the governor may disclose such information excluding trade secrets as defined in section 9-340, Idaho Code, contained in the environmental audit as may be necessary to assure the protection of the public health or environment.

9-811. 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 2. That Section 9-340, Idaho Code, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

(4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or

inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(11) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records;

(f) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

(i) Such information shall be available upon request to a law enforcement agency; and

(ii) The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name, date of birth and social security number of the person for whom the information is requested.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(13) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial

membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(14) Any personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(15) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

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

(18) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

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

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

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

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the child. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is

provided under such rules, and any drafts or other working memoranda related to judicial decision making, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

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

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

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

(34) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home

address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(37) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(38) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(39) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(40) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual

amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided, however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(41) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(42) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

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

SECTION 3. That Section 9-340, Idaho Code, as amended in Section 2 of this act, be, and the same is hereby amended to read as follows:

9-340. RECORDS EXEMPT FROM DISCLOSURE. The following records are exempt from disclosure:

(1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.

(2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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

(4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

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

(7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(11) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records;

(f) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:

(i) Such information shall be available upon request to a law enforcement agency; and

(ii) The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name, date of birth and social security number of the person for whom the information is requested.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(13) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(14) Any personal records, other than names and addresses, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency pursuant to a statutory requirement for licensing, certification, permit or bonding.

(15) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

(a) The original data including, but not limited to, numbers, text, voice, graphics and images;

(b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

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

(18) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

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

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions

including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

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

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the child. If the juvenile is fourteen (14) years or older and is adjudicated guilty of an offense which would be a felony if committed by an adult, the name, offense of which the juvenile was adjudicated and disposition of the court shall be subject to disclosure.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision making, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

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

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

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

(34) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(37) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(38) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(39) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(40) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided, however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

(41) Records of laboratory test results provided by or retained by

the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(42) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

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

SECTION 4. Section 1 of this act shall be in full force and effect on and after July 1, 1995 and shall be null, void and of no force and effect on and after December 31, 1997. Section 2 of this act shall be in full force and effect on and after July 1, 1995. Section 3 of this act shall be in full force and effect on and after December 31, 1997.

Approved March 22, 1995.

CHAPTER 360
(S.B. No. 1231, As Amended in the House)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-2136, IDAHO CODE, TO EXCLUDE THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT AND THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT FROM THE APPLICATION OF THE SECTION; AMENDING SECTION 41-4703, IDAHO CODE, TO DELETE A SELF-FUNDED HEALTH CARE PLAN FROM THE DEFINITION OF CARRIER AND TO PROVIDE THAT AN ELIGIBLE EMPLOYEE MAY INCLUDE AN EMPLOYEE WORKING BETWEEN TWENTY AND THIRTY HOURS PER WEEK BY AGREEMENT BETWEEN THE EMPLOYER AND THE CARRIER, TO PROVIDE FOR APPLICABILITY OF THE TERM TO PUBLIC OFFICERS AND EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-4704, IDAHO CODE, TO EXCLUDE A HEALTH BENEFIT PLAN SUBJECT TO THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT FROM APPLICATION OF CHAPTER 47, TITLE 41, IDAHO CODE; AMENDING SECTION 41-4706, IDAHO CODE, TO PROVIDE TOBACCO USAGE AS A RATING FACTOR AND TO PROVIDE FOR UTILIZATION OF AGE AS A CASE CHARACTERISTIC IN ESTABLISHING PREMIUM RATES IF THE SAME RATING FACTOR IS APPLIED TO DEPENDENTS UNDER AGE 23 AND THE SAME FACTOR IS APPLIED ON A QUINQUENNIAL BASIS TO INDIVIDUALS OR NONDEPENDENTS AGED TWENTY OR OLDER; AMENDING SECTION 41-4708, IDAHO CODE, TO PROVIDE THAT THE PERIOD OF CONTINUOUS COVERAGE SHALL NOT INCLUDE ANY WAITING PERIOD FOR THE EFFECTIVE DATE OF NEW COVERAGE APPLIED BY THE EMPLOYER OR THE CARRIER; AMENDING SECTION 41-4711, IDAHO CODE, TO PROVIDE THAT THE IDAHO SMALL EMPLOYER AND INDIVIDUAL HEALTH REINSURANCE PROGRAM IS A PUBLIC BODY CORPORATE AND POLITIC PERFORMING AN ESSENTIAL GOVERNMENTAL FUNCTION AND ANY ASSESSMENTS IMPOSED OR COLLECTED PURSUANT TO THE OPERATION OF THE PROGRAM ARE EXEMPT FROM TAXATION, TO PROVIDE THAT NEWBORN DEPEND-

ENTS OF INSUREDS ARE NOT ELIGIBLE FOR INDIVIDUAL REINSURANCE UNLESS A PARENT IS ALREADY REINSURED, TO PROVIDE THE FORMULA FOR CALCULATING ASSESSMENTS, TO INCLUDE POLICIES OR CERTIFICATES OF INSURANCE FOR SPECIFIC DISEASE AND HOSPITAL CONFINEMENT INDEMNITY FOR PURPOSES OF DETERMINING ASSESSMENTS AGAINST A CARRIER, TO PROVIDE FOR ASSESSMENT TO A REINSURING CARRIER FOR THE 1994 CALENDAR YEAR AND EACH YEAR THEREAFTER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-4712, IDAHO CODE, TO PROVIDE THE SIZE AND COMPOSITION OF THE HEALTH BENEFIT PLAN COMMITTEE, TO PROVIDE FOR SUBMISSION OF PLANS TO THE BOARD OF DIRECTORS OF THE SMALL EMPLOYER AND INDIVIDUAL HEALTH REINSURANCE PROGRAM AND TO THE DIRECTOR FOR APPROVAL AND TO DELETE OBSOLETE LANGUAGE; AMENDING SECTION 41-5203, IDAHO CODE, TO DELETE A SELF-FUNDED HEALTH CARE PLAN FROM THE DEFINITION OF CARRIER; AMENDING SECTION 41-5206, IDAHO CODE, TO PROVIDE THAT AN INDIVIDUAL CARRIER MAY PROVIDE FOR TOBACCO USAGE AS A RATING FACTOR AND MAY UTILIZE AGE AS A CASE CHARACTERISTIC IF THE SAME RATING FACTOR IS APPLIED TO DEPENDENTS UNDER AGE TWENTY-THREE AND THE SAME RATING FACTOR IS APPLIED ON A QUINQUENNIAL BASIS TO INDIVIDUALS OR NONDEPENDENTS AGED TWENTY OR OLDER; AMENDING SECTION 41-5208, IDAHO CODE, TO PROVIDE THAT EVERY INDIVIDUAL CARRIER SHALL OFFER ENROLLMENT TO PERSONS WITH QUALIFYING PREVIOUS COVERAGE DURING ALL MONTHS OF THE YEAR AND TO ALL PERSONS WITHOUT QUALIFYING PREVIOUS COVERAGE ON AN OPEN ENROLLMENT BASIS FOR A FORTY-FIVE DAY PERIOD BEGINNING ON JANUARY 1 AND DECEMBER 31 OF EACH CALENDAR YEAR; AMENDING SECTION 41-5212, IDAHO CODE, TO DELETE REFERENCE TO COMMISSIONS TO BE PAID BY AN INDIVIDUAL CARRIER TO AN AGENT FOR THE SALE OR SERVICING OF AN INDIVIDUAL POLICY OR CERTIFICATE; AMENDING SECTION 41-4707, IDAHO CODE, TO PROVIDE THAT SMALL GROUP COVERAGE MAY NOT BE RENEWABLE IF THE EMPLOYER NO LONGER MEETS THE REQUIREMENTS OF A SMALL EMPLOYER; AMENDING SECTION 41-5207, IDAHO CODE, TO PROVIDE THAT COVERAGE MAY BE NONRENEWABLE IF THE COVERED INDIVIDUAL CHANGES RESIDENCE TO OUTSIDE THE STATE; AMENDING CHAPTER 47, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4718, IDAHO CODE, TO PROVIDE FOR OFFERING OF CATASTROPHIC PLANS IN ADDITION TO BASIC AND STANDARD PLANS BY A SMALL EMPLOYER CARRIER; AMENDING CHAPTER 52, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-5213, IDAHO CODE, TO PROVIDE FOR OFFERING OF CATASTROPHIC PLANS IN ADDITION TO BASIC AND STANDARD PLANS BY AN INDIVIDUAL CARRIER; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 41-2136, Idaho Code, be, and the same is hereby amended to read as follows:

41-2136. FILING OF RATES. Each insurer issuing disability insurance policies for delivery in this state shall, before use thereof, file with the director its premium rates and classification of risks pertaining to such policies. The insurer shall adhere to its rates and classifications as filed with the director. The insurer may change such filings from time to time as it deems proper. <u>This section shall not apply to the premium rates or classifications of risks for poli-</u>

cies subject to chapter 47 or 52, title 41, Idaho Code.

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" means 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 or, by agreement between the employer and the carrier, an employee who works between twenty (20) and thirty (30) hours per week. 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, seasonal or substitute basis. The term eligible employee may include public officers and public employees without regard to the number of hours worked when designated by a small employer.

(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, 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" means 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 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. With the exception of a health benefit plan subject to regulation under chapter 52, title 41, Idaho Code, and t~~T~~o 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) 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.

(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 car-

rier 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, individual tobacco use 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~~ dependents under the age of twenty-three (20~~3~~) ~~years of age~~, and the same rating factor shall be applied on a quinquennial basis as to individuals or nondependents 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 documentation described in subsection (4)(a) of this section available to the director upon request. Except in cases of violations of the provisions of this chapter, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

SECTION 5. 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 offering health benefit plans in this state 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. The period of continuous coverage shall not include any waiting period for the effective date of the new coverage applied by the employer or the carrier. 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 minimum 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 accordance 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 6. 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~~ an independent public body corporate and politic to be known as the Idaho small employer and individual health reinsurance program. The program will perform an essential governmental function in the exercise of powers conferred upon it in this act and any assessments imposed or collected pursuant to the operation of the program shall at all times be free from taxation of every kind.

(3) (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 and serving at the pleasure of the director, plus the director or his designated representative, who shall serve as an ~~ex officio~~ 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, e~~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, t~~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.~~ Newborn dependents of insureds are not eligible for individual reinsurance unless a

parent is already reinsured.

(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 dependent of five thousand dollars ($5,000) in a calendar year for benefits covered by the program. In addition, the reinsuring carrier shall be responsible for ten percent (10%) of the next fifty thousand dollars ($50,000) of benefit payments during a calendar year and the program shall reinsure the remainder.

(ii) The board annually ~~shall~~ may adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the department of labor, bureau of labor statistics, unless the board proposes and the director approves a lower adjustment factor.

(f) A reinsuring carrier may terminate reinsurance with the program for one (1) or more of the reinsured individuals, employees or dependents on any anniversary of the health benefit plan.

(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 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 established by the board.

(c) The board periodically shall review the methodology established under the provisions of paragraph (10)(a) of this section, including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the program. The board may propose changes to the methodology which shall be subject to the approval of the director.

(d) The board may consider adjustments to the premium rates charged by the program to reflect the use of effective cost containment and managed care arrangements.

(11) If a health benefit plan for a small employer is entirely or partially reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued shall meet the requirements relating to premium rates set forth in section 41-4706, Idaho Code.

(12) (a) Prior to March 1 of each year, the board shall determine and report to the director the program net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(b) Any net loss for the year shall be recouped by assessments of carriers.

(c) (i) For the assessment of March 1, 1995, and ~~P~~prior to March 1 of each succeeding year, the board shall determine and file with the director an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

(ii) The individual assessments shall be determined by multiplying ~~the total program expenses~~ net losses, if net earnings are negative, as defined by subsection (12)(a) of this section, 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~~ premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease, and hospital confinement indemnity in this state as reported in the carrier's annual report pursuant to subsection (16) of this section, and the denominator of which shall be the total ~~number of resident insured persons, including spouses and dependents, insured under~~ premiums earned in the preceding calendar year from all health benefit plans and policies or certificates of insurance for specific disease and hospital confinement indemnity in this state.

~~(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 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~~ by the director, an annual report. The report shall state the number of resident persons insured under the carrier's health benefit plan.

(17) If a reinsuring small employer carrier attempts to reinsure or reinsures an entire employer group, an employee, or a dependent of such employee that, immediately prior to the commencement of such coverage, it covered under a health benefit plan, the board shall assess all costs and losses incurred by the program for claims and administrative expenses relating to such group, employee or dependent of such employee only to the said reinsuring small employer carrier.

(18) Subsection (17) of this section shall apply to assessments made for the 1994 calendar year and each year thereafter.

SECTION 7. 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 consisting of nine (9) members, five (5) of whom shall represent consumer interests and four (4) of whom shall be members of the board created in section 41-4711, Idaho Code. Members of the committee serve at the pleasure of the director. ~~The committee shall be composed of representatives of carriers, small employers, health care providers and consumers.~~

(2) The committee shall recommend to the board 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 to the board 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 or changes 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 or changes 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.~~ board for approval by not later than March 1 of each year. The board shall thereafter submit those plans or changes approved to the director for approval. ~~T~~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 board and 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~~ the plan ~~as~~ developed ~~by the committee~~ and approved pursuant to the provisions of this section. The committee shall forward the proposed plan to the board and the director with a recommendation for approval or rejection.

SECTION 8. That Section 41-5203, Idaho Code, be, and the same is hereby amended to read as follows:

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.

SECTION 9. That Section 41-5206, Idaho Code, be, and the same is hereby amended to read as follows:

41-5206. RESTRICTIONS RELATING TO PREMIUM RATES. (1) Premium rates for health benefit plans subject to the provisions of this chapter shall be subject to the following provisions:

(a) The premium rates charged during a rating period to individuals with similar case characteristics for the same or similar coverage, or the rates that could be charged to such individuals under the rating system, shall not vary from the index rate by more than 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, individual tobacco use 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~~ dependents under the age of twenty-three (2~~0~~3) ~~years of age~~, and the same rating factor shall be applied on a quinquennial basis as to individuals or nondependents 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 sec-

tion, 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.

SECTION 10. That Section 41-5208, Idaho Code, be, and the same is hereby amended to read as follows:

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 as provided in this section and provide enrollment to all persons ~~in the first thirty (30) days of the~~ with qualifying previous coverage during all months of the year and to all persons without qualifying previous coverage on an open enrollment basis for a forty-five (45) day period commencing on January 1 and July 1 of each 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.

SECTION 11. That Section 41-5212, Idaho Code, be, and the same is hereby amended to read as follows:

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 indi-

vidual 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~~6) 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~~7) 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~~8) (a) A violation of the provisions of this section by an indi-

vidual 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 12. 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 no longer meets the requirements of section 41-4703(28), Idaho Code;

(g) 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 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~~h) 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 13. That Section 41-5207, Idaho Code, be, and the same is hereby amended to read as follows:

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's residence changes to one which is outside this state;

(e) 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~~f) 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.

SECTION 14. 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 41-4718, Idaho Code, and to read as follows:

41-4718. CATASTROPHIC PLANS. In addition to the basic and standard health benefit plans offered by a small employer carrier under the provisions of chapter 47, title 41, Idaho Code, the small employer carrier shall offer a catastrophic health benefit plan. A catastrophic health benefit plan shall be offered and promulgated in the same manner as a basic or standard plan.

SECTION 15. That Chapter 52, 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 41-5213, Idaho Code, and to read as follows:

41-5213. CATASTROPHIC PLANS. In addition to the basic and standard health benefit plans offered by an individual carrier under the provisions of chapter 52, title 41, Idaho Code, the individual carrier shall offer a catastrophic health benefit plan. A catastrophic health benefit plan shall be offered and promulgated in the same manner as a basic or standard plan.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and subsection (2) of Section 41-4711, Idaho Code, as amended in Section 6 of this act shall be in full force and effect retroactive to July 1, 1993.

Approved March 22, 1995.

CHAPTER 361
(S.B. No. 1171)

AN ACT

RELATING TO POSSESSION OF MARIJUANA BY A MINOR; AMENDING SECTION 18-1502C, IDAHO CODE, TO INCREASE THE MAXIMUM FINE AND IMPRISONMENT WHICH MAY BE IMPOSED, TO REQUIRE SUSPENSION OF DRIVING PRIVILEGES UPON CONVICTION, TO AUTHORIZE THE COURT TO REQUIRE THAT THE DEFENDANT UNDERGO A SUBSTANCE ABUSE EVALUATION AND RECOMMENDED TREATMENT AND TO REQUIRE THAT A JUVENILE ADJUDICATED UNDER THE PROVISIONS OF CHAPTER 18, TITLE 16, IDAHO CODE, FOR A VIOLATION OF SECTION 18-1502C, IDAHO CODE, BE SENTENCED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 18-1502C, IDAHO CODE.

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

SECTION 1. That Section 18-1502C, Idaho Code, be, and the same is hereby amended to read as follows:

18-1502C. POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR -- FINES. (1) Any person under eighteen (18) years of age who shall have in his possession any marijuana as defined in section 37-2701(s), Idaho Code, which would constitute a misdemeanor for an adult so charged, or who shall have in his possession any drug paraphernalia as defined in section 37-2701(n), Idaho Code, shall be guilty of a misdemeanor, and upon conviction, may be punished by a fine not in excess of ~~three hundred~~ one thousand dollars ($~~3~~1,000) or by ~~thirty~~ ninety (~~3~~90) days in a juvenile detention facility or by both or may be subject to the provisions of chapter 18, title 16, Idaho Code. If the juvenile is adjudicated under the provisions of chapter 18, title 16, Idaho Code, for a violation of this section he shall be sentenced in accordance with the provisions of this section.

(2) A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code.

(3) Whenever a person pleads guilty or is found guilty of possession of marijuana pursuant to this section, then in addition to the penalty provided in subsection (1) of this section:

(a) The court shall suspend the person's driving privileges for a period of not more than one (1) year. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(b) If the person's driving privileges have been previously suspended under this section, the court shall suspend the person's driving privileges for a period of not more than two (2) years. The person may request restricted driving privileges during the period of suspension, which the court may allow, if the person shows by a preponderance of the evidence that driving privileges are necessary as deemed appropriate by the court.

(c) The person shall surrender his license or permit to the court.

(d) The court shall notify the motor vehicle division of the Idaho transportation department of all orders of suspension it issues pursuant to this section.

(e) The court, in its discretion, may also order the person to undergo and complete a substance abuse evaluation and to complete a drug treatment program, as provided in section 37-2738(2), Idaho Code.

Approved March 22, 1995.

CHAPTER 362
(S.B. No. 1153, As Amended in the House)

AN ACT
RELATING TO MEDICAL SAVINGS ACCOUNTS; REPEALING CHAPTER 53, TITLE 41,

IDAHO CODE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022J, IDAHO CODE, TO PROVIDE FOR TAXABLE YEARS COMMENCING ON AND AFTER JANUARY 1, 1995, THAT MEDICAL SAVINGS ACCOUNTS MAY BE CREATED WITH A STATE INCOME TAX DEDUCTION, TO DEFINE TERMS, TO PROVIDE ESTABLISHMENT AND CONTRIBUTIONS, TO PROVIDE FOR WITHDRAWALS, TO PROVIDE FOR REPORTING REQUIREMENTS TO THE STATE TAX COMMISSION AND TO PROVIDE APPLICATION TO MEDICAL CARE SAVINGS ACCOUNTS ESTABLISHED IN 1994; AMENDING SECTION 63-3022, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Chapter 53, Title 41, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022J, Idaho Code, and to read as follows:

63-3022J. MEDICAL SAVINGS ACCOUNT. (1) For taxable years commencing on and after January 1, 1995, annual contributions to a medical savings account not exceeding two thousand dollars ($2,000) for the account holder and interest earned on a medical savings account shall be deducted from taxable income by the account holder. For married individuals the maximum deduction shall be computed separately for each individual.

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

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

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

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

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

(ii) Legally entitled to the provision of proper or necessary subsistence, education, medical care or other care necessary for his or her health, guidance or well-being and not otherwise emancipated, self-supporting, married or a member of the armed forces of the United States.

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

(d) "Depository" means a state or national bank, savings and loan association, credit union or trust company authorized to act as a

fiduciary or an insurance administrator or insurance company authorized to do business in this state, a broker or investment advisor regulated by the department of finance, a broker or insurance agent regulated by the department of insurance or a health maintenance organization, fraternal benefit society, hospital and professional service corporation or nonprofit mutual insurer regulated under title 41, Idaho Code.

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

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

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

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

(a) There shall be a distribution penalty for withdrawal of funds by the account holder for purposes other than the payment of eligible medical expenses. The penalty shall be ten percent (10%) of the amount of withdrawal from the account and, in addition, the amount withdrawn shall be subject to the tax imposed in this chapter. The direct transfer of funds from a medical savings account to a medical savings account at a different depository shall not be considered a withdrawal for purposes of this section.

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

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

(d) Funds withdrawn which are later reimbursed shall be taxable unless redeposited into the account. Deposits of reimbursed eligible medical expenses shall be allowed notwithstanding the limits of subsection (1) of this section.

(5) Reporting -- The state tax commission shall require the following information to be submitted at least annually regarding medical savings accounts: the name of the account holder, the address of the account holder, the taxpayer identification number of the account holder, deposits made during the tax year by the account holder, withdrawals made during the tax year by the account holder, interest earned on the proceeds of a medical savings account or other information deemed necessary by the commission.

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

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

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

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

(1) In the case of a corporation whose income is taxable under this chapter, no deduction shall be allowed for interest on indebtedness incurred or continued to purchase after January 1, 1983, or to carry obligations acquired after January 1, 1983, the interest of which is wholly exempt from the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's average adjusted basis of the obligations mentioned in the preceding sentence bears to such average adjusted basis for all assets of the taxpayer, or, at the option of the taxpayer, an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year.

(2) In the case of a corporation whose income is computed pursuant to section 63-3027, Idaho Code, the interest expense deductible shall be an amount equal to interest and dividend income sub-

ject to apportionment, plus the amount, if any, by which the balance of interest expense exceeds interest and dividend income not subject to apportionment. Interest expense not included in the preceding sentence shall be directly offset against interest and dividend income not subject to apportionment. This provision shall not apply to dividend income excluded pursuant to section 63-3027C(c) and (e), Idaho Code.

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

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

(d) (1) A net operating loss for any taxable year commencing on and after January 1, 1990, shall be a net operating loss carryback not to exceed one hundred thousand dollars ($100,000) to the three (3) immediately preceding taxable years, and any loss not entirely absorbed by the income of those years may be subtracted from income received in taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in the order until exhausted. At the election of the taxpayer, the three (3) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next fifteen (15) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the ~~regulations~~ rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (d) means taxable income as defined in this chapter after making the modifications specified in section 63-3021(b), Idaho Code.

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

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

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

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

(h) In the case of a corporation with more than fifty per cent (50%) of its income taxable within this state, the salary, fee or other compensation of its nonresident officers or directors shall be treated as income from sources within the state. Whether or not any

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

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

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

(k) In the case of a corporation, add any capital loss deducted which loss was incurred during any year in which such corporation had no Idaho business situs. In the case of persons, other than corporations, add any capital loss or passive loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. In the case of a corporation having income from Idaho sources and having elected to file federal income tax returns thereon pursuant to subchapter-S of the Internal Revenue Code, or a partnership having income from Idaho sources, salaries, wages, fees, and other compensation paid to nonresident shareholders or partners, and the items of income, loss, deduction, and credit allocated to each nonresident shareholder or partner shall be treated as having sources within the state. Whether or not any personal services have been performed in this state by such nonresident shareholders or partners, they shall be deemed to have a business situs in this state. When the salaries, wages, fees, and other compensations paid to such nonresident shareholders or partners or items of income, loss, deduction, and

credit, or allocated to such shareholders or partners is reported to this state as taxable income pursuant to this subsection, such income shall be apportioned by applying to the total of such income the apportionment factor of the corporation or partnership. The apportionment factor of the corporation or partnership shall be computed pursuant to the provisions of section 63-3027, Idaho Code. If such items of income, loss, deduction, or credit, salaries, wages, fees or other compensation are not reported to this state by the nonresident shareholders or partners, such corporation or partnership shall report the same to this state and be taxable thereon at the corporate rate. Provided, however, reasonable compensation paid to such nonresident shareholders or partners for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources. In computing the income taxable to the corporation or partnership under this subsection, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (d) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

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

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

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

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

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

c. Itemized expenditures of not to exceed one thousand dollars ($1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter 56, title 39, Idaho Code, but the cared for member need not be medicaid

eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter 56, title 39, Idaho Code; in order for the deduction under this paragraph c. to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

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

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

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

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

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

~~(r)--Deduct,-to-the-extent-included-in-adjusted-gross-income,--the amount--of--a--contribution-made-in-the-tax-year-on-behalf-of-the-taxpayer-to-a-medical-care-savings-account-act,--chapter--53,--title--41, Idaho--Code,-to-the-extent-the-contribution-is-accepted-by-the-account administrator-as-provided-in-chapter-53,-title-41,-Idaho-Code.~~

~~(s)--Deduct,-to-the-extent--included--in--adjusted--gross--income, interest-earned-on-a-medical-care-savings-account-established-pursuant to--chapter-53,-title-41,-Idaho-Code,-other-than-interest-added-pursuant-to-subsection-(t)-of-this-section.~~

~~(t)--Add,-to-the-extent-not-included-in-adjusted-gross-income,-the amount-of-money-withdrawn-by-the-taxpayer-in-the-tax-year-from-a-medical-care-savings-account-and-the-interest-earned-on-the-account-in-the tax-year-of-a-withdrawal-pursuant-to-section-41-5305(2),-Idaho-Code.~~

SECTION 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 and retroactively to January 1, 1995.

SECTION 5. Section 2 of this act shall be null, void and of no further force and effect on and after January 30, 1998.

Approved March 22, 1995.

CHAPTER 363
(S.B. No. 1265)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1996; 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, 1995, through June 30, 1996:

FROM:	
General Fund	$18,059,700
Water Resources Adjudication Fund	713,600
Miscellaneous Revenue Fund	215,800
TOTAL	$18,989,100

SECTION 2. There is hereby appropriated to the Supreme Court, the following amounts, to be expended for the designated programs according to the designated standard classifications from the listed funds for the period July 1, 1995, through June 30, 1996:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. SUPREME COURT:					
FROM:					
General Fund	$ 2,211,700	$ 380,600	$ 18,000	$52,500	$ 2,662,800
Miscellaneous Revenue Fund		215,800			215,800
TOTAL	$ 2,211,700	$ 596,400	$ 18,000	$52,500	$ 2,878,600
B. LAW LIBRARY:					
FROM:					
General Fund	$ 289,600	$ 207,600	$ 71,500		$ 568,700
C. DISTRICT COURTS:					
FROM:					
General Fund	$ 5,558,200	$ 470,600	$1,015,300		$ 7,044,100
Water Resources Adjudication Fund	422,900	286,700	4,000		713,600
TOTAL	$ 5,981,100	$ 757,300	$1,019,300		$ 7,757,700
D. MAGISTRATES DIVISION:					
FROM:					
General Fund	$ 6,586,800	$ 267,900	$ 2,400		$ 6,857,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. JUDICIAL COUNCIL:					
FROM:					
General Fund	$ 2,000	$ 72,300			$ 74,300
F. COURT OF APPEALS:					
FROM:					
General Fund	$ 741,700	$ 99,000	$ 12,000		$ 852,700
GRAND TOTAL	$15,812,900	$2,000,500	$1,123,200	$52,500	$18,989,100

SECTION 3. There is hereby appropriated from the General Fund to be transferred to the Guardian Ad Litem Account the sum of $370,200.

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, 1995, through June 30, 1996.

SECTION 5. It is legislative intent that of the amount appropriated in Section 2 of this act, an amount not to exceed $5,000 may be used at the discretion of the Chief Justice, to assist in defraying expenses relating to or resulting from the discharge of the Supreme Court Justices' official duties and the official duties of the Supreme Court. Further, it is legislative intent that an amount, not to exceed $1,500 of the amount appropriated in Section 2 of this act, may be used at the discretion of the Chief Judge of the Court of Appeals to assist in defraying expenses relating to or resulting from the discharge of the Court of Appeals Judges' official duties and the official duties of the Court of Appeals. Such moneys shall be accounted for according to the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved March 22, 1995.

CHAPTER 364
(H.B. No. 233)

AN ACT

RELATING TO MINING OPERATIONS; AMENDING SECTION 47-1505, IDAHO CODE, TO PROVIDE FOR NOTICE TO CITIES AND COUNTIES REGARDING RECLAMATION PLANS, TO PROVIDE FOR COMMENTS BY CITIES AND COUNTIES REGARDING RECLAMATION PLANS, TO PROVIDE THAT NO CITY OR COUNTY SHALL ENACT OR ADOPT ANY ORDINANCE, RULE OR RESOLUTION TO REGULATE EXPLORATION OR SURFACE MINING OPERATIONS IN THIS STATE WHICH CONFLICTS WITH THE SURFACE MINING ACT OR RULES PROMULGATED PURSUANT THERETO AND TO PROVIDE AN EXCEPTION FOR PLANNING AND ZONING FUNCTIONS.

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

SECTION 1. That Section 47-1505, Idaho Code, be, and the same is hereby amended to read as follows:

47-1505. DUTIES AND POWERS OF BOARD. ~~(a)~~ In addition to the other duties and powers of the board prescribed by law, the board is granted and shall be entitled to exercise the following authority and powers and perform the following duties:

(1) To administer and enforce the provisions of this act and the rules and orders promulgated thereunder as provided in this act.

(2) To conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations and training in carrying out the provisions of this act. In carrying out the activities authorized by this section, the board may enter into contracts with and make grants to institutions, agencies, organizations and individuals, and shall collect and make available any information obtained therefrom.

(3) To adopt and promulgate reasonable rules respecting the administration of this act and such rules as may be necessary to carry out the intent and purposes of this act, provided that no rules shall be adopted which require reclamation activities in addition to those set forth in this act. All such rules shall be adopted in accordance with and subject to the provisions of chapter 52, title 67, Idaho Code.

(4) To enter upon affected lands at all reasonable times, for the purpose of inspection, to determine whether the provisions of this act have been complied with. Such inspections shall be conducted in the presence of the operator or his duly authorized employees or representatives, and the operator shall make such persons available for the purpose of inspections.

(5) To reclaim affected land with respect to which a bond has been forfeited, and, in the board's discretion, with the permission of the landowner, to reclaim such other land which becomes affected land.

(6) (a) Upon receipt of a proposed reclamation plan or amended or supplemental reclamation plan, the director shall notify the cities and counties in which the surface mining operation is proposed. The notice shall include the name and address of the operator and shall describe the procedure and the schedule by which the plan may be approved or denied. This notification requirement shall not apply to exploration operations.

(b) Cities and counties may review the nonconfidential portions of the plan at the department's office and may provide comments to the director concerning the plan. Nothing in this section shall extend the time limit for the board to deliver to the operator a notice of rejection or approval of the plan or affect the confidentiality provisions of section 47-1515, Idaho Code.

(c) No city or county shall enact or adopt any ordinance, rule or resolution to regulate exploration or surface mining operations in this state which conflicts with any provision of this chapter or the rules promulgated thereunder. This subpart shall not affect the planning and zoning authorities available to cities and counties pursuant to chapter 65, title 67, Idaho Code.

Approved March 22, 1995.

CHAPTER 365
(H.B. No. 299, As Amended in the Senate)

AN ACT

RELATING TO CLASSIFICATION OF STATE EMPLOYEES; AMENDING SECTION 39-104, IDAHO CODE, TO PROVIDE THAT REGIONAL ADMINISTRATORS AND ASSISTANT ADMINISTRATORS EMPLOYED IN THE DIVISION OF ENVIRONMENTAL PROTECTION OF THE DEPARTMENT OF HEALTH AND WELFARE SHALL BE NONCLASSIFIED EMPLOYEES; AMENDING SECTION 67-2402, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATOR OF A DIVISION SHALL BE EXEMPT FROM THE PROVISIONS OF CHAPTER 53, TITLE 67, IDAHO CODE; AMENDING SECTION 67-2403, IDAHO CODE, TO AUTHORIZE THE APPOINTMENT OF DEPUTY DIRECTORS BY THE DIRECTOR OF THE DEPARTMENT AND TO SPECIFY THAT DEPUTY DIRECTORS ARE EXEMPT FROM THE PROVISIONS OF CHAPTER 53, TITLE 67, IDAHO CODE; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE THAT DEPUTY DIRECTORS OF A DEPARTMENT, CERTAIN PUBLIC INFORMATION POSITIONS, ADMINISTRATORS OF A DIVISION, AND REGIONAL ADMINISTRATORS AND ASSISTANT ADMINISTRATORS IN THE DIVISION OF ENVIRONMENTAL PROTECTION OF THE DEPARTMENT OF HEALTH AND WELFARE, SHALL BE NONCLASSIFIED EMPLOYEES; AND AMENDING SECTION 67-1910, IDAHO CODE, TO PROVIDE THAT EMPLOYEES OF THE DIVISION OF FINANCIAL MANAGEMENT SHALL BE EXEMPT FROM THE PROVISIONS OF CHAPTER 53, TITLE 67, IDAHO CODE.

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

SECTION 1. That Section 39-104, Idaho Code, be, and the same is hereby amended to read as follows:

39-104. DEPARTMENT OF HEALTH AND WELFARE -- CREATION -- ENVIRONMENTAL PROTECTION DIVISION -- ADMINISTRATIVE REGIONS. (1) There is created and established in the state government a department of health and welfare which shall for the purposes of section 20, article IV, of the constitution of the state of Idaho be an executive department of the state government. The executive and administrative power of this department shall be vested in the director of the department who shall be appointed and serve at the pleasure of the governor, with the advice and consent of the senate.

(2) The department shall be organized into an environmental protection division and into such other administrative and general services divisions as may be necessary in order to efficiently administer the department. Each division shall be headed by a division administrator who shall be appointed by and serve at the pleasure of the director with the concurrence of the board.

(3) Regional administrators and assistant administrators in the environmental protection division shall be nonclassified employees exempt from the provisions of chapter 53, title 67, Idaho Code.

(4) In order to provide more effective and economical access to the state environmental, health, and social services by the people of Idaho, the governor is hereby authorized to establish substate administrative regions. In the designation of these regions specific consideration shall be given to the geographic and economic convenience

of the citizens included therein. Each substate administrative region shall be headed by a regional deputy who shall be appointed by and serve at the pleasure of the director with the concurrence of the board.

SECTION 2. That Section 67-2402, Idaho Code, be, and the same is hereby amended to read as follows:

67-2402. STRUCTURE OF THE EXECUTIVE BRANCH OF IDAHO STATE GOVERNMENT. (1) Pursuant to section 20, article IV, Idaho constitution, all executive and administrative offices, agencies, and instrumentalities of the executive department of state, except for those assigned to the elected constitutional officers, are allocated among and within the following departments:

Department of administration
Department of agriculture
Department of commerce
Department of correction
Department of employment
Department of finance
Department of fish and game
Department of health and welfare
Department of insurance
Idaho transportation department
Industrial commission
Department of labor and industrial services
Department of lands
Department of law enforcement
Department of parks and recreation
Department of revenue and taxation
Department of self-governing agencies
Department of water resources
State board of education

The public school districts of Idaho, having condemnation authority, shall be considered civil departments of state government for the purpose of and limited to the purchase of state endowment land at appraised prices.

(2) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general and superintendent of public instruction each heads a constitutional office.

(3) For its internal structure, unless specifically provided otherwise, each department shall adhere to the following standard terms:

(a) The principal unit of a department is a division. Each division shall be headed by an administrator. The administrator of any division ~~may~~ shall be exempt from the provisions of chapter 53, title 67, Idaho Code~~, if declared exempt by the director of the department at the time of the creation of the division~~.

(b) The principal unit of a division is a bureau. Each bureau shall be headed by a chief.

(c) The principal unit of a bureau is a section. Each section shall be headed by a supervisor.

SECTION 3. That Section 67-2403, Idaho Code, be, and the same is hereby amended to read as follows:

67-2403. HEADS OF DEPARTMENTS. (1) Each department, unless specifically provided otherwise, shall have an officer as its executive and administrative head who shall be known as a director. The director of each department shall, subject to the provisions of law, execute the powers and discharge the duties vested by law in his department.

(2) The director of the department may appoint a deputy director. The deputy director of the department shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

SECTION 4. That Section 67-5303, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(c) All employees and officers in the office, and at the residence, of the governor; and all employees and officers in the offices of the lieutenant-governor, secretary of state, attorney general, state treasurer, state controller, and state superintendent of public instruction who are appointed on and after the effective date of this act.

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

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

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

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

(h) All employees of the Idaho state bar.

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

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho department of vocational education and vocational rehabilitation administered by the state board for vocational education. "Teaching staff" includes teachers, coaches,

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

(k) Employees of the military division not assigned to the bureau of disaster services.

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

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

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey advertising commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; the Idaho prune commission, as provided in chapter 30, title 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the state board of sheep commissioners, as provided in chapter 1, title 25, Idaho Code; the state brand board, as provided in chapter 11, title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and the Idaho dairy products commission, as provided in chapter 31, title 25, Idaho Code.

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

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

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

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

(t) Any division administrator.

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

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

SECTION 5. That Section 67-1910, Idaho Code, be, and the same is hereby amended to read as follows:

67-1910. DIVISION OF FINANCIAL MANAGEMENT -- ADMINISTRATOR -- APPOINTMENT. There is hereby created within the governor's office a division of financial management. The governor shall appoint an administrator for the division of financial management. The administrator shall be knowledgeable about finance, accounting, and budget principles. The administrator of the division may employ additional personnel as may be necessary, and may contract for professional services or assistance when necessary or desirable. All employees of the division of financial management shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

Approved March 22, 1995.

CHAPTER 366
(H.B. No. 138, As Amended in the Senate)

AN ACT

RELATING TO FISH AND GAME; AMENDING CHAPTER 4, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-409A, IDAHO CODE, TO CREATE SPECIAL PROVISIONS FOR ARCHERY ONLY SEASONS RELATED TO SPECIFIED HANDICAPPING CONDITIONS AND TO PROVIDE FOR PROMULGATION OF RULES.

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

SECTION 1. That Chapter 4, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-409A, Idaho Code, and to read as follows:

36-409A. HANDICAPPED ARCHERY PROVISIONS. When the commission has established a special archery only season, any individual who is otherwise qualified to participate, shall be allowed to do so with the use of a crossbow if he has a permanent disability whereby he does not have use of one (1) or both of his arms or hands.

The commission shall promulgate rules to establish a process for verifying the existence of the disability and for issuance of a free permit to qualifying individuals.

Approved March 22, 1995.

CHAPTER 367
(S.B. No. 1234)

AN ACT

RELATING TO GOVERNOR'S HOUSING; CREATING THE GOVERNOR'S HOUSING COMMITTEE AND APPROPRIATING MONEYS IN THE GOVERNOR'S RESIDENT ACCOUNT FOR EXPENDITURE AS DIRECTED BY THE COMMITTEE.

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

SECTION 1. There is hereby created the Governor's Housing Committee consisting of five (5) appointed members. The following public officials shall each appoint one (1) member to serve on the Committee: the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate and the minority leader of the House of Representatives and the director of the Department of Administration. Members of the Committee shall serve at the pleasure of the appointing public official or his successor. The Governor's Residence Citizens' Advisory Committee is hereby abolished and all official duties of that committee shall become the duties of the Governor's Housing Committee.

All moneys in or added to the Governor's Residence Account are hereby perpetually appropriated to the Department of Administration and set apart for the purposes of acquisition and maintenance of a governor's residence and the same shall be available for such purposes immediately upon their being credited to the account, upon authorization for expenditure being given by the Governor's Housing Committee. Upon the direction of the Committee, the Department shall use moneys in the account for any purpose related to the acquisition or construction or maintenance of a governor's residence.

Law Without Signature.

CHAPTER 368
(H.B. No. 183, As Amended)

AN ACT

RELATING TO THE CIGARETTE TAX AND THE TOBACCO PRODUCTS TAX; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 63-2506, IDAHO CODE, TO PROVIDE THAT FIVE CENTS OF THE TAX COLLECTED PER PACKAGE OF CIGARETTES SHALL BE DISTRIBUTED TO THE PUBLIC SCHOOL INCOME FUND FOR SUBSTANCE ABUSE PROGRAMS IN PUBLIC SCHOOLS AND FIVE CENTS OF THE TAX SHALL BE DISTRIBUTED TO THE COUNTIES TO BE UTILIZED FOR COUNTY JUVENILE PROBATION SERVICES; AMENDING SECTION 63-2552A, IDAHO CODE, TO PROVIDE THAT FIFTY PER CENT OF THE ADDITIONAL TAX COLLECTED ON TOBACCO PRODUCTS PURSUANT TO THAT SECTION SHALL BE DISTRIBUTED TO THE PUBLIC SCHOOL INCOME FUND FOR SUBSTANCE ABUSE PROGRAMS AND FIFTY PER CENT SHALL BE DISTRIBUTED TO THE COUNTIES FOR COUNTY JUVENILE PROBATION SERVICES; REPEALING SECTIONS 63-2506 AND 63-2552A, IDAHO CODE; AMENDING CHAPTER 25, TITLE 63, IDAHO CODE,

BY THE ADDITION OF A NEW SECTION 63-2506, IDAHO CODE, TO PROVIDE THAT TEN CENTS OF THE TAX COLLECTED PER PACKAGE OF CIGARETTES SHALL BE DISTRIBUTED TO THE PUBLIC SCHOOL INCOME FUND FOR SUBSTANCE ABUSE PROGRAMS IN PUBLIC SCHOOLS; AMENDING CHAPTER 25, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2552A, IDAHO CODE, TO PROVIDE THAT THE TAX COLLECTED ON TOBACCO PRODUCTS PURSUANT TO THE SECTION SHALL BE DISTRIBUTED TO THE PUBLIC SCHOOL INCOME FUND FOR SUBSTANCE ABUSE PROGRAMS IN PUBLIC SCHOOLS; PROVIDING LEGISLATIVE INTENT; DECLARING AN EMERGENCY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature finds that under the restructuring of the juvenile corrections system in the State of Idaho the counties of the state are charged with the supervision of juvenile offenders throughout their involvement in the juvenile corrections system. Increasing demands placed upon county juvenile probation services may require increases in probationary staff and the establishment or expansion of treatment programs. The primary purpose of this legislation is to provide a source of funding to assist the counties in meeting start-up costs for expanded juvenile probation services and associated programs made necessary by this shift of responsibilities. It is the further intent of the Legislature that each county submit an annual written report to the Department of Juvenile Corrections of the manner in which funds received have been spent.

It is the further intent of the Legislature that the division of funds established in this legislation be reevaluated to determine whether the distribution of resources between substance abuse programs in the public school system and juvenile justice probationary services and treatment programs for juvenile offenders effectively addresses the needs of our youth and the community.

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 one and four-tenths cent (1.4¢) for each cigarette or twenty-eight cents (28¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. ~~Ten~~ Five cents (~~10~~5¢) of the tax collected per package 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. Five cents (5¢) of the tax collected per package of twenty (20) cigarettes shall be distributed to the counties to be utilized for county juvenile probation services. These funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole. The remaining moneys collected under the provisions of this section shall be distributed as specified in section 63-2520, Idaho Code.

SECTION 3. That Section 63-2552A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2552A. ADDITIONAL TAX IMPOSED -- RATE. (1) In addition to the tax imposed in section 63-2552, Idaho Code, from and after July 1, 1994, there is levied and there shall be collected an additional tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of five per cent (5%) of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor:

(a) Brings, or causes to be brought, into this state from without the state tobacco products for sale;

(b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or

(c) Ships or transports tobacco products to retailers in this state to be sold by those retailers.

(2) Each distributor, within twenty (20) days after July 1, 1994, shall file a report with the commission, in such form as the commission may prescribe, showing the tobacco products on hand on July 1, 1994, and the amount of tax due thereon. The tax imposed in this subsection shall be due and payable within twenty (20) days after July 1, 1994, and thereafter shall bear interest at the rate of one per cent (1%) per month.

(3) Fifty per cent (50%) of t~~T~~he 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 and fifty per cent (50%) shall be distributed quarterly to the counties to be utilized for county juvenile probation services, based upon the percentage the population of the county bears to the population of the state as a whole.

SECTION 4. That Sections 63-2506 and 63-2552A, Idaho Code, be, and the same are hereby repealed.

SECTION 5. 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 63-2506, Idaho Code, and to read as follows:

63-2506. IMPOSITION OF TAX. A tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of one and four-tenths cent (1.4¢) for each cigarette or twenty-eight cents (28¢) per pack of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. Ten cents (10¢) of the tax collected per pack of twenty (20) cigarettes shall be distributed to the public school income fund to be utilized for 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 6. 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.

SECTION 7. It is the intent of this Legislature that the funding created by this act is compatible with legislative intent expressed in Sections 63-2506 and 63-2552A, Idaho Code, and that the funding created by this act shall be reexamined in one year for the purposes of determining whether the funding so created remains justifiable under Sections 63-2506 and 63-2552A, Idaho Code.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3 and 7 of this act shall be in full force and effect on and after their passage and approval.

SECTION 9. Sections 4, 5 and 6 of this act shall be in full force and effect on and after two years from the effective date of this act.

Approved March 28, 1995.

CHAPTER 369
(S.B. No. 1238)

AN ACT

RELATING TO A COUNTY BUILDING CONSTRUCTION FUND; AMENDING SECTION 31-1008, IDAHO CODE, TO PROVIDE THAT A BOARD OF COUNTY COMMISSIONERS MAY CREATE A FUND WITHOUT AN ELECTION TO ADDRESS CRITICAL NEEDS FOR JUSTICE OR LAW ENFORCEMENT FACILITIES, TO PROVIDE FOR

THE TYPES OF REVENUE TO BE PLACED IN THE FUND, TO PROVIDE FOR ADJUSTMENT OF THE COUNTY BUDGET DURING EACH ODD-NUMBERED YEAR AND TO CLARIFY THAT THE DEPOSITS AUTHORIZED ARE SUBJECT TO LIMITATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 31-1008, Idaho Code, be, and the same is hereby amended to read as follows:

31-1008. COUNTY BUILDING CONSTRUCTION FUND -- LEVY OF TAX -- SPECIAL ELECTION. (1) In lieu of the issuance of bonds for the purpose specified in section 31-1002, Idaho Code, the board of county commissioners of any county shall have power, in addition to the power specified in said section 31-1002, Idaho Code, when in their judgment the best interests of the county so required, to create and establish a fund for the purpose specified in said section 31-1002, Idaho Code, and for said purposes are hereby authorized and empowered, by resolution adopted at a regular meeting of said board, or at any special meeting called for that purpose, to levy, in addition to all other taxes now authorized by law, an annual tax of not exceeding six hundredths percent (.06%) of market value for assessment purposes of all taxable property in such county for the current year, to be certified, extended and collected at the same time and in the same manner as taxes for general county purposes, and to be apportioned, when collected, to a special fund to be known as the "County Building Construction Fund," provided, that in the resolution and for the purposes hereinbefore mentioned such board shall call a special election, or submit, at any general election, the question of creating such fund to defray the expenses of purchasing such site and erecting and furnishing such buildings, at which election only such electors may vote as are qualified to vote at elections held for the issuance of general obligation bonds, and which election shall in all respects be governed and held in the same manner as is now required by law for the holding of elections to determine the question of the issuance of general obligation bonds. If, at such election two-thirds (2/3) of the qualified voters voting at such election shall have voted to create such funds, then such board of county commissioners may annually levy the taxes for the purposes hereinbefore mentioned. Such fund shall remain intact, subject to investment as hereinafter provided, until the same shall, when augmented by the proceeds of similar levies in succeeding years, be adequate in the judgment of such board to defray the entire cost of purchasing a site and constructing the improvements aforesaid and completely furnishing the same, and no part of such fund shall be expended until complete plans and specifications have been adopted and contracts entered into insuring the completion of such purchase and construction within the limitations of such fund, nor shall the construction of any courthouse or jail be undertaken until such fund is adequate to insure the proper equipment and furnishing thereof~~;~~.

(2) Notwithstanding the limitations imposed in subsection (1) of this section, the board of county commissioners may create a fund upon a finding by the board that a critical need exists for justice or law enforcement related facilities. The board may deposit any unexpended

sums from the county current expense fund or the county justice fund into the county building construction fund or may deposit into the fund all or a part of any non-ad valorem tax revenues not otherwise restricted or dedicated by law. On or before the thirty-first day of March of each odd-numbered year, the board may review the budget for the current fiscal year and adjust the expenditures in the budget to provide for deposits into the fund from revenues not otherwise budgeted or to provide for deposits into the fund from revenues projected to be surplus over budgeted revenues. The adjustments may be made only after a notice is given and a public hearing is held substantially similar to that contained in section 31-1604, Idaho Code. After the creation of the fund, the board may, in strict compliance with section 63-2220A, Idaho Code, deposit any amount into the fund on an annual basis.

(3) ~~P~~provided, that no such fund shall be accumulated in excess of two per cent (2%) of the assessed valuation of the property within such county; ~~and~~ provided further, that such fund may be used to supplement the proceeds of any bonds issued pursuant to the provisions of sections 31-1002 and 31-1004, Idaho Code, for the purposes aforesaid.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and retroactively to January 1, 1995.

Law Without Signature.

SENATE JOINT MEMORIALS

(S.J.M. No. 103)

A JOINT MEMORIAL
TO THE PRESIDENT OF THE UNITED STATES, AND 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 First Regular Session of the Fifty-third Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Amtrak provides mobility to citizens of many smaller communities poorly served by air and bus services, as well as to those senior citizens, disabled people, students and persons with medical conditions preventing them from flying who need trains as a travel option; and

WHEREAS, Amtrak is nine times safer than driving on a passenger-mile basis, and operates even in severe weather conditions; and

WHEREAS, Amtrak travel rose forty-eight percent from 1982 to 1993 and Amtrak dramatically improved coverage of its operating costs from revenue; and

WHEREAS, expansion of Amtrak service by using existing rail rights-of-way would cost less and use less land than new highways and airports, and would further increase Amtrak's energy-efficiency advantage; and

WHEREAS, federal investment in Amtrak has fallen in the last decade while it has risen for airports and highways; and

WHEREAS, states may use highway trust fund money as an eighty percent federal match for a variety of nonhighway programs, but they are prohibited from using such moneys for Amtrak projects; and

WHEREAS, Amtrak pays a fuel tax that airlines do not pay; and

WHEREAS, Amtrak workers and vendors pay more in taxes than the federal government invests in Amtrak.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States to take the following steps to insure the continued operation of the Amtrak transportation system: That federal funding of Amtrak not be reduced, that Amtrak be excused from paying fuel taxes that airlines do not pay, that states be given the flexibility to use federal highway trust fund moneys on Amtrak projects if they so choose, that federal officials include a strong Amtrak system in any plans for a National Transportation System.

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, and 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 23, 1995
Adopted by the House March 8, 1995

HOUSE JOINT MEMORIALS

(H.J.M. No. 1)

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 First Regular Session of the Fifty-third 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 $4.57 billion in 1994 and that the loss of tax revenue to the State of Idaho in the same report is estimated to be $13.4 million; 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 was introduced into the Senate of the United States a bill, S. 1825, "The Fairness for Main Street Business Act of 1994," that would have allowed 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 First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request Congress to enact legislation similar to S. 1825, "The Fairness for Main Street Business Act of 1994," 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 February 7, 1995
Adopted by the Senate March 8, 1995

(H.J.M. No. 2)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, TO THE SENATE AND THE 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 First Regular Session of the Fifty-third Idaho Legislature, do hereby respectfully represent that:

WHEREAS, a viable National Highway System is critical to the ability of the states and their communities to attract new industry and to sustain economic growth, and to the ability of manufacturers to build and deliver products, and also for the accomplishment of direct national interests including interstate commerce, national defense and the competitive position of the states and the nation in international trade; and

WHEREAS, the National Highway System carries over forty percent of the total vehicular miles of travel and over seventy percent of the commercial truck traffic in the United States, thereby constituting

the "backbone" of the intermodal national transportation system;

WHEREAS, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 requires that after September 30, 1995, no federal funds may be made available for either the National Highway System or Interstate Maintenance Programs unless Congress has approved a law designating the National Highway System;

WHEREAS, withholding these funds would create a severe financial impact on the transportation programs of Idaho and the other states and would disrupt delivery of needed transportation services to the public;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we petition the United States Congress to approve the National Highway System, as submitted to the Congress previously, prior to September 30, 1995.

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 Secretary of the United States Department of Transportation, 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 10, 1995
Adopted by the Senate February 27, 1995

(H.J.M. No. 4)

A JOINT MEMORIAL

TO THE STATE BOARD OF LAND COMMISSIONERS OF THE STATE OF IDAHO: THE HONORABLE GOVERNOR PHIL BATT, THE SUPERINTENDENT OF PUBLIC INSTRUCTION ANNE FOX, THE SECRETARY OF STATE PETE CENARRUSA, THE ATTORNEY GENERAL ALAN LANCE AND THE STATE CONTROLLER J. D. WILLIAMS.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-third Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the First Amendment to the Constitution of the United States and both Section 4, Article I, and Section 19, Article XXI, of the Constitution of the State of Idaho guarantee the right of all citizens to exercise their religious convictions; and

WHEREAS, the First Amendment of the Constitution of the United States and Section 9, Article I, of the Constitution of the State of Idaho also guarantee the right of all citizens to freedom of speech even if some find such speech offensive due to its religious content; and

WHEREAS, the Boise Junior Chamber of Commerce, also known as the "Jaycees," purchased the land upon which their illuminated cross is now maintained for its fair market value; and

WHEREAS, the Jaycees constructed and have continuously maintained that cross at no expense to any governmental entity or to any taxpayer of the State of Idaho; and

WHEREAS, the spiritual commitments and expressions of the citizens of the State of Idaho contribute significantly to the stability and health of our diverse society; and

WHEREAS, the federal Religious Freedom Restoration Act of 1993 prohibits any governmental restriction on the exercise of citizens' religious convictions unless some compelling state interest requires it and unless the restriction is carried out by the least restrictive means possible.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature strongly urges the Idaho State Board of Land Commissioners to reject any and all efforts by the American Civil Liberties Union to require the State Board of Land Commissioners to revoke or set aside the Boise Jaycees' title to the land on Table Rock on which their illuminated cross is maintained.

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 each member of the Idaho State Board of Land Commissioners and to the President of the Boise Junior Chamber of Commerce, Mr. Daniel Blanc.

Adopted by the House February 28, 1995
Adopted by the Senate March 9, 1995

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 101)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND PROVIDING A NEW JOINT RULE 19 TO THE JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES AND TO PROVIDE AN EFFECTIVE DATE.

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

WHEREAS, the Senate and the House of Representatives deem it desirable to add a new Joint Rule 19 to the Joint Rules of the Senate and the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that a new Joint Rule 19 be added to the Joint Rules of the Senate and the House of Representatives and to read as follows:

JOINT RULE 19

Minutes of Standing Committee Meetings.--Minutes of standing committee meetings shall be prepared in summary fashion, in the discretion of the individual committee chair. Any tape recordings of committee meetings shall be made only for the purpose of assisting the committee secretary, and thereafter any such tapes shall be recycled at the discretion of the committee chair. Minutes of standing committee meetings shall include at least the following information:

(1) All members of the governing body present;
(2) All motions, resolutions, orders, or ordinances proposed and their disposition; and
(3) The results of all votes, and upon the request of a member, the vote of each member by name.

BE IT FURTHER RESOLVED that this Resolution and the Joint Rules contained herein shall be effective upon adoption of this Resolution by both houses of the Legislature.

Adopted by the Senate January 19, 1995
Adopted by the House February 3, 1995

(S.C.R. No. 103)

A CONCURRENT RESOLUTION

CALLING FOR A CONFERENCE OF THE STATES TO BE PROMOTED AND CONVENED BY THE COUNCIL OF STATE GOVERNMENTS FOR THE PURPOSE OF RESTORING BALANCE IN THE FEDERAL SYSTEM AND SUPPORTING IDAHO'S PARTICIPATION IN SUCH A CONFERENCE.

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

WHEREAS, the United States Constitution established a balanced compound system of governance and through the Tenth Amendment reserved all nondelegated and nonprohibited powers to the states or to the people; and

WHEREAS, over many years, the federal government has dramatically expanded the scope of its power and preempted state government authority and increasingly has treated states as administrative subdivisions or as special interest groups, rather than co-equal partners; and

WHEREAS, the federal government has generated massive deficits and continues to mandate programs that state and local governments must administer; and

WHEREAS, the number of federally unfunded mandates has grown exponentially during the last thirty years and has profoundly distorted state budgets, thereby handcuffing the ability of state leaders to provide appropriate and needed services to their constituencies; and

WHEREAS, since 1990, the federal government has enacted at least forty-two major statutes imposing burdensome and expensive regulations and requirements on states and localities, which is nearly equal to all those enacted in the prior two decades combined; and

WHEREAS, persistent, state-led endeavors have consistently failed to generate any substantial reaction or remedy from the federal government; and

WHEREAS, the U.S. Supreme Court has repeatedly determined that the states must look to the Congress and related political remedies for protection against federal encroachments on the reserved powers of the states; and

WHEREAS, the Council of State Governments, through its Intergovernmental Affairs Committee, has been the champion of state sovereignty for many years; and

WHEREAS, in recent years, states have been the principal agents of government reform, including updating their constitutions, modernizing and restructuring governmental institutions, and, along with local governments have been the pioneers of government innovation, thus responding to the needs of their citizens; and

WHEREAS, the Council of State Governments recognizes a sense of urgency in calling for The Conference of The States, whereby each state government would send a delegation to develop a comprehensive Action Plan to restore balance in the federal system; and

WHEREAS, the aforementioned experience of The Council of State Governments, in conjunction with its regional structure and groupings of elected and appointed officials from all three branches of state government, reflects an entity ideally suited to promote and facili-

tate such a conference; and

WHEREAS, The Conference of The States will communicate broad bipartisan public concern on the extent to which the American political system has been distorted and provide a formal forum for state governments to collectively propose constructive remedies for a more balanced state-federal governance partnership for the 21st century.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature encourages, supports and recommends the call for a conference of the states to be convened by the Council of State Governments for the purpose of restoring balance in the federal system, and that the Legislature supports Idaho's participation in such a conference as follows:

(1) A delegation of five voting persons from the State of Idaho, shall be appointed to represent the State of Idaho at a Conference of the States for the purposes described in Section (2) to be convened as provided in Section (3). The delegation shall consist of five voting persons as follows: (a) the governor or, if the governor does not wish to be a member of the delegation then a constitutional officer selected by the governor; and (b) four legislators, two from each house selected by the presiding officer of that house. No more than two of the four legislators may be from the same political party. Each presiding officer may designate two alternate legislator delegates, one from each party, who have voting privileges in the absence of the primary delegates.

(2) The delegates of The Conference of The States will propose, debate and vote on elements of an action plan to restore checks and balances between states and the national government. Measures agreed upon will be formalized in an instrument called a States' Petition and returned to the delegation's state for consideration by the entire legislature.

(3) The Conference of The States shall be convened under the Section 501(c)3 auspices of the Council of State Governments in cooperation with the National Governors' Association and the National Conference of State Legislatures no later than 270 days after at least twenty-six legislatures adopt this resolution without amendment.

(4) Prior to the official convening of The Conference of The States the steering committee will draft:

(a) the governance structure and procedural rules for the Conference;

(b) the process for receiving rebalancing proposals; and

(c) the financial and administrative functions of the Conference, including the Council of State Governments as fiscal agent.

(5) The bylaws shall:

(a) conform to the provisions of this resolution;

(b) specify that each state delegation shall have one vote at the Conference; and

(c) specify that the Conference agenda be limited to fundamental, structural, long-term reforms.

(6) Upon the official convening of The Conference of The States, the State delegations will vote upon and approve the Conference governing structure, operating rules and by-laws.

Adopted by the Senate January 19, 1995
Adopted by the House February 2, 1995

(S.C.R. No. 104)

A CONCURRENT RESOLUTION
RECOGNIZING ACCOMPLISHMENTS AND NEEDS FOR ADULT LITERACY PROGRAMS AND DECLARING NOVEMBER, 1995, TO BE IDAHO LITERACY MONTH.

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 literacy awareness, and continues this commitment by designation of Idaho Literacy Month to focus on issues of family literacy, workplace literacy, and citizenship.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that November, 1995, be

declared "Idaho Literacy Month" for the purposes of focusing public awareness of issues of family literacy, workplace literacy and citizenship.

Adopted by the Senate January 20, 1995
Adopted by the House February 1, 1995

(S.C.R. No. 105)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF IMPLEMENTATION STATUTES FOR THE COMMISSION FOR REAPPORTIONMENT.

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

WHEREAS, the people of the State of Idaho ratified SJR 105 of the First Regular Session of the Fifty-second Idaho Legislature, creating a Commission for Reapportionment; and

WHEREAS, it is incumbent upon the Legislature to enact legislation necessary to implement the will of the people; and

WHEREAS, details of the implementation, including terms of members and their qualifications, staff and procedural processes must be enacted by the Legislature; and

WHEREAS, in preparation for the census there are requirements upon the State which must be met to assure provision of accurate and timely data to the Commission for Reapportionment so that they can accomplish their duties; and

WHEREAS, in consultation with county officials, the Legislature must continue to examine the requirements of the Census Bureau, particularly regarding "visible features" for voting precinct boundaries; and

WHEREAS, a thorough consideration of these matters will result in the most efficient organizational structure and the most successful reapportionment.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of the implementation of the provisions of Section 2, Article III of the Constitution of the State of Idaho creating a Commission for Reapportionment. The committee shall also address other matters necessary to prepare for Census 2000 and the subsequent reapportionment.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and legislation, if any, to the Second Regular Session of the Fifty-third Idaho Legislature.

Adopted by the Senate January 23, 1995
Adopted by the House March 16, 1995

(S.C.R. No. 114)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE, REGARDING CONTROL OF AIR POLLUTION IN IDAHO.

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 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 First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the following rules of the Idaho Department of Health and Welfare, IDAPA Title 16.01.01 relating to control of air pollution in Idaho, be, and the same are hereby amended to read as follows:

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 387. (5-1-94)

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration of reasonable further progress, attainment, or maintenance. (5-1-94)

02. Affected States. All states: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within 50 miles of the Tier I source. (5-1-94)

03. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (5-1-94)

04. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one ton of sulfur dioxide. (5-1-94)

05. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 225 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or condi-

tions relevant only to toxic air pollutants are not applicable requirements. (5-1-94)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661a(b) or Sections 120 through 126 of these rules; (5-1-94)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

06. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

07. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

08. Emergency. (5-1-94)

a. For the purposes of Sections 326 through 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including natural disasters, which situation requires immediate corrective action to restore normal operation, and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (5-1-94)

b. For the purposes of Sections 380 through 387 an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including natural disasters, which situation requires immediate corrective action to restore normal operation. (5-1-94)

09. Emissions Allowable Under the Tier I Operating Permit. A federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emission cap that the facility has assumed to avoid an applicable requirement to which the source would otherwise be subject.

(5-1-94)

10. Excess Emissions. Emissions of an air pollutant in excess of any applicable air quality standard, emission standard emission limit or permit terms or conditions. (5-1-94)

11. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

12. General Permit. A Tier I permit issued pursuant to Section 323. (5-1-94)

13. Insignificant Activity. Categorically exempt insignificant activities ~~approved--by-the-Department-include:~~ as determined in section 317.

~~(5-1-94)~~ ( )

~~a.---Space-heating,-if-the-capacity-of-the-heating--unit--is--less than-500,000-BTU's-per-hour-input;~~ ~~(5-1-94)~~

~~b.---Office-activities;~~ ~~(5-1-94)~~

~~c.---Janitorial-activities;~~ ~~(5-1-94)~~

~~d.---Personal-care-activities;~~ ~~(5-1-94)~~

~~e.---Cafeteria-activities;-and~~ ~~(5-1-94)~~

~~f.---Landscaping-and-groundskeeping-activities.~~ ~~(5-1-94)~~

14. Major Facility. A facility (as defined in Section 006.34) is major if the facility meets any of the following criteria: (5-1-94)

a. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. The facility emits or has the potential to emit twenty five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

c. The facility directly emits or has the potential to emit, one hundred (100) tpy or more of any air pollutant. Fugitive emissions from emissions units within the facility shall be included as provided in any or all of the following: (5-1-94)

i. For designated facilities, include the fugitive emissions of all regulated air pollutants. (5-1-94)

ii. For fossil-fuel-fired steam electric plants of more than 250 million BTUs per hour heat input, include the fugitive emissions of all regulated air pollutants. (5-1-94)

iii. For any emissions units in a source category regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 except those identified in Section 008.12.c.i or 008.12.c.ii, include the fugitive emissions of those air pollutants regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 for the particular source category. (5-1-94)

d. The facility is located in a "serious" particulate matter

(PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

e. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

f. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

g. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2): (5-1-94)

i. If the area is "marginal" or "moderate," one hundred (100) tpy or more. (5-1-94)

ii. If the area is "serious," fifty (50) tpy or more. (5-1-94)

iii. If the area is "severe," twenty five (25) tpy or more. (5-1-94)

iv. If the area is "extreme," ten (10) tpy or more. (5-1-94)

15. Permit Revision. Any minor permit modification, substantive permit modification, administrative permit amendment or reopening. (5-1-94)

16. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651 and shall have the meaning given to it pursuant to those sections. (5-1-94)

17. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651 and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

18. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

19. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (5-1-94)

20. Regulated Air Pollutant. The following air pollutants: (5-1-94)

a. Nitrogen oxides including nitrogen dioxide, volatile organic compounds, ozone, lead, carbon monoxide, total suspended particulates, PM-10 and sulfur oxides. (5-1-94)

b. Any air pollutant that is regulated in 40 CFR Part 60. (5-1-94)

c. Any Class I or II substance listed in, or listed inaccordance with 42 U.S.C. Sections 7671a(a) or 7671a(b). (5-1-94)

d. Any air pollutant subject to a standard promulgated under 42 U.S.C. Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following: (5-1-94)

i. Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the

date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and (5-1-94)

ii. Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement. (5-1-94)

21. Replicable. Any SIP procedures for applying emission trading shall be structured so that two independent entities would obtain the same result when determining compliance with the emission trading provisions. (5-1-94)

22. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 387. (5-1-94)

314. REQUIRED STANDARD APPLICATION FORM AND REQUIRED INFORMATION. (5-1-94)

01. General Requirements. (5-1-94)

a. Applications shall be submitted on a form or forms provided by the Department or by other means prescribed by these rules or the Department. The application shall be certified by the responsible official in accordance with Section 123. If the Tier I source is regulated under 42 U.S.C. Sections 7651 through 7651o, the owner or operator shall also submit nationally-standardized acid rain forms provided by EPA. (5-1-94)

b. All information shall be in sufficient detail so that the Department may efficiently and effectively determine the applicability of requirements and make all other necessary evaluations and determinations. (5-1-94)

02. General Information for the Facility. (5-1-94)

a. Provide identifying information, including the name, address and telephone number of: (5-1-94)

i. The owner; (5-1-94)

ii. The operator; (5-1-94)

iii. The facility where the Tier I source is located; (5-1-94)

iv. The registered agent of the owner, if any; (5-1-94)

v. The registered agent of the operator, if any; (5-1-94)

vi. The responsible official, if other than the owner or operator; and (5-1-94)

vii. The contact person. (5-1-94)

b. Provide a general description of the processes used and products produced by the facility where the Tier I source is located, including any associated with each requested alternative operating scenario and trading scenario. The description shall include narrative and applicable SIC codes. (5-1-94)

c. Provide a general description of each process line affecting a Tier I source. (5-1-94)

03. Excess Emissions Procedures. For all air pollution control equipment, emissions units, or other sources from which excess emissions may occur during startup, shutdown, and scheduled maintenance, provide detailed descriptions of the specific procedures which will be used to minimize excess emissions. Specific information for each of

these three types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be described in full detail for each piece of control equipment, emissions unit or other source and shall include all of the following: (5-1-94)

a. Identification of the specific air pollution control equipment, emissions unit, or other source. (5-1-94)

b. Identification of the specific air pollutants likely to be emitted in excess of applicable standards or limits during the startup, shutdown, or scheduled maintenance period. (5-1-94)

c. The estimated amount of excess emissions expected to be released during each event. (5-1-94)

d. The expected duration of each excess emissions event. (5-1-94)

e. An explanation of why the excess emissions are unavoidable for each of the three types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (5-1-94)

f. Specification of the frequency at which each of the three types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (5-1-94)

g. For scheduled maintenance, the owner or operator shall also provide detailed explanations of: (5-1-94)

i. Why the maintenance is needed. (5-1-94)

ii. Why it is impractical to reduce or cease operation of the emissions unit(s) or other source(s) during the scheduled maintenance period. (5-1-94)

iii. Why the excess emissions are not avoidable through better scheduling of the maintenance or through better operation and maintenance practices. (5-1-94)

iv. Why, where applicable, it is necessary to by-pass, take off line, or operate the air pollution control equipment at reduced efficiency while the maintenance is being performed. (5-1-94)

v. Why auxiliary air pollution control equipment is not used during the scheduled maintenance period to eliminate the excess emissions. (5-1-94)

h. Justification to explain why the piece of control equipment, emissions unit or other source can not be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. (5-1-94)

i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary air pollution control equipment to reduce the excess emissions. (5-1-94)

04. Specific Information for Each Emissions Unit. (5-1-94)

~~a.~~ The owner or operator shall provide, in an itemized format, all of the information identified in Sections 314.05 through 314.12 for each emissions unit, unless the emissions unit is an insignificant activity.

~~(5-1-94)~~ ( )

~~b. If the emissions unit is an insignificant activity, the owner or operator shall list the emissions unit on a list of insignificant~~

~~activities.~~ ~~(5-1-94)~~

05. Emissions. (5-1-94)

a. Identify and quantify all emissions of pollutants for which the source is major and all emissions of regulated air pollutants. Emissions rates shall be quantified in tons per year (tpy) and in such additional terms as are necessary to determine compliance with all applicable requirements consistent with the applicable test method. (5-1-94)

b. Identify and describe all points of emissions. (5-1-94)

c. To the extent it is needed to determine or regulate emissions, identify and quantify all fuels, fuel use, raw materials, production rates, and operating schedules. (5-1-94)

d. Identify and describe all air pollution control equipment and compliance monitoring devices or activities. (5-1-94)

e. Identify and describe all limitations on source operation or any work practice standards affecting emissions. (5-1-94)

f. Provide the calculations on which the information provided under Sections 314.05.a. through e. is based. (5-1-94)

06. Applicable Requirements. (5-1-94)

a. Cite and describe all applicable requirements affecting the emissions unit; and (5-1-94)

b. Describe or reference all methods required by each applicable requirement for determining the compliance status of the emissions unit with the applicable requirement, including any applicable monitoring, recordkeeping and reporting requirements or test methods. (5-1-94)

07. Other Requirements. Other specific information that may be necessary to determine the applicability of, implement or enforce any requirement of the Act, these rules, 42 U.S.C. Sections 7401 through 7671q or federal regulations. (5-1-94)

08. Proposed Exemptions and Determinations of Nonapplicability. (5-1-94)

a. Identify and provide an explanation of any proposed exemptions from applicable requirements. (5-1-94)

b. Identify any other requirements for which the applicant seeks a determination of nonapplicability and provide an explanation of why the requirement is not applicable to the Tier I source. (5-1-94)

09. Alternative Operating Scenarios. (5-1-94)

a. Identify all requested alternative operating scenarios. (5-1-94)

b. Provide a detailed description of all requested alternative operating scenarios. Include all the information required by Section 314 that is relevant to the alternative operating scenario. (5-1-94)

10. Compliance Certifications. (5-1-94)

a. Provide a compliance certification regarding the compliance status of each emissions unit at the time the application is submitted to the Department that: (5-1-94)

i. Identifies all applicable requirements affecting each emissions unit. (5-1-94)

ii. Certifies the compliance status of each emissions unit with each of the applicable requirements. (5-1-94)

iii. Provides a detailed description of the method(s) used for determining the compliance status of each emissions unit with each

applicable requirement, including a description of any monitoring, recordkeeping, reporting and test methods that were used. Also provide a detailed description of the method(s) required for determining compliance. (5-1-94)

iv. Certifies the compliance status of the emissions unit with any applicable enhanced monitoring requirements. (5-1-94)

v. Certifies the compliance status of the emissions unit with any applicable enhanced compliance certification requirements. (5-1-94)

vi. Provides all other information necessary to determining the compliance status of the emissions unit. (5-1-94)

b. Provide a schedule for submission of compliance certifications during the term of the Tier I operating permit. The schedule shall require compliance certifications to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

11. Compliance Plans. (5-1-94)

a. Provide a compliance description as follows: (5-1-94)

i. For each applicable requirement with which the emissions unit is in compliance, state that the emissions unit will continue to comply with the applicable requirement. (5-1-94)

ii. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not contain a more detailed schedule, state that the emissions unit will meet the applicable requirement on a timely basis. (5-1-94)

iii. For each applicable requirement that will become effective during the term of the Tier I operating permit that contains a more detailed schedule, state that the emissions unit will comply with the applicable requirement on the schedule provided in the applicable requirement. (5-1-94)

iv. For each applicable requirement with which the emission unit is not in compliance, state that the emissions unit will be in compliance with the applicable requirement by the time the Tier I operating permit is issued or provide a compliance schedule in accordance with Section 314.11.b. (5-1-94)

b. All compliance schedules shall: (5-1-94)

i. Include a schedule of remedial measures leading to compliance, including a verifiable sequence of actions and specific dates for achieving milestones and achieving compliance. (5-1-94)

ii. Include a schedule for submission to the Department of periodic progress reports no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable requirement or by the Department. (5-1-94)

iii. Incorporate the terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)

iv. Be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based. (5-1-94)

c. Provide a schedule for submission of compliance plans during the term of the Tier I operating permit. The schedule shall require compliance plans to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

12. Trading Scenarios. (5-1-94)

a. Identify all requested trading scenarios, including alternative emissions limits (bubbles) authorized by Section 440. (5-1-94)

b. Provide a detailed description of all requested trading scenarios. Include all the information required by Section 314 that is relevant to the trading scenario and all the information required by Section 440, if applicable. (5-1-94)

13. Additional Information. Provide all additional information that the Department determines is necessary for the Department to efficiently and effectively perform its functions. Such functions include, but are not limited to, determining the applicability of requirements for all air pollutants, determining compliance with applicable requirements, developing or defining Tier I operating permit terms and conditions, defining all approved alternative operating scenarios, evaluating excess emissions procedures or making all necessary evaluations and determinations. (5-1-94)

317. INSIGNIFICANT ACTIVITIES. ( )

01. This section contains the criteria for identifying insignificant activities for the purposes of the operating permit program. Notwithstanding any other provision of this rule, no emission unit or activity subject to an applicable requirement shall qualify as an insignificant emission unit or activity. ( )

a. Categorically exempt insignificant emission units. ( )

i. This section contains lists of units and activities that are categorically exempt from this chapter. The activities listed in this section may be omitted from the permit application. ( )

(1) Alterations that do not constitute a modification or require a permitting action under Sections 200 through 225, or are permitting actions that pertain only to Toxic Air Pollutants. ( )

(2) Mobile transport tanks on vehicles except for those containing asphalt. ( )

(3) Lubricating oil storage tanks. ( )

(4) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter. ( )

(5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases. ( )

(6) Storage of solid material, dust-free handling. ( )

(7) Vehicle exhaust from auto maintenance and repair shops. ( )

(8) Vents from continuous emission monitors and other analyzers. ( )

(9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls, and separate exhaust are provided. ( )

(10) Internal combustion engines for propelling or powering a vehicle. ( )

(11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires. ( )

(12) Brazing, soldering, and welding equipment and oxygen-hydrogen

cutting torches for use in cutting metal wherein components of the metal do not generate HAPs or HAP precursors. ( )

(13) Atmospheric generators used in connection with metal heat treating processes. ( )

(14) Metal finishing or cleaning using tumblers. ( )

(15) Metal casting molds and molten metal crucibles that do not contain potential HAPs. ( )

(16) Die casting. ( )

(17) Metal or glass heat-treating, in the absence of molten materials, oils, or VOCs. ( )

(18) Drop hammers or hydraulic presses for forging or metalworking. ( )

(19) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of HAPs. ( )

(20) Metal fume vapors from electrically heated foundry/forge operations wherein the components of the metal do not generate HAPs or HAP precursors. Electric arc furnaces are excluded from consideration for listing as insignificant. ( )

(21) Metal melting and molten metal holding equipment and operations wherein the components of the metal do not generate HAPs or HAP precursors. Electric arc furnaces are not considered for listing as insignificant. ( )

(22) Inspection equipment for metal products. ( )

(23) Plastic and resin curing equipment, excluding FRP. ( )

(24) Extrusion equipment, metals, minerals, plastics, grain or wood. ( )

(25) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics. ( )

(26) Roller mills and calendars, rubber and plastics. ( )

(27) Conveying and storage of plastic pellets. ( )

(28) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air or inert gas allowed as blowing agent. ( )

(29) Plastic pipe welding. ( )

(30) Nonmetallic mineral mines and screening plants except for crushing and associated activities that are not subject to 40 CFR Part 60 Subpart 000. Quarrying of silica rock and associated activities are not considered for listing as insignificant. ( )

(31) Wet sand and gravel screening. ( )

(32) Wax application. ( )

(33) Plant upkeep including routine housekeeping, cleaning and preservation of equipment, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and paving or stripping parking lots. ( )

(34) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority. ( )

(35) Maintenance of paved streets and parking lots including cleaning and sweeping of streets and paved surfaces and salting and

sanding. ( )

(36) Ultraviolet curing processes. ( )

(37) Hot melt adhesive application with no VOCs in the adhesive formula. ( )

(38) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents. ( )

(39) Steam cleaning operations. ( )

(40) Steam sterilizers. ( )

(41) Food preparing for human consumption including cafeterias, kitchen facilities and barbecues located at a source for providing food service on premises. ( )

(42) Portable drums and totes. ( )

(43) Lawn, landscaping and groundskeeping activities. ( )

(44) Flares used to indicate danger to the public. ( )

(45) General vehicle maintenance including vehicle exhaust from repair facilities. ( )

(46) Comfort air conditioning or air cooling systems, not used to remove air contaminants from specific equipment. ( )

(47) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section. ( )

(48) Natural and forced air vents for bathroom/toilet facilities. ( )

(49) Office activities. ( )

(50) Sampling connections used exclusively to withdraw materials for laboratory analyses and testing. ( )

(51) Fire fighting and similar safety equipment and equipment used to train firefighters including fire drill pits. ( )

(52) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity. ( )

(53) Fuel and exhaust emissions from vehicles in parking lots. ( )

(54) Carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, sintering, or polishing: Ceramics, glass, leather, metals, plastics, rubber, concrete, paper stock, or wood provided that: ( )

(a) Activity is performed indoors. ( )

(b) Particulate emissions control is in the immediate vicinity of activity. ( )

(c) Exhaust from the particulate control is within the building housing the activity. ( )

(d) Only de minimis levels of fugitive particulate emissions enter the environment. ( )

(55) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment. ( )

(56) Slaughterhouse equipment except rendering cookers. ( )

(57) Ozonation equipment. ( )

(58) Nonasbestos brake shoe bonding. ( )

(59) Batch loading and unloading of solid phase catalysts. ( )

(60) Demineralization and oxygen scavenging (deaeration) of water. ( )

(61) Pulse capacitors. ( )

(62) Laser trimmers, using dust collection to prevent fugitive emissions. ( )

(63) Plasma etcher, using dust collection to prevent fugitive emissions and using only oxygen, nitrogen, carbon dioxide, or inert gas. ( )

(64) Gas cabinets using only gases that are not regulated air pollutants. ( )

(65) CO2 lasers, used only on metals and other materials which emit only de minimis levels of HAPs in the process. ( )

(66) Structural changes not having air contaminant emissions. ( )

(67) Confection cooking equipment. ( )

(68) Mixing, packaging, storage and handling activities of any size, limited to soaps, lubricants, vegetable oil, grease, animal fat, aqueous salt solutions. ( )

(69) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche. ( )

(70) Pharmaceutical and cosmetics packaging equipment. ( )

(71) Paper trimmers/binders. ( )

(72) Sample gathering, preparation and management. ( )

(73) Repair and maintenance activities, not involving installation of an emission unit and not increasing potential emissions of a regulated air pollutant. ( )

(74) Handling equipment and associated activities for glass and aluminum which is destined for recycling, not the re-refining process itself. ( )

(75) Hydraulic and hydrostatic testing equipment. ( )

(76) Batteries and battery charging. ( )

(77) Porcelain and vitreous enameling equipment. ( )

(78) Solid waste containers. ( )

(79) Salt baths using nonvolatile salts and not used in operations which result in air emissions. ( )

(80) Shock chambers. ( )

(81) Wire strippers. ( )

(82) Humidity chambers. ( )

(83) Solar simulators. ( )

(84) Environmental chambers not using hazardous air pollutant (HAPs) gases. ( )

(85) Totally enclosed conveyors. ( )

(86) Steam vents and safety relief valves. ( )

(87) Air compressors, pneumatically operated equipment, systems, and hand tools. ( )

(88) Steam leaks. ( )

(89) Boiler blow-down tank. ( )

(90) Salt cake mix tanks. ( )

(91) Digester chip feeders. ( )

(92) Weak liquor and filter tanks. ( )

(93) Process water and white water storage tanks. ( )

(94) Demineralizer tanks. ( )
(95) Clean condensate tanks. ( )
(96) Alum tanks. ( )
(97) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling. ( )
(98) Lime and mud filtrate tanks. ( )
(99) Hydrogen peroxide tanks. ( )
(100) Lime mud washer. ( )
(101) Lime mud filter. ( )
(102) Liquor clarifiers or filters and storage tanks and associated pumping, piping, and handling. ( )
(103) Lime grits washers, filters, and handing. ( )
(104) Lime silos and feed bins. ( )
(105) Paper forming. ( )
(106) Dryers including yankee, after dryer, curing systems, and cooling systems and nonprocess related dryers. ( )
(107) Vacuum system exhausts. ( )
(108) Starch cooking. ( )
(109) Stock cleaning and pressurized pulp washing. ( )
(110) Winders or other paper converting equipment. ( )
(111) Chipping. ( )
(112) Debarking. ( )
(113) Sludge dewatering and handling. ( )
(114) Screw press vents. ( )
(115) Pond dredging. ( )
(116) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation. ( )
(117) Non-PCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank. ( )
(118) Electric or steam-heated drying ovens and autoclaves. ( )
(119) Sewer manholes, junction boxes, sumps and lift stations associated with waste water treatment systems. ( )
(120) Water cooling towers processing exclusively noncontact cooling water. ( )
(121) Paper coating and sizing. ( )
(122) Space heating, if the capacity of the heating unit is less than five hundred thousand (500,000) BTU's per hour input. ( )
(123) Process waste water and ponds. ( )
(124) Outdoor firearms practice ranges. ( )

b. Units and activities defined as insignificant on the basis of size or production rate. ( )

i. This section contains lists of units or activities that are exempt from this chapter on the basis of size or production rate. Units and activities listed in this section must be listed in the permit application. The following units and activities are determined to be insignificant based on their size or production rate: ( )

(1) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty (260) gallon capacity (35 cft), heated only to the minimum extend to avoid solidification if necessary. ( )

(2) Operation, loading and unloading of storage tanks, not greater than one thousand one hundred (1,100) gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants (HAPs), maximum (max.) vp 550 mm Hg. ( )

(3) Operation, loading and unloading of VOC storage tanks (including gasoline storage tanks), ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure, vp not greater than 80 mm Hg at 21 C. ( )

(4) Operation, loading and unloading storage of butane, propane, or liquified petroleum gas (LPG), storage tanks, vessel capacity under forty thousand (40,000) gallons. ( )

(5) Combustion source, less than five million (5,000,000) Btu/hr, exclusively using natural gas, butane, propane, and/or LPG. ( )

(6) Combustion source, less than five hundred thousand (500,000) Btu/hr, using any commercial fuel containing less than four-tenths percent (.4%) by weight sulfur for coal or less than one percent (1%) by weight sulfur for other fuels. ( )

(7) Combustion source, of less than one million (1,000,000) Btu/hr, if using kerosene, No. 1 or No. 2 fuel oil. ( )

(8) Combustion source, not greater than five hundred thousand (500,000) Btu/hr, if burning waste wood, wood waste or waste paper. ( )

(9) Welding using not more than one (1) ton per day of welding rod. ( )

(10) Foundry sand molds, unheated and using binders with less than twenty-five hundredths percent (.25%) free phenol by sand weight. ( )

(11) "Parylene" coaters using less than five hundred (500) gallons of coating per year. ( )

(12) Printing and silkscreening, using less than two (2) gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions. ( )

(13) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand (10,000) gpm, not in direct contact with gaseous or liquid process streams containing regulated air pollutants. ( )

(14) Combustion turbines, of less than five hundred (500) HP. ( )

(15) Batch solvent distillation, not greater than fifty-five (55) gallons batch capacity. ( )

(16) Municipal and industrial water chlorination facilities of not greater than twenty million (20,000,000) gallons per day capacity. The exemption does not apply to waste water treatment. ( )

(17) Surface coating, using less than two (2) gallons per day. ( )

(18) Space heaters and hot water heaters using natural gas, propane or kerosene and generating less than five million (5,000,000) Btu/hr. ( )

(19) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding: ( )

(i) ninety-nine percent (99%) or greater H_2SO_4 or H_3PO_4 ( )
(ii) seventy percent (70%) or greater HNO_3 ( )
(iii) thirty percent (30%) or greater HCl ( )
(iv) More than one (1) liquid phase where the top phase is more than one percent (1%) VOCs. ( )

(20) Equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial boiling point (IBP) not less than 150°C or vapor pressure (vp) not more than 5 mm Hg at 21°C with lids or other appropriate closure. ( )

(21) Smokehouses under twenty (20) square feet. ( )

(22) Milling and grinding activities, using paste-form compounds with less than one percent (1%) VOCs. ( )

(23) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals. ( )

(24) Dip-coating operations, using materials with less than one percent (1%) VOCs. ( )

(25) Surface coating, aqueous solution or suspension containing less than one percent (1%) VOCs. ( )

(26) Cleaning and stripping activities and equipment, using solutions having less than one percent (1%) VOCs by weight. On metallic substrates, acid solutions are not considered for listing as insignificant. ( )

(27) Storage and handling of water based lubricants for metal working where the organic content of the lubricant is less than ten percent (10%). ( )

(28) Municipal and industrial waste water chlorination facilities of not greater than one million (1,000,000) gallons per day capacity. ( )

(29) Any other activity that is requested to be listed as insignificant by the applicant and agreed to by the department. ( )

(30) An emission unit or activity with emissions less than or equal to five percent (5%) of the levels contained in subsection a. of the definition of significant and no more than one (1) ton per year of any HAP. ( )

Adopted by the Senate February 21, 1995
Adopted by the House March 3, 1995

(S.C.R. No. 116)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE, REGARDING CONTROL OF AIR POLLUTION IN IDAHO.

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

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 First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the following rules of the Idaho Department of Health and Welfare, IDAPA Title 16.01.01 relating to control of air pollution in Idaho, be, and the same are hereby amended to read as follows:

006. GENERAL DEFINITIONS. (5-1-94)

01. ~~Absolute--Potential--to--Emit.--For--purposes-of-Sections-525 through-538,-the-maximum-rated-capacity-of-a-stationary-source-to-emit a-pollutant-under-its-physical-and-operational-design.---Physical--and operational--limits,--whether--or--not--they--are--federally--or-state enforceable,-shall-not-be-treated-as-part-of-the--stationary--source's design.~~ (Reserved) ~~(5-1-94)~~ ( )

02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)

03. Actual Emissions. The emission rate, in mass per unit time, of an air pollutant from a stationary source or emissions unit, averaged over the two (2) year period which is representative of normal operation and which precedes a particular date or the date on which an application for a permit was filed. Actual emissions shall be calculated using actual operating hours, production rates, and types of materials processed, stored, or combusted during this time period, except that: (5-1-94)

a. The Department may allow the use of a different time period upon a determination that it is more representative of normal operation; (5-1-94)

b. The Department may consider emission rates specifically allowed in a permit to construct or operating permit to be equivalent to actual emissions if the State Implementation Plan demonstration of attainment and/or maintenance is explicitly based on the permitted emissions; and (5-1-94)

c. For any stationary source or emissions unit which has not yet begun normal operations, actual emissions shall be considered to be those allowed in the applicable permit to construct or operating permit. (5-1-94)

04. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof, regulated under the Act, 42 U.S.C. Sections 7401 through 7671q these rules or any federal air quality regulation. (5-1-94)

05. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. (5-1-94)

06. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)

07. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)

08. Ambient Air Quality Violation. Any single ambient concentra-

tion of any air pollutant that exceeds any national, state or local ambient air quality standard at any point in an area outside the source property line. (5-1-94)

09. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (5-1-94)

10. Attainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. (5-1-94)

11. Baseline (Area, Concentration, Date). See Section 579. (5-1-94)

12. Best Available Control Technology (BACT). An emission standard (including a visible emissions standard) based on the maximum control of emissions achievable through application of production processes or available methods, systems, and techniques (including fuel cleaning or treatment or innovative fuel combination techniques) for control of such contaminants. BACT shall be determined on a case-by-case basis, taking into account energy, environmental and economic impacts, and other costs, and shall be at least as stringent as any applicable Sections of 40 CFR Part 60, 40 CFR Part 61 and 40 CFR Part 63. If an emissions standard is infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed as BACT. (5-1-94)

13. Board. Idaho Board of Health and Welfare. (5-1-94)

14. Breakdown. An unplanned and unforeseeable failure of any air pollution control equipment or emissions unit, including process equipment, which may cause excess emissions where such failure is not intentional or the result of negligence or improper maintenance. (5-1-94)

15. BTU. British thermal unit. (5-1-94)

16. Clean Air Act. The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)

17. Collection Efficiency. The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)

18. Commence Construction or Modification. To engage in a continuous program of construction or modification, or to engage in a program of planned grading, dredging, or landfilling, specifically designed for the stationary source or facility in preparation of the fabrication, erection, or installation of the building components of the stationary source or facility. For the purpose of this definition, delays or interruptions resulting from natural disasters, strikes, litigation, and other matters beyond the control of the owner, shall be disregarded in determining whether a construction or a modification program has commenced and/or is continuous. (5-1-94)

19. Complete. A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)

20. Construction. Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)

21. Control Equipment. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)

22. Controlled Emission. An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)

23. Criteria Air Pollutant. Any of the following: PM-10; total suspended particulates (TSP); sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; fluorides; lead. (5-1-94)

24. Department. The Department of Health and Welfare. (5-1-94)

25. Designated Facility. Any of the following facilities: (5-1-94)

a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)

b. Coal cleaning plants (thermal dryers); (5-1-94)

c. Kraft pulp mills; (5-1-94)

d. Portland cement plants; (5-1-94)

e. Primary zinc smelters; (5-1-94)

f. Iron and steel mill plants; (5-1-94)

g. Primary aluminum ore reduction plants; (5-1-94)

h. Primary copper smelters; (5-1-94)

i. Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)

j. Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)

k. Petroleum refineries; (5-1-94)

l. Lime plants; (5-1-94)

m. Phosphate rock processing plants; (5-1-94)

n. Coke oven batteries; (5-1-94)

o. Sulfur recovery plants; (5-1-94)

p. Carbon black plants (furnace process); (5-1-94)

q. Primary lead smelters; (5-1-94)

r. Fuel conversion plants; (5-1-94)

s. Sintering plants; (5-1-94)

t. Secondary metal production facilities; (5-1-94)

u. Chemical process plants; (5-1-94)

v. Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)

w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)

x. Taconite ore processing facilities; (5-1-94)

y. Glass fiber processing plants; and (5-1-94)

z. Charcoal production facilities. (5-1-94)

26. Director. The Director of the Department of Health and Welfare or his designee. (5-1-94)

27. Effective Dose Equivalent. The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)

28. Emission. Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air

pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)

29. Emission Standard. A permit or regulatory requirement established by the Department, or a requirement contained in 40 CFR Part 60, 40 CFR Part 61, 40 CFR Part 63 or the State Implementation Plan (SIP), which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission control. (5-1-94)

30. Emission Standard Violation. Any emission rate that exceeds the applicable source-specific emission standard or any action or inaction that contravenes any source-specific opacity limit, equipment requirement, fuel specification or required operation or maintenance procedures. (5-1-94)

31. Emissions Unit. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

32. EPA. The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)

33. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five years or less of total operation. (5-1-94)

34. Existing Stationary Source or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)

35. Facility. All of the combined sources which emit air pollutants, belong to the same industrial grouping (using the Major Groups as described in the Standard Industrial Classification Manual), are located on one or more contiguous or adjacent properties, and are owned or operated by the same person or by persons under common control. (5-1-94)

36. Federal Class I Area. Any federal land that is classified or reclassified "Class I" pursuant to Section 580. (5-1-94)

37. Federal Land Manager. The Secretary of the federal department with authority over any federal lands in the United States. (5-1-94)

38. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)

39. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)

40. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)

41. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)

42. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)

43. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)

44. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of 35,200 cubic meters (ca. 1 million bushels). (5-1-94)

45. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than 88,100 cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

46. Hazardous Air Pollutant (HAP). Any air pollutant which is regulated at its emitting source by 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63. (5-1-94)

47. Hazardous Waste. Any 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: (5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

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, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or byproduct material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

48. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

49. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

50. Indian Governing Body. The governing body of any tribe, band,

or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

51. Indian Reservation. Any federally recognized reservation established by treaty, agreement, executive order, or act of Congress. (5-1-94)

52. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

53. Lowest Achievable Emission Rate (LAER). The rate of emissions based on the most stringent of the following: (5-1-94)

a. The most stringent emission standard which has been demonstrated in practice by similar stationary sources, facilities, or operations; (5-1-94)

b. The most stringent emission standard in any state implementation plan for similar stationary sources, facilities or operations, unless the owner or operator of the proposed facility demonstrates that such standards are not achievable; or (5-1-94)

c. Any applicable provision in 40 CFR Part 60. (5-1-94)

54. Major Facility. (5-1-94)

a. Any facility which has actual or allowable emissions of one hundred (100) tons per year or more of any air pollutant. (5-1-94)

b. Fugitive dust shall be included in the determination of emissions only for designated facilities and those source categories regulated under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63. (5-1-94)

55. Major Modification. (5-1-94)

a. Any modification of a major facility that would result in a significant net emission increase of any air pollutant; or (5-1-94)

b. Any modification of a facility that would result in a potential emissions increase of any air pollutant of one hundred (100) tons per year or more; (5-1-94)

c. Fugitive dust shall be included in the determination of emissions only for designated facilities and those source categories regulated under 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63. (5-1-94)

56. Member of the Public. For purposes of Section 006.87.a.xx, a person located at any off-site point where there is a residence, school, business or office. (5-1-94)

57. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which increases the amount of any air pollutant to which an emission or ambient air quality standard applies emitted by such stationary source or facility or which results in the emission of any air pollutant to which an emission or ambient air quality standard applies not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation: (5-1-94)

a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

b. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

c. Use of an alternative fuel or raw material if prior to January 6, 1975 and the date any emission or ambient air quality standard becomes applicable to such stationary source, the affected stationary source is specifically designed to accommodate such alternative use and is not specifically prohibited in a permit. (5-1-94)

58. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

59. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

60. New Stationary Source or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

61. Nonattainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)

62. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

63. Odor. The sensation resulting from stimulation of the human sense of smell. (5-1-94)

64. Opacity. A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)

65. Open Burning. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or

chimney. (5-1-94)

66. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 387 and/or 400 through 461. (5-1-94)

67. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)

68. Particulate Matter Emissions. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method, specified in the Procedures Manual for Air Pollution Control. (5-1-94)

69. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 225. (5-1-94)

70. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)

71. PM-10. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)

72. PM-10 Emissions. All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in the Procedures Manual for Air Pollution Control. (5-1-94)

73. Potential to Emit/Potential Emissions. The maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air pollutant, provided the limitation or its effect on emissions is state and federally enforceable, shall be treated as part of its design. Limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation and restrictions on the type or amount of material combusted, stored or processed. This definition does not alter or affect the term "capacity factor" as defined in 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

74. Portable Equipment. Equipment which is designed to be dismantled and transported from one job site to another job site. (5-1-94)

75. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

76. Prescribed Fire Management Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)

a. Fire hazard reduction; (5-1-94)

b. The control of pests, insects, or diseases; (5-1-94)

c. The promotion of range forage improvements; (5-1-94)

d. The perpetuation of natural ecosystems; (5-1-94)

e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a

driftwood collection system; (5-1-94)

f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)

g. Other accepted natural resource management purposes. (5-1-94)

77. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)

78. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)

79. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

80. Process Weight Rate. The rate established as follows: (5-1-94)

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (5-1-94)

b. For cyclical or batch source operations, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (5-1-94)

81. Radionuclide. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

82. Responsible Official. One of the following: (5-1-94)

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or (5-1-94)

ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 122, a principal executive officer of a Fed-

eral agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (5-1-94)

d. For Phase II sources: (5-1-94)

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

83. Salvage Operation. Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)

84. Scheduled Maintenance. Planned upkeep and repair activities on any air pollution control equipment or emissions unit, including process equipment. (5-1-94)

85. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

86. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

87. Significant. A rate of air pollutant emissions that would equal or exceed any of the following: (5-1-94)

a. Air pollutant emissions and rate: (5-1-94)

i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)

ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)

iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)

iv. Particulate matter, twenty-five (25) tons per year; (5-1-94)

v. Ozone, forty (40) tons per year of volatile organic compounds as a measure of ozone; (5-1-94)

vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)

vii. Asbestos, seven-thousandths (0.007) of a ton per year; (5-1-94)

viii. Beryllium, four ten-thousandths (0.0004) of a ton per year; (5-1-94)

ix. Mercury, one-tenth (0.1) of a ton per year; (5-1-94)

x. Vinyl chloride, one (1) ton per year; (5-1-94)

xi. Fluorides, three (3) tons per year; (5-1-94)

xii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)

xiii. Hydrogen sulfide (H_2S), ten (10) tons per year; (5-1-94)

xiv. Total reduced sulfur (including H_2S), ten (10) tons per year; (5-1-94)

xv. Reduced sulfur compounds (including H_2S), ten (10) tons per year; (5-1-94)

xvi. PM-10, fifteen (15) tons per year; (5-1-94)

xvii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-

five ten-millionths (0.0000035) tons per year; (5-1-94)

xviii. Municipal waste combustor metals (measured as particulate matter), 15 tons per year; (5-1-94)

xix. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)

xx. Radionuclides, a quantity of emissions, determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least 0.1 mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year; (5-1-94)

b. In reference to a net emissions increase or the potential of a source or facility to emit an air pollutant not listed in (a) above and not a toxic air pollutant, any emission rate; or (5-1-94)

c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (5-1-94)

88. Significant Contribution. Any increase in ambient concentrations which would exceed the following: (5-1-94)

a. Sulfur dioxide: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)

iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)

b. Total suspended particulates: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)

c. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)

d. Carbon monoxide: (5-1-94)

i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)

ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)

e. PM-10: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)

89. Small Fire. A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)

90. Smoke. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)

91. Smoke Management Plan. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning.

(5-1-94)

92. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)

93. Source. A stationary source. (5-1-94)

94. Source Operation. The last operation preceding the emission of air pollutants, when this operation: (5-1-94)

a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)

b. Is not an air cleaning device. (5-1-94)

95. Stack. Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)

96. Standard Conditions. Except as specified in Section 576.02. for ambient air quality standards, a dry gas temperature of 20C (68F) and a gas pressure of 760 millimeters of mercury (14.7 pounds per square inch) absolute. (5-1-94)

97. Startup. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)

98. Stationary Source. Any building, structure, emissions unit, or installation which emits or may emit any air pollutant. (5-1-94)

99. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility; (5-1-94)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60; (5-1-94)

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (5-1-94)

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

100. Time Intervals. Where applicable, time intervals are defined as follows: (5-1-94)

a. "Annual" means calendar year; (5-1-94)

b. "Year" means calendar year; (5-1-94)

c. "Month" means calendar month; (5-1-94)

d. "Week" means calendar week; (5-1-94)

e. "Twenty-four (24) hour concentration" means twenty-four (24) hour average concentration starting at midnight and continuing until the following midnight; (5-1-94)

f. "Eight (8) hour concentration" means running eight (8) hour average concentration starting at each clock hour; (5-1-94)

g. "Three (3) hour concentration" means running three (3) hour average concentration starting at each clock hour; and (5-1-94)

h. "One (1) hour concentration" means one (1) hour average concentration starting at each clock hour. (5-1-94)

101. Total Suspended Particulates. All particulate matter in the ambient air as measured by the method described in Appendix B of 40 CFR Part 50. (5-1-94)

102. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)

103. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one microgram per cubic meter (1 ug/m3) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

104. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

105. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

106. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

107. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

108. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

109. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

110. Upset. An unplanned and unforeseeable disruption in the normal operations of any air pollution control equipment or emissions unit, including process equipment, which may cause excess emissions where such disruption is not intentional or the result of negligence or improper maintenance. (5-1-94)

111. Wigwam Burner. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

112. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 387. (5-1-94)

01. Accountable. Any SIP emission trading program must account for the aggregate effect of the emissions trades in the demonstration

of reasonable further progress, attainment, or maintenance. (5-1-94)

02. Affected States. All states: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within 50 miles of the Tier I source. (5-1-94)

03. Air Pollution. The presence in the outdoor atmosphere of any air pollutant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. (5-1-94)

04. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one ton of sulfur dioxide. (5-1-94)

05. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 225 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (5-1-94)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661a(b) or Sections 120 through 126 of these rules; (5-1-94)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

06. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

07. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

08. Emergency. (5-1-94)

a. For the purposes of Sections 326 through 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including natural disasters, which situation requires immediate corrective action to restore normal operation, and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (5-1-94)

b. For the purposes of Sections 380 through 387 an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including natural disasters, which situation requires immediate corrective action to restore normal operation. (5-1-94)

09. Emissions Allowable Under the Tier I Operating Permit. A federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emission cap that the facility has assumed to avoid an applicable requirement to which the source would otherwise be subject. (5-1-94)

10. Excess Emissions. Emissions of an air pollutant in excess of any applicable air quality standard, emission standard emission limit or permit terms or conditions. (5-1-94)

11. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

12. General Permit. A Tier I permit issued pursuant to Section 323. (5-1-94)

13. Insignificant Activity. Categorically exempt insignificant activities approved by the Department include: (5-1-94)

a. Space heating, if the capacity of the heating unit is less than 500,000 BTU's per hour input; (5-1-94)

b. Office activities; (5-1-94)

c. Janitorial activities; (5-1-94)

d. Personal care activities; (5-1-94)

e. Cafeteria activities; and (5-1-94)

f. Landscaping and groundskeeping activities. (5-1-94)

14. Major Facility. A facility (as defined in Section 006.34) is major if the facility meets any of the following criteria: (5-1-94)

a. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. The facility emits or has the potential to emit twenty five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

c. The facility directly emits or has the potential to emit, one hundred (100) tpy or more of any air pollutant. Fugitive emissions from emissions units within the facility shall be included as provided in any or all of the following: (5-1-94)

~~i.---For designated facilities, include the fugitive emissions--of all regulated air pollutants. (5-1-94)~~

~~ii.--For--fossil-fuel-fired steam electric plants of more than 250 million BTUs per hour heat input, include the--fugitive--emissions--of all regulated air pollutants. (5-1-94)~~

~~iii.-For--any emissions units in a source category regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 except those--identified in--Section--008.12.c.i or 008.12.c.ii, include the fugitive emissions of those air pollutants regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 for the particular source category. (5-1-94)~~

d. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

e. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

f. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

g. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2): (5-1-94)

i. If the area is "marginal" or "moderate," one hundred (100) tpy or more. (5-1-94)

ii. If the area is "serious," fifty (50) tpy or more. (5-1-94)

iii. If the area is "severe," twenty five (25) tpy or more. (5-1-94)

iv. If the area is "extreme," ten (10) tpy or more. (5-1-94)

h. For facilities addressed in subparts c. through g. above, fugitive emissions from emissions units within the facility shall not be considered in determining whether a facility is major except in the following cases: ( )

i. For designated facilities. ( )

ii. For fossil-fuel-fired steam electric plants of more than two hundred fifty million (250,000,000) BTU's per hour heat input. ( )

iii. For any emissions units in a source category regulated, as of August 7, 1980, by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only to the extent the fugitive emissions are regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63 for the particular source category. ( )

15. Permit Revision. Any minor permit modification, substantive permit modification, administrative permit amendment or reopening. (5-1-94)

16. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651 and shall have the meaning given to it pursuant to those sections. (5-1-94)

17. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651 and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

18. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

19. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (5-1-94)

20. Regulated Air Pollutant. The following air pollutants: (5-1-94)

a. Nitrogen oxides including nitrogen dioxide, volatile organic compounds, ozone, lead, carbon monoxide, total suspended particulates, PM-10 and sulfur oxides. (5-1-94)

b. Any air pollutant that is regulated in 40 CFR Part 60. (5-1-94)

c. Any Class I or II substance listed in, or listed inaccordance with 42 U.S.C. Sections 7671a(a) or 7671a(b). (5-1-94)

d. Any air pollutant subject to a standard promulgated under 42 U.S.C. Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following: (5-1-94)

i. Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and (5-1-94)

ii. Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement. (5-1-94)

21. Replicable. Any SIP procedures for applying emission trading shall be structured so that two independent entities would obtain the same result when determining compliance with the emission trading provisions. (5-1-94)

22. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 387. (5-1-94)

470. PERMIT APPLICATION FEES FOR TIER II PERMITS. Any person applying for a Tier II permit shall pay a permit application fee of

five hundred dollars ($500) for each permit requested or amended. ( )

525. REGISTRATION AND REGISTRATION FEES. The purpose of Sections 525 through 538 is to establish criteria for the registration of emissions and the payment of fees for Tier I permits. ~~(5-1-94)~~ ( )

526. APPLICABILITY. ~~Section--525--applies-if-any-of-the-following criteria-are-met-unless-the-facility-or-source-is-exempted-in--Section 537~~ In any given year, Sections 525 through 538 shall apply to all major facilities, as defined in Section 008.14. Facilities, sources and emissions exempt under Section 301 are not required to register or pay fees. ~~(5-1-94)~~ ( )

~~01.--Absolute--Potential--to--Emit.--The-facility-emits-or-has-the absolute-potential-to-emit-at-a-rate-of-one-hundred-(100)-tons-or-more per-year-of-any-of-the-following--air--pollutants:--oxides--of--sulfur (SOx),--oxides-of-nitrogen-(NOx),-particulate-matter,-volatile-organic compounds-(VOCs),-or-carbon-monoxide-(CO);-or~~ ~~(5-1-94)~~

~~02.--Federal-Regulations.-The-facility-is-subject-to-40--CFR--Part 60;-or~~ ~~(5-1-94)~~

~~03.--Emits-Nonattainment-Air-Pollutant.-The-facility-is-located-in a--nonattainment--area-designated-as-below-and-emits-or-has-the-potential-to-emit-the-nonattainment-air-pollutant-at-or-in--excess--of--the rates-shown-in-Section-526.04-below:~~ ~~(5-1-94)~~

~~04.--Nonattainment-Designation:~~ ~~(5-1-94)~~

~~a.---Ozone---Serious:~~ ~~(5-1-94)~~

~~i.---Volatile---organic--compounds:--Fifty--(50)--tons--per--year.~~ ~~(5-1-94)~~

~~ii.--Nitrogen-oxides:-Fifty-(50)-tons-per-year.~~ ~~(5-1-94)~~

~~b.---Ozone---Transport-Region,-volatile-organic--compounds:--Fifty (50)-tons-per-year.~~ ~~(5-1-94)~~

~~c.---Ozone---Severe:~~ ~~(5-1-94)~~

~~i.---Volatile--organic--compounds:-Twenty-five-(25)-tons-per-year.~~ ~~(5-1-94)~~

~~ii.--Nitrogen-oxides:-Twenty-five-(25)-tons-per-year.~~ ~~(5-1-94)~~

~~d.---Ozone---Extreme.~~ ~~(5-1-94)~~

~~i.---Volatile-organic-compounds:-Ten-(10)-tons-per-year.~~ ~~(5-1-94)~~

~~ii.--Nitrogen-oxides:-Ten-(10)-tons-per-year.~~ ~~(5-1-94)~~

~~e.---Carbon--monoxide-----Serious:--Fifty--(50)--tons--per---year.~~ ~~(5-1-94)~~

~~f.---Particulate--matter-----Serious:--Seventy-(70)-tons-per-year.~~ ~~(5-1-94)~~

527. REGISTRATION. Any person owning or operating a facility or source for which Sections 525 through 538 applies shall, by May 1, 1993 and each May 1 thereafter register with the Department and submit the following: (5-1-94)

01. Facility Information. The name, address, telephone number and location of the facility; (5-1-94)

02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; (5-1-94)

03. Facility Emission Units. The number and type of emission units present at the facility; (5-1-94)

04. Pollutant Registration. The amount, in tons or pounds, for which the facility is to be registered to emit from each source, except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. The facility is to register for following air pollutants: (5-1-94)

a. Oxides of sulfur (SOx); (5-1-94)

b. Oxides of nitrogen (NOx); (5-1-94)

c. Carbon monoxide (CO); (5-1-94)

d. Particulate matter; (5-1-94)

e. Volatile organic compounds (VOCs). (5-1-94)

05. Radionuclide Registration. The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)

06. ~~Absolute Potential to Emit. The absolute potential to emit for each air pollutant listed in Section 526.04 above in pounds or tons per year.~~ ~~(5-1-94)~~

~~07.~~ Air Pollutant Registration Fee. A registration fee of thirty dollars ($30) per ton for all air pollutants listed in Section 527.04, except carbon monoxide on and after January, 1995. The registration fee may be paid in two installments as provided in Section 532.01. ~~(5-1-94)~~ ( )

08. Radionuclide Registration Fee. A registration fee of five dollars per curie per year ($5/curie/year) for facilities regulated under 40 CFR Part 61, Subpart H. The registration fee may be paid in two installments as provided in Section 532.01. ~~(5-1-94)~~ ( )

530. REGISTRATION FEE. All facilities to which this Section 530 applies shall pay to the Department an annual registration fee as required by Sections 527.06 and 527.08. The Department shall determine the fee based on the information supplied by the registrant and the Department's analysis and engineering and technical practice. In the event of a failure of a facility to submit pertinent registration information, the Department may calculate the fee and shall assess the facility the fee and the costs of calculating the fee. The Department may employ private contractors to determine the registration fee. ~~(5-1-94)~~ ( )

537. EXEMPTIONS. (5-1-94)

01. Registration Fees. The following facilities or sources are exempt from paying registration fees under Sections 525 through 538: (5-1-94)

a. Facilities and sources specified by the Department, after public notice, as exempt from the payment of registration fees; and (5-1-94)

b. Country grain elevators. (5-1-94)

c. Facilities that paid registration fees in good faith for Carbon Monoxide in 1993 and 1994 shall not be subject to additional fees on Carbon Monoxide. ( )

d. Insignificant activities as identified in Section 317.01.b. ( )

02. Registering and Paying Fees. The following facilities or

sources are exempt from registering and paying registration fees under Sections 525 through 538: (5-1-94)

a. Facilities and sources specified by the Department, after public notice, as exempt from registration and the payment of registration fees; and (5-1-94)

b. Confined animal feeding operations. (5-1-94)

c. Insignificant activities identified in Section 317.01.a. ( )

03. Paying Fees. The following emissions are exempt from registering and paying registration fees under Section 525 through 538: ( )

a. Fugitive emissions from wood products. ( )

b. Fugitive dust emissions, except facilities listed in Section 008.14.h. Facilities listed in that section shall not be required to pay fees for fugitive dust emission in excess of one hundred (100) tons. ( )

Adopted by the Senate February 23, 1995
Adopted by the House March 7, 1995

(S.C.R. No. 118)

A CONCURRENT RESOLUTION

AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO CONDUCT A STUDY TO IDENTIFY THE DEFICIENCIES IN THE PROVISION OF OUTDOOR RECREATION FACILITIES AND OPPORTUNITIES AND TO IDENTIFY A SOURCE OF LONG-TERM FUNDING FOR OUTDOOR RECREATION FACILITIES AND OPPORTUNITIES STATEWIDE.

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

WHEREAS, the Federal Land and Water Conservation Fund, more than any other program, has been used to develop Idaho's city, county, and state outdoor recreation facilities; and

WHEREAS, the State of Idaho's allocation of these funds has been significantly diminished, from $1.9 million in 1981 to under $250,000 in 1994; and

WHEREAS, 441 backlogged outdoor recreation projects, of which the vast majority are city and county parks, have been identified in the State of Idaho requesting in excess of $277 million; and

WHEREAS, outdoor recreation provides important economic, social, personal, and resource benefits; and

WHEREAS, Idahoans have demonstrated a growing need for a varied and diverse outdoor recreation infrastructure associated with municipalities, as well as those provided through or because of the tremendous natural resources of our great state; and

WHEREAS, tourists are coming in record numbers to experience Idaho's diverse outdoor recreation opportunities and tremendous natural resources, challenging Idahoans to provide new and better outdoor recreation facilities and opportunities; and

WHEREAS, recreation programs are sound alternatives to help educa-

tors and law enforcement officials address the issues of alcohol and drug use, delinquency, youth crime, and teenage pregnancy; and

WHEREAS, relaxation, rest and revitalization through leisure activities are essential in today's busy and demanding world, and an investment in outdoor recreation is an investment in preventive health services; and

WHEREAS, Idaho's outdoor recreation infrastructure is deteriorating at an alarming rate due to the lack of funding at all levels and new, innovative programs are needed.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake a thorough investigation of: (1) deficiencies in the provision of outdoor recreation facilities and opportunities; and (2) ways the legislature may facilitate the development of a long-term source of funding for further development and enhancement of outdoor recreation facilities and opportunities statewide.

BE IT FURTHER RESOLVED that the committee shall submit its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-third Idaho Legislature.

Adopted by the Senate February 24, 1995
Adopted by the House March 16, 1995

(S.C.R. No. 119)

A CONCURRENT RESOLUTION

AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY THE ISSUE OF THE KOOTENAI TRIBE'S PROPOSED PURCHASE OF LAND OR BUSINESS AWAY FROM INDIAN COUNTRY IN BOUNDARY COUNTY AND TO MAKE RECOMMENDATIONS.

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

WHEREAS, the Legislature is mindful of the necessity to provide a climate that promotes the economic welfare of the Indian tribes in the State of Idaho and has taken steps in the past to promote the economic self-sufficiency of these tribes including the passage of sales tax exemptions in 1984 and 1988; and

WHEREAS, the Legislature is mindful that in its efforts to promote tribal economies, it must consider the impact of its actions on the local communities and especially on the funding bases for local units of government; and

WHEREAS, the Legislature believes that any extension of the tax exemption could have an impact on the funding for local units of government and that the possible problems created thereby need to be discussed and resolved on a government to government basis among all governments affected before the Legislature can give proper consideration to the merits of any extension of the sales tax exemption.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular

Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study regarding the Kootenai Tribe's sales tax issue or other issues that could lead to making the Kootenai Tribe self-sufficient. Members of the Committee shall consist of two members of the Senate appointed by the Legislative Council with one from the majority party and one from the minority party, two members of the House of Representatives appointed by the Legislative Council with one from the majority party and one from the minority party, three representatives of the Kootenai Tribe, one representative appointed by the Board of County Commissioners of Boundary County, one representative of the City of Bonners Ferry appointed by their city council and one representative of the mayor of the City of Bonners Ferry. Persons or entities responsible for appointing nonlegislative members shall notify the Legislative Council of their appointments not later than May 15, 1995. Legislative members shall be reimbursed for their expenses from the Legislative Account while other members shall be responsible for paying their own expenses.

BE IT FURTHER RESOLVED that the Committee shall issue its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-third Idaho Legislature.

Adopted by the Senate February 27, 1995
Adopted by the House March 16, 1995

(S.C.R. No. 122)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING SUPPORT FOR THE WORLD SPORTS HUMANITARIAN HALL OF FAME.

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

WHEREAS, there are many winners in the world of sports, but very few true champions; and

WHEREAS, there is a tremendous need in the world to single out first class athletes who can become the type of role model we need for our youth and who can make a difference; and

WHEREAS, the World Sports Humanitarian Hall of Fame can be the vehicle to showcase humanitarian efforts of athletes; and

WHEREAS, Boise and Idaho epitomize communities of giving, where people freely share their time and talents and a World Sports Humanitarian Hall of Fame would be an appropriate reflection of the state; and

WHEREAS, the reality of having a Hall of Fame located on I-84 would give our state a destination tourist attraction, with concurrent economic benefits and advantages to the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize the goals of

the World Sports Humanitarian Hall of Fame as worthy and appropriate for the state of Idaho and support and encourage the efforts to establish and maintain this facility in Boise, Idaho.

Adopted by the Senate March 7, 1995
Adopted by the House March 13, 1995

(S.C.R. No. 125)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING RESTRAINT IN THE EXPRESSION OF PERSONAL BELIEFS.

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

WHEREAS, freedom of speech is a cornerstone of the individual liberties upon which our country was founded and for which many young men and women of this country and this state have sacrificed their lives; and

WHEREAS, while the Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs, the Legislature further recognizes that such rights are not limitless and must be tempered with a consideration of the rights of all other individuals to be secure and protected from fear, intimidation and physical harm from the activities of groups and individuals; and

WHEREAS, the Legislature further recognizes that the advocacy of unlawful acts by groups or individuals against other persons for the purpose of inciting and provoking bodily injury or death is not constitutionally protected and poses a threat to public order and safety; and

WHEREAS, public statements threatening civil war and the infliction of bodily harm upon public officials are outside the realm of those rights of free speech protected by the constitution and are abhorrent to a civilized society.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that threats of violence and unlawful social disruption cannot be condoned. We urge all responsible citizens to exercise their constitutionally protected first amendment rights of free speech with appropriate restraint. Let Idaho be known as a state where independence and personal strength are encouraged and respected but not abused.

Adopted by the Senate March 17, 1995
Adopted by the House March 17, 1995

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 1)

A CONCURRENT RESOLUTION
PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-THIRD 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 First Regular Session of the Fifty-third Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 9, 1995.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third 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 9, 1995, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 9, 1995
Adopted by the Senate January 9, 1995

(H.C.R. No. 2)

A CONCURRENT RESOLUTION
PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FIFTY-THIRD 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 First Regular Session of the Fifty-third Idaho Legislature in the Chamber of the House of Representatives at 11 a.m. on Wednesday, January 11, 1995.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representa-

tives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Wednesday, January 11, 1995, at 11 a.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 11, 1995
Adopted by the Senate January 11, 1995

(H.C.R. No. 3)

A CONCURRENT RESOLUTION

PROVIDING FOR OFFSET PRINTING OF HOUSE AND SENATE BILLS, RESOLUTIONS, MEMORIALS AND AMENDMENTS, AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee have, according to law, made provisions for the offset printing of the House and Senate bills, resolutions, memorials and amendments;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the offset printing of the House and Senate bills, resolutions, memorials and amendments, in accordance with the provisions of law and in accordance with the written contract between the Joint Committee as party of the first part, and BEST IMPRESSION PRINTING, Boise, Idaho, as party of the second part, be, and the same is hereby ratified and concurred in, and is incorporated herein, and made a part of this resolution in words and figures following, to-wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of January, 1995, by and between the HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-third Idaho Legislature, hereinafter referred to as the Joint Committee, and BEST IMPRESSION PRINTING, hereinafter referred to as Best Impression.

WITNESSETH;

That pursuant to written bids submitted to and considered by the Joint Committee, a contract for legislative printing is hereby awarded to Best Impression per your letter response of November 30, 1994, for the First and Second Regular Sessions and any Extraordinary Sessions of the Fifty-third Idaho Legislature upon the following additional terms and conditions:

1. That Best Impression will utilize an offset process from "Camera Ready" copies, as these terms are used and recognized in the trade, to print House and Senate Bills, Resolutions and Memorials.

2. That Best Impression concurrently with the execution of this contract, deliver to the Joint Committee good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to the Joint Committee, in the sum of five thousand dollars ($5,000), guaranteeing the satisfactory and faithful performance by Best Impression of all the terms and conditions of this contract.

3. That Best Impression will maintain at all times a high standard of workmanship to the end that all printing will be neat, clean, legible and with adequate contrast between print and paper to be easily read.

4. That Best Impression will insure that all bills, resolutions and memorials will have neat and proper underlining, strikeovers and deletions and that the paper used will be properly punched and sized.

5. That for the purposes of this contract, all printing will be received from and delivered to the presiding officer of each house or his designee.

6. That Best Impression will deliver all standard lot printed material conforming to the above requirements by 9 a.m. the next morning after receipt of copy, unless prior arrangements have been made.

7. Upon failure to deliver such bills in the manner and within the time herein specified, this contract may be deemed terminated forthwith at the option of the Joint Committee and recourse had against Best Impressions' bond.

8. That a standard lot of printed material will be seven hundred (700) copies or less of individual bills, resolutions or memorials at a cost of fifteen dollars and forty-five cents ($15.45) per printed page which shall also provide for more or less copies in units of one hundred (100) at the same rate per page.

9. That Best Impression will pick up "Camera Ready" copy at least twice daily of each day that the Legislature is in session.

10. That Best Impression shall make copies available for sale to the public at the base per page rate, provided the order for such is received prior to the time the bill is printed.

11. That the Joint Committee reserves to itself the sole and exclusive decision as to the proper fulfillment of the terms and conditions of this agreement by Best Impression, and that the Joint Committee may terminate this agreement upon twenty-four (24) hours notice to Best Impressions', with no liability accruing to the Joint Committee or the State except for printing already completed and delivered. The Joint Committee reserves the right to review and revise this contract prior to the Second Regular Session of the Fifty-third Idaho Legislature.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands as of the day and year first above written.

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

By /s/ Celia R. Gould
CELIA R. GOULD, Chairman

By /s/ Michael Simpson
MICHAEL SIMPSON, Speaker of the House

SENATE JUDICIARY AND RULES COMMITTEE

By /s/ Denton Darrington
DENTON DARRINGTON, Chairman

By /s/ Jerry T. Twiggs
JERRY T. TWIGGS, President Pro Tempore

BEST IMPRESSION PRINTING

By /s/ Richard W. Flintzer
RICHARD W. FLINTZER, Owner

Adopted by the House January 18, 1995
Adopted by the Senate January 25, 1995

(H.C.R. No. 4)

A CONCURRENT RESOLUTION
PROVIDING FOR PRINTING THE HOUSE AND SENATE LEGISLATIVE JOURNALS AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, Section 67-509, Idaho Code, has made provisions for the printing of the House and Senate Legislative Journals;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED, by the members of the First Regular Session of the Fifty-third Idaho Legislature, that the contract for the printing of the House and Senate Legislative Journals in accordance with the provisions of law and in accordance with the written contract between the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee, as party of the first part, and Northwest Printing, Inc., of Boise, Idaho, as party of the second part, be, and the same is hereby ratified and confirmed, and is incorporated herein and made a part of this resolution, in words and figures following, to-wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of January, 1995, by and between the HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE and the SENATE JUDICIARY AND RULES COMMITTEE of the First Regular Session of the Fifty-third Idaho Legislature, hereinafter mentioned as party of the first part, and NORTHWEST PRINTING, INC., Boise, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH; That pursuant to a resolution of said party of the first part and written quotation submitted by party of the second part, a contract for legislative printing is hereby awarded to the said Northwest Printing, as follows:

HOUSE AND SENATE DAILY JOURNAL
FIRST REGULAR SESSION

350 copies of House Journal
350 copies of Senate Journal
700 total copies ..... $21.02 per page
100 additional copies ..... $ 1.00 per page

PERMANENT JOURNAL
FIRST REGULAR SESSION

250 copies of House Permanent Journal, including 5 hard-bound gold lettered volumes
250 copies of Senate Permanent Journal, including 5 hard-bound gold lettered volumes
510 total copies ..... $13.00 per page
Additional hard-bound gold lettered volumes ..... $29.00 per volume

HOUSE AND SENATE DAILY JOURNAL
SECOND REGULAR SESSION

350 copies of House Journal
350 copies of Senate Journal
700 total copies ..... $21.02 per page
100 additional copies ..... $ 1.00 per page

PERMANENT JOURNAL
SECOND REGULAR SESSION

250 copies of House Permanent Journal, including 5 hard-bound gold lettered volumes
250 copies of Senate Permanent Journal, including 5 hard-bound gold lettered volumes
510 total copies ..... $13.00 per page
Additional hard-bound gold lettered volumes ..... $29.00 per volume

IT IS AGREED by the parties hereto that all of said printing shall be done in the form and manner and upon such suitable material as was included in the bid specifications and is now required by the statutes of the State of Idaho; where not otherwise herein provided, such statutes shall be controlling, and particularly as to the printing of Legislative Journals, the same shall be printed in conformity with Section 67-509, Idaho Code, which section is hereby referred to and by reference made a part of this contract as though set forth herein at length; that the number of copies to be supplied under this contract may from time to time be determined by the party of the first part; and that all other terms of the specifications for the Journals of the party of the first part shall be complied with as though set forth herein at length.

IT IS AGREED that in the printing of the Journal the same shall be delivered daily on the desk of the Chief Clerk of the House, and on the desk of the Secretary of the Senate not later than the hour of 9 a.m. on each day; provided, that the party of the second part shall not be responsible in this respect, in cases of unreasonable delay in furnishing copy for such printing to the party of the second part.

IT IS FURTHER AGREED, that the permanent printed Journal shall be delivered to the Chief Clerk of the House not later than thirty (30)

working days from date of receipt of final House copy, and to the Secretary of the Senate not later than thirty (30) working days from date of receipt of final Senate copy, and that for each day's failure to so deliver, there shall be deducted from the contract price for printing said Journal the sum of Fifty Dollars ($50) per day for each day's delay.

The party of the second part further covenants and agrees to deliver to the party of the first part good and sufficient surety bond or other collateral, if and when requested, in the manner and form, and with a surety acceptable to party of the first part, in the sum of Five Thousand Dollars ($5,000), guaranteeing the satisfactory and faithful performance by the party of the second part of all the conditions and covenants of this contract.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper official and the party of the first part, by Concurrent Resolution, has caused these presents to be executed by its proper officials.

Party of the First Part

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

By/s/ Celia R. Gould
CELIA R. GOULD, Chairman

By/s/ Michael Simpson
MICHAEL SIMPSON, Speaker of the House

SENATE JUDICIARY AND RULES COMMITTEE

By/s/ Denton Darrington
DENTON DARRINGTON, Chairman

By/s/ Jerry T. Twiggs
JERRY T. TWIGGS, President Pro Tempore

Party of the Second Part

NORTHWEST PRINTING, INC.

By/s/ Leisa Stephenson
LEISA STEPHENSON, Sales Representative

Adopted by the House January 18, 1995
Adopted by the Senate January 25, 1995

(H.C.R. No. 6)

A CONCURRENT RESOLUTION

APPROVING QUALITY REVIEW RULES ADOPTED BY THE IDAHO STATE BOARD OF ACCOUNTANCY.

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

WHEREAS, Section 17 of House Bill No. 63, as amended, enacted by the 1993 Idaho Legislature, Chapter 239, p. 837, Laws of 1993, amended the Idaho Accountancy Act by adding a new Section 54-214, Idaho Code, to require that individuals engaged in the practice of public accounting be affiliated with a practice unit, to require registration of practice units with the Idaho State Board of Accountancy, and to authorize the Board to enact rules for quality review of practice units; and

WHEREAS, Section 35 of House Bill No. 63, as amended, Chapter 239, p. 845, Laws of 1993, provided that Section 17 would not become effective until one year after the Legislature had reviewed and approved the rules of the Idaho State Board of Accountancy implementing Section 54-214, Idaho Code; and

WHEREAS, the Idaho State Board of Accountancy has promulgated rules implementing Section 54-214, Idaho Code, IDAPA 01, Title 01, Chapter 01, which have been reviewed by the germane joint subcommittees for rules review of the Senate Commerce and Human Resources Committee and the House Business Committee, without objection, and which will become final rules upon the review and approval of the full Legislature as required in Section 17 of House Bill No. 63, as amended, Chapter 239, p. 837, Laws of 1993; and

WHEREAS, the rules proposed by the Idaho State Board of Accountancy have been reviewed by the Legislature and are determined to be satisfactory.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the rules of the Idaho State Board of Accountancy implementing Section 54-214, Idaho Code, identified as IDAPA 01, Title 01, Chapter 01, are hereby approved.

Adopted by the House January 23, 1995
Adopted by the Senate February 23, 1995

(H.C.R. No. 7)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND CLAIMING SOVEREIGNTY UNDER THE TENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OVER ALL POWERS NOT OTHERWISE ENUMERATED AND GRANTED TO THE FEDERAL GOVERNMENT BY THE UNITED STATES CONSTITUTION.

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

WHEREAS, we, the Citizens of the Idaho State, find the Tenth Amendment to the Constitution of the United States reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

WHEREAS, the scope of power defined by the Tenth Amendment means that the federal government was created by the States specifically to be an agent of the State; and

WHEREAS, many federal mandates directly violate the Tenth Amendment to the Constitution of the United States; and

WHEREAS, the United States Supreme Court has ruled in New York vs. United States, 112 S. Ct 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the States; and

WHEREAS, New York, the eleventh nation-state to join the Union on July 25, 1788 said: "That the powers of government may be re-assumed by the people, whensoever it shall become necessary to their happiness..."; and

WHEREAS, Idaho was admitted to the Union under equal footing with the original thirteen States; and

WHEREAS, a number of proposals from previous administrations and Congress may further violate the United States Constitution; and

WHEREAS, the fiscal waste, excesses and irresponsibilities of past and present federal legislation have caused the economic decline and hardship to thousands of Idaho Citizens and have permanently indentured our children and their descendants without their consent; and

WHEREAS, in recent decades the federal agent has attempted, and largely succeeded, in reversing roles with its Principal, the States, telling them what they can and cannot do, and threatening to withhold "federal moneys" from States which do not comply with federal laws and regulations, and usurping undelegated powers from the States and the people until now the people fear, rather than respect and revere their own government and are burdened with taxes some 57 times greater than those imposed upon our Founding Fathers by Great Britain.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein:

(1) That Idaho State and its Citizens hereby claim sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not enumerated in and granted to the federal government by the United States Constitution.

(2) That this Resolution serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that exceed the scope of its constitutionally delegated powers.

(3) That should the federal bureaucracy and the Congress or any department or agency of the federal government fail to comply with the aforementioned order, the Attorney General of the State of Idaho is authorized and directed by the State Legislature to take appropriate legal action to assure that the State of Idaho's legal rights not be infringed under the Tenth Amendment to the Constitution of the United States.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized to send copies of this

Resolution to the President of the United States, the Speaker of the House of Representatives and the President of the Senate in Congress of the United States assembled, to the congressional delegation representing the State of Idaho in the Congress of the United States, to the presiding officers of each state's Legislature and to the Governors of the fifty states.

Adopted by the House January 27, 1995
Adopted by the Senate February 6, 1995

(H.C.R. No. 8)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE SESSION LAWS, FIXING THE PRICE FOR PRINTING THE SAME, AND THE PRICE WHICH THE PUBLIC SHALL BE CHARGED FOR COPIES OF THE SESSION LAWS.

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

WHEREAS, Section 67-904, Idaho Code, has made provisions for the printing of the Session Laws;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho hereinafter referred to as the Joint Committee;

BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the Session Laws of the First and Second Regular Sessions, Fifty-third Idaho Legislature, and the Session Laws of any Extraordinary Session, Fifty-third Idaho Legislature, in accordance with the provisions of law and in accordance with the written contract between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Committee as party of the first part, and CAXTON PRINTERS, LTD., of Caldwell, Idaho, as party of the second part, be, and the same is hereby ratified, confirmed and concurred in, and is incorporated herein and made a part of this resolution, in words and figures following, to-wit:

PRINTING CONTRACT

THIS AGREEMENT, made and entered into this 23rd day of January, 1995, by and between the Speaker of the House of Representatives, Michael Simpson, and the President Pro Tempore of the Senate, Jerry T. Twiggs, the Joint Committee of the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho, hereinafter mentioned as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said party of the first part and written bid submitted to the said party of the first part by the party of the second part, contract for legislative printing is hereby awarded to said CAXTON PRINTERS, LTD., as follows:

SESSION LAWS

For printing and binding 1200 copies of the Session Laws of the First Regular Session of the Fifty-third Idaho Legislature and for printing and binding 1200 copies of the Session Laws of the Second Regular Session of the Fifty-third Idaho Legislature and the Session Laws of any Extraordinary Session of the Fifty-third Idaho Legislature: $25.75 per page, f.o.b. Boise, Idaho, if produced by offset lithography with camera-ready copy being furnished party of the second part, plus $5.90 per volume for binding. For pages requiring reduction shots, an additional $7.00 per page charge. Each volume to be Smythe sewed, rounded and backed with suitable headbands and Roxite Library Buckram over a 15 point Red Label Davey Board. The party of the second part shall provide an additional quantity to be made available to the general public at $35.00 per single volume, and $42.00 per set of two volumes, if a second volume is required. The Session Laws of any Extraordinary Session adjourned prior to June 1, 1995, shall be included in the Session Laws of the First Regular Session, or if adjourned prior to June 1, 1996, shall be included in the Session Laws of the Second Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing shall be done in the form and manner as submitted in written bid dated January 23, 1995, by party of the second part, and in compliance with the statutes of the State of Idaho where not otherwise provided, such statutes shall be controlling.

IT IS FURTHER AGREED that said Session Laws shall be printed, delivered to and be ready for distribution by the Secretary of State in conformity with the provisions of Section 67-904, Idaho Code, which section is hereby referred to and by such reference made a part of this contract as though set forth at length herein, and particularly as follows:

The Session Laws shall be printed and made available for distribution within 60 days after the last day on which the Governor may sign or approve bills following adjournment of the session of the legislature which enacted or passed the measures included in the Session Laws, or within 30 days after the delivery to the party of the second part of the proper title pages, certificate pages, tables of laws and statutes amended and repealed and a proper index of the contents of the Session Laws, whichever date is first in time.

Such printing and delivery of said Session Laws to the Secretary of State are to be made as provided by law; that for each day's failure to so deliver volumes of such Session Laws as herein provided, there shall be deducted from the contract price for printing said Session Laws the sum of $50.00 per day for each day's delay; provided, however, that the party of the second part shall not be held responsible for delay occasioned by failure to furnish copy for such printing to the party of the second part and such delay shall, to the same extent, extend the time for the performance of this agreement.

IN WITNESS WHEREOF, the party of the second part has caused these presents to be executed by its proper officials, and the party of the first part, by concurrent resolution has caused these presents to be executed by its proper officials.

Party of the First Part

SPEAKER OF THE HOUSE OF REPRESENTATIVES
By /s/Michael Simpson
Michael Simpson

HOUSE JUDICIARY, RULES AND
ADMINISTRATION COMMITTEE
By /s/Celia Gould
Celia Gould, Chairman

PRESIDENT PRO TEMPORE OF THE SENATE
By /s/Jerry T. Twiggs
Jerry T. Twiggs

SENATE JUDICIARY AND RULES COMMITTEE
By /s/Denton Darrington
Denton Darrington, Chairman

Party of the Second Part

THE CAXTON PRINTERS, LTD.
By /s/Dave Gipson
Dave Gipson
Vice President

Adopted by the House February 6, 1995
Adopted by the Senate February 15, 1995

(H.C.R. No. 9)

A CONCURRENT RESOLUTION
PROPOSING AN AMENDMENT TO JOINT RULE 18 OF THE SENATE AND THE HOUSE OF REPRESENTATIVES AND TO PROVIDE AN EFFECTIVE DATE.

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

WHEREAS, the House of Representatives and the Senate deem it necessary and desirable to amend Joint Rule 18 of the Joint Rules of the Senate and the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that Joint Rule 18 of the Joint Rules of the Senate and the House of Representatives be amended

to read as follows:

JOINT RULE 18

Statement of Purpose and Fiscal Notes.--No bill shall be introduced in either House unless it shall have attached thereto a concise statement of purpose and fiscal note. The contact person for the statement of purpose and fiscal note shall be identified on the document. No bill making an appropriation, increasing or decreasing existing appropriations, or requiring a future appropriation, or increasing or decreasing revenues of the state or any unit of local government, or requiring a significant expenditure of funds by the state or a unit of local government, shall be introduced unless it shall have attached thereto a fiscal note. This note shall contain an estimate of the amount of such appropriation, expenditure or change under the bill. The fiscal note shall identify a full fiscal year's impact of the legislation. Statements of purpose and fiscal notes may be combined in the same statement. All statements of purpose and fiscal notes shall be reviewed for compliance with this rule by the committee to which the bill is assigned. A member may challenge the sufficiency of a statement of purpose or fiscal note at any time prior to passage, except upon introduction.

BE IT FURTHER RESOLVED that this Resolution and the Joint Rule contained herein shall be effective upon adoption of this Resolution by both houses of the Legislature.

Adopted by the House February 13, 1995
Adopted by the Senate February 22, 1995

(H.C.R. No. 10)

A CONCURRENT RESOLUTION
STATING THE SENSE OF THE LEGISLATURE, OPPOSING EFFORTS TO MAKE IDAHO A PERMANENT REPOSITORY FOR NUCLEAR WASTE AND SUPPORTING EFFORTS OF THE GOVERNOR REGARDING THE IDAHO NATIONAL ENGINEERING LABORATORY.

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

WHEREAS, for more than forty years, the Idaho National Engineering Laboratory (INEL) has been a vital international center for nuclear reactor safety, research, development and reprocessing; and

WHEREAS, the State of Idaho and the Idaho Legislature have consistently supported the traditional missions of the INEL and the significant and important role it plays in the economic livelihood of Idaho; and

WHEREAS, the State of Idaho and its citizens have for more than

four decades been good citizens and good neighbors to the Department of Energy and the federal government; and

WHEREAS, nuclear waste has been, and may again in the near future be, shipped to Idaho with the commitment that this is a temporary storage destination; and

WHEREAS, twenty-four other states have more nuclear waste stored than in Idaho, so this issue is truly one of national concern and of public health, environmental safety and national security; and

WHEREAS, there does not currently exist a permanent nuclear waste repository; and

WHEREAS, a commitment was made to Governor Batt by federal officials that Idaho would not become the permanent repository which is a commitment Idahoans believe and is one that must be fulfilled by federal authorities; and

WHEREAS, in meetings with federal officials, Governor Batt made it clear that he would commit every resource at his disposal to prevent Idaho from becoming a permanent repository for nuclear waste; and

WHEREAS, Governor Batt has been working with Idaho's Congressional delegation and Senator Bennett Johnson of Louisiana to advance Senator Johnson's legislation which speeds the process of opening a permanent repository; and

WHEREAS, the United States Department of Energy has committed additional funding for INEL health and safety monitoring by the State of Idaho and has assured Governor Batt of the continued cleanup and upgrade of existing INEL facilities and the Department of Energy is anxious to continue negotiations which will lead to removal of the waste from Idaho; and

WHEREAS, failure to locate, site and construct a permanent nuclear waste facility would negatively impact Idaho, and would constitute a breach of faith by the federal authorities with the people of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that we support the efforts by Governor Batt to limit or prohibit the permanent storage of radioactive waste at the INEL and that the facility be maintained as a center for research, development and safety.

BE IT FURTHER RESOLVED that responsible federal authorities must continue the search for and select a permanent nuclear waste repository outside of the State of Idaho and that we urge the members of the congressional delegation representing the State of Idaho in the Congress to vigorously assert the Idaho position and assure that nuclear waste does not come to permanently remain in Idaho through default by the responsible federal authorities.

BE IT FURTHER RESOLVED that until meaningful progress is made on the search for a permanent repository for government owned spent fuel, including those fuels of Naval origin, that all shipments of fuel into Idaho be halted with Naval fuels to be stored at Naval shipyards and Department of Energy fuels to be stored at their point of origin.

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 resolution to the President of the United States, the Department of Energy, the Department of Defense, the Secretary of the

Navy, 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 13, 1995
Adopted by the Senate February 28, 1995

(H.C.R. No. 11, As Amended)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE REGARDING WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS.

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 First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that rules of the Idaho Department of Health and Welfare, IDAPA Title 16.01.02, relating to water quality standards and wastewater treatment standards, be, and the same are hereby amended to read as follows:

250. SURFACE WATER QUALITY CRITERIA FOR USE CLASSIFICATIONS. The following water quality criteria apply to surface waters of the state according to the designated beneficial uses on a water body. (8-24-94)

01. Recreation. (7-1-93)

a. Primary contact recreation: between May 1 and September 30 of each calendar year, waters designated for primary contact recreation are not to contain fecal coliform bacteria significant to the public health in concentrations exceeding: (7-1-93)

i. 500/100 ml. at any time; and (7-1-93)

ii. 200/100 ml. in more than ten percent (10%) of the total samples taken over a thirty (30) day period; and (7-1-93)

iii. A geometric mean of 50/100 ml. based on a minimum of five (5) samples taken over a thirty (30) day period. (7-1-93)

b. Secondary contact recreation: waters designated for secondary contact recreation are not to contain fecal coliform bacteria significant to the public health in concentrations exceeding: (7-1-93)

i. 800/100 ml. at any time; and (7-1-93)

ii. 400/100 ml. in more than ten percent (10%) of the total samples taken over a thirty (30) day period; and (7-1-93)

iii. A geometric mean of 200/100 ml. based on a minimum of five (5) samples taken over a thirty (30) day period. (7-1-93)

c. Primary and Secondary Contact Recreation: All toxic substance criteria set forth in 40 CFR 131.36(b)(1), Column D2, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in subsection 250.07; provided, however, the standard for arsenic shall be 6.2 ug/L for Column D2 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water). ~~(8-24-94)~~ ( )

02. Aquatic Life (7-1-93)

a. General Criteria. The following criteria apply to all aquatic life use classifications: (8-24-94)

i. Hydrogen Ion Concentration (pH) values within the range of 6.5 to 9.5; (7-1-93)

ii. The total concentration of dissolved gas not exceeding one hundred and ten percent (110%) of saturation at atmospheric pressure at the point of sample collection; (7-1-93)

iii. Total chlorine residual. (8-24-94)

(1) One-hour average concentration not to exceed 19 ug/1. (8-24-94)

(2)) Four-day average concentration not to exceed 11 ug/1. (8-24-94)

iv. All toxic substance criteria set forth in 40 CFR 131.36(b)(1), Columns B1, B2 and D2, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992); provided, however, the standard for arsenic shall be 6.2 ug/L for Column D2 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in subsection 250.07. (8-24-94)

b. Warm water biota: waters designated for warm water biota are to exhibit the following characteristics: (7-1-93)

i. Dissolved oxygen concentrations exceeding 5 mg/1 at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

(1) The bottom twenty percent (20%) of the water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

(2) The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

(3) Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

ii. Water temperatures of 33 degrees C or less with a maximum daily average not greater than 29 degrees C. (8-24-94)

iii. Ammonia (8-24-94)

(1) One-hour average concentration of un-ionized ammonia (as N) is not to exceed (0.43/A/B/2) mg/1, where: (8-24-94)

A = 0.7 if the water temperature (T) is greater than or equal to 25 degrees C (if T > 30 degrees C site-specific criteria should be defined), or (8-24-94)

A = 10power(0.03(20-T)) if T is less than 25 degrees C, and (8-24-94)

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or (8-24-94)

B = (1 + 10power(7.4-pH))/1.25 if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined). (8-24-94)

(a) The following Table gives one-hour average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

TABLE I--WARM WATER BIOTA: ONE-HOUR AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES.

WATER TEMP. (DEGREES C)	pH 6.50	6.60	6.80	7.00	7.20	7.40	7.60
0.00	0.01	0.01	0.01	0.02	0.03	0.03	0.04
	28.92	28.07	26.01	23.27	19.94	16.31	12.62
2.00	0.01	0.01	0.02	0.02	0.03	0.04	0.05
	28.05	27.26	25.26	22.59	19.35	15.82	12.25
4.00	0.01	0.01	0.02	0.03	0.03	0.04	0.05
	27.34	26.52	24.57	22.03	18.92	15.40	11.94
6.00	0.01	0.01	0.02	0.03	0.04	0.05	0.06
	26.63	25.93	23.99	21.55	18.47	15.07	11.67
8.00	0.01	0.02	0.02	0.03	0.05	0.06	0.07
	26.08	25.35	23.55	21.01	18.01	14.74	11.44
10.00	0.02	0.02	0.03	0.04	0.05	0.07	0.08
	25.57	24.87	23.11	20.62	17.72	14.45	11.22
12.00	0.02	0.02	0.03	0.04	0.06	0.08	0.09
	25.13	24.43	22.66	20.29	17.39	14.21	11.04
14.00	0.02	0.02	0.04	0.05	0.07	0.09	0.11
	24.76	24.05	22.28	19.98	17.13	14.03	10.89
16.00	0.02	0.03	0.04	0.06	0.08	0.10	0.12
	24.43	23.84	22.00	19.75	16.92	13.85	10.78
18.00	0.03	0.03	0.05	0.07	0.09	0.12	0.14
	24.23	23.55	21.76	19.49	16.77	13.70	10.63
20.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	24.04	23.27	21.58	19.32	16.61	13.60	10.56
22.00	0.03	0.04	0.06	0.09	0.12	0.15	0.19
	23.79	23.07	21.44	19.23	16.51	13.53	10.51
24.00	0.04	0.05	0.07	0.10	0.14	0.18	0.22
	23.72	22.97	21.36	19.14	16.45	13.52	10.49
26.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	22.24	21.70	20.07	18.01	15.50	12.71	9.93
28.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	19.43	18.83	17.48	15.68	13.50	11.10	8.65
30.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	16.90	16.41	15.23	13.68	11.79	9.70	7.57

TABLE I (continued)

WATER TEMP. (DEGREES C)	pH 7.80	8.00	8.20	8.40	8.60	8.80	9.00
0.00	0.05	0.05	0.05	0.05	0.05	0.05	0.05
	9.30	6.59	4.19	2.66	1.69	1.09	0.71
2.00	0.06	0.06	0.06	0.06	0.06	0.06	0.06
	9.04	6.41	4.05	2.58	1.65	1.07	0.70
4.00	0.06	0.07	0.07	0.07	0.07	0.07	0.07
	8.82	6.25	3.98	2.53	1.62	1.05	0.69
6.00	0.07	0.08	0.08	0.08	0.08	0.08	0.08
	8.82	6.10	3.89	2.48	1.60	1.04	0.69
8.00	0.08	0.09	0.09	0.09	0.09	0.09	0.09
	8.44	5.98	3.82	2.44	1.57	1.03	0.69
10.00	0.10	0.11	0.11	0.11	0.11	0.11	0.11
	8.31	5.89	3.75	2.41	1.56	1.03	0.69
12.00	0.11	0.12	0.12	0.12	0.12	0.12	0.12
	8.13	5.81	3.70	2.38	1.55	1.02	0.69
14.00	0.13	0.14	0.14	0.14	0.14	0.14	0.14
	8.04	5.73	3.67	2.37	1.55	1.03	0.70
16.00	0.15	0.16	0.16	0.16	0.16	0.16	0.16
	7.97	5.68	3.65	2.36	1.55	1.04	0.72
18.00	0.17	0.19	0.19	0.19	0.19	0.19	0.19
	7.90	5.66	3.64	2.36	1.56	1.05	0.73
20.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	7.88	5.63	3.63	2.37	1.57	1.08	0.76
22.00	0.22	0.25	0.25	0.25	0.25	0.25	0.25
	7.83	5.62	3.64	2.40	1.59	1.10	0.78
24.00	0.25	0.28	0.28	0.28	0.28	0.28	0.28
	7.82	5.63	3.66	2.42	1.63	1.13	0.82
26.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	7.40	5.34	3.48	2.31	1.57	1.10	0.81
28.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	6.48	4.68	3.07	2.05	1.41	1.00	0.75
30.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	5.67	4.12	2.72	1.83	1.26	0.91	0.69

(8-24-94)

(2) Four-day average concentration of un-ionized ammonia (as N) is not to exceed (0.66/A/B/C) mg/l, where: (8-24-94)

A = 1.0 if the water temperature (T) is greater than or equal to 20 degrees C (if T > 30 degrees C site-specific criteria should be defined), or (8-24-94)

A = 10power(0.03(20-T)) if T is less than 20 degrees C, and (8-24-94)

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or (8-24-94)

B = (1 + 10power(7.4-pH))/1.25 if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined), and (8-24-94)

C = 16 if pH is greater than or equal to 7.7, or (8-24-94)

C = 24(10power(7.7-pH)/(1 + 10power(7.4-pH))) if the pH is less than 7.7. (8-24-94)

(a) The following Table gives four-day average criteria for un-

ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

TABLE II--WARM WATER BIOTA: FOUR-DAY AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES.

	pH						
WATER TEMP. (DEGREES C)	6.50	6.60	6.80	7.00	7.20	7.40	7.60
0.0	0.00	0.00	0.00	0.00	0.00	0.00	0.01
	2.09	2.08	2.09	2.09	2.08	2.09	2.09
2.0	0.00	0.00	0.00	0.00	0.00	0.00	0.01
	2.02	2.02	2.03	2.02	2.02	2.03	2.03
4.0	0.00	0.00	0.00	0.00	0.00	0.01	0.01
	1.97	1.97	1.97	1.97	1.98	1.97	1.98
6.0	0.00	0.00	0.00	0.00	0.00	0.01	0.01
	1.92	1.93	1.92	1.93	1.93	1.93	1.93
8.0	0.00	0.00	0.00	0.00	0.00	0.01	0.01
	1.88	1.88	1.89	1.88	1.88	1.89	1.89
10.0	0.00	0.00	0.00	0.00	0.01	0.01	0.01
	1.85	1.85	1.85	1.85	1.85	1.85	1.86
12.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	1.81	1.81	1.82	1.82	1.82	1.82	1.83
14.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	1.79	1.79	1.79	1.79	1.79	1.80	1.80
16.0	0.00	0.00	0.00	0.01	0.01	0.01	0.02
	1.76	1.77	1.76	1.77	1.77	1.78	1.79
18.0	0.00	0.00	0.00	0.01	0.01	0.02	0.02
	1.75	1.75	1.74	1.75	1.75	1.76	1.76
20.0	0.00	0.00	0.00	0.01	0.01	0.02	0.03
	1.74	1.73	1.73	1.73	1.74	1.74	1.75
22.0	0.00	0.00	0.00	0.01	0.01	0.02	0.03
	1.50	1.49	1.50	1.50	1.50	1.51	1.52
24.0	0.00	0.00	0.00	0.01	0.01	0.02	0.03
	1.30	1.29	1.30	1.30	1.30	1.32	1.32
26.0	0.00	0.00	0.00	0.01	0.01	0.02	0.03
	1.12	1.13	1.13	1.13	1.13	1.14	1.15
28.0	0.00	0.00	0.00	0.01	0.01	0.02	0.03
	0.98	0.98	0.98	0.98	0.99	1.00	1.00
30.0	0.00	0.00	0.00	0.01	0.01	0.02	0.03
	0.85	0.85	0.86	0.86	0.86	0.87	0.88

TABLE II (continued)

WATER TEMP. (DEGREES C)	pH 7.80	8.00	8.20	8.40	8.60	8.80	9.00
0.0	0.01	0.01	0.01	0.01	0.01	0.01	0.01
	1.78	1.26	0.80	0.51	0.32	0.21	0.14
2.0	0.01	0.01	0.01	0.01	0.01	0.01	0.01
	1.74	1.23	0.78	0.50	0.32	0.20	0.13
4.0	0.01	0.01	0.01	0.01	0.01	0.01	0.01
	1.69	1.20	0.76	0.49	0.31	0.20	0.13
6.0	0.01	0.02	0.02	0.02	0.02	0.02	0.02
	1.65	1.17	0.75	0.48	0.31	0.20	0.13
8.0	0.02	0.02	0.02	0.02	0.02	0.02	0.02
	1.62	1.15	0.73	0.47	0.30	0.20	0.13
10.0	0.02	0.02	0.02	0.02	0.02	0.02	0.02
	1.59	1.13	0.72	0.46	0.30	0.20	0.13
12.0	0.02	0.02	0.02	0.02	0.02	0.02	0.02
	1.56	1.11	0.71	0.46	0.30	0.20	0.13
14.0	0.02	0.03	0.03	0.03	0.03	0.03	0.03
	1.54	1.10	0.70	0.45	0.30	0.20	0.13
16.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	1.53	1.09	0.70	0.45	0.30	0.20	0.14
18.0	0.03	0.04	0.04	0.04	0.04	0.04	0.04
	1.52	1.09	0.70	0.45	0.30	0.20	0.14
20.0	0.04	0.04	0.04	0.04	0.04	0.04	0.04
	1.51	1.08	0.70	0.45	0.30	0.21	0.15
22.0	0.04	0.04	0.04	0.04	0.04	0.04	0.04
	1.31	0.94	0.61	0.40	0.27	0.18	0.13
24.0	0.04	0.04	0.04	0.04	0.04	0.04	0.04
	1.14	0.82	0.53	0.35	0.24	0.16	0.12
26.0	0.04	0.04	0.04	0.04	0.04	0.04	0.04
	0.99	0.72	0.47	0.31	0.21	0.15	0.11
28.0	0.04	0.04	0.04	0.04	0.04	0.04	0.04
	0.87	0.63	0.41	0.28	0.19	0.13	0.10
30.0	0.04	0.04	0.04	0.04	0.04	0.04	0.04
	0.76	0.55	0.37	0.25	0.17	0.12	0.09

(8-24-94)

c. Cold water biota: waters designated for cold water biota are to exhibit the following characteristics: (7-1-93)

i. Dissolved Oxygen Concentrations exceeding 6 mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

(1) The bottom twenty percent (20%) of water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

(2) The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

(3) Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

ii. Water temperatures of 22 degrees C or less with a maximum daily average of no greater than 19 degrees C. (8-24-94)

iii. Ammonia (8-24-94)

(1) One-hour average concentration of un-ionized ammonia (as N) is not to exceed (0.43/A/B/2) mg/l, where: (8-24-94)
A = 1 if the water temperature (T) is greater than or equal to 20 degrees C (if T > 30 degrees C site-specific criteria should be defined), or (8-24-94)
A = 10power(0.03(20-T)) if T is less than 20 degrees C, and (8-24-94)
B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or (8-24-94)
B = (1 + 10power(7.4-pH))/1.25 if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined). (8-24-94)

(i) The following Table gives one-hour average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

TABLE III--COLD WATER BIOTA: ONE-HOUR AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES.

WATER TEMP.	pH						
(DEGREES C)	6.50	6.60	6.80	7.00	7.20	7.40	7.60
0.00	0.01	0.01	0.01	0.02	0.03	0.03	0.04
	28.92	28.07	26.01	23.27	19.94	16.31	12.62
2.00	0.01	0.01	0.02	0.02	0.03	0.04	0.05
	28.05	27.26	25.26	22.59	19.35	15.82	12.25
4.00	0.01	0.01	0.02	0.03	0.03	0.04	0.05
	27.34	26.52	24.57	22.03	18.92	15.40	11.94
6.00	0.01	0.01	0.02	0.03	0.04	0.05	0.06
	26.63	25.93	23.99	21.55	18.47	15.07	11.67
8.00	0.01	0.02	0.02	0.03	0.05	0.06	0.07
	26.08	25.35	23.55	21.01	18.01	14.74	11.44
10.00	0.02	0.02	0.03	0.04	0.05	0.07	0.08
	25.57	24.87	23.11	20.62	17.72	14.45	11.22
12.00	0.02	0.02	0.03	0.04	0.06	0.08	0.09
	25.13	24.43	22.66	20.29	17.39	14.21	11.04
14.00	0.02	0.02	0.04	0.05	0.07	0.09	0.11
	24.76	24.05	22.28	19.98	17.13	14.03	10.89
16.00	0.02	0.03	0.04	0.06	0.08	0.10	0.12
	24.43	23.84	22.00	19.75	16.92	13.85	10.78
18.00	0.03	0.03	0.05	0.07	0.09	0.12	0.14
	24.23	23.55	21.76	19.49	16.77	13.70	10.63
20.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	24.04	23.27	21.58	19.32	16.61	13.60	10.56
22.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	20.72	20.09	18.67	16.75	14.38	11.79	9.15
24.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	17.99	17.43	16.20	14.52	12.48	10.26	7.96
26.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	15.57	15.19	14.05	12.61	10.85	8.90	6.95
28.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	13.60	13.18	12.23	10.98	9.45	7.77	6.06
30.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	11.83	11.49	10.66	9.58	8.25	6.79	5.30

TABLE III (continued)

WATER TEMP. (DEGREES C)	pH 7.80	8.00	8.20	8.40	8.60	8.80	9.00
0.00	0.05	0.05	0.05	0.05	0.05	0.05	0.05
	9.30	6.59	4.19	2.66	1.69	1.09	0.71
2.00	0.06	0.06	0.06	0.06	0.06	0.06	0.06
	9.04	6.41	4.05	2.58	1.65	1.07	0.70
4.00	0.06	0.07	0.07	0.07	0.07	0.07	0.07
	8.82	6.25	3.98	2.53	1.62	1.05	0.69
6.00	0.07	0.08	0.08	0.08	0.08	0.08	0.08
	8.82	6.10	3.89	2.48	1.60	1.04	0.69
8.00	0.08	0.09	0.09	0.09	0.09	0.09	0.09
	8.44	5.98	3.82	2.44	1.57	1.03	0.69
10.00	0.10	0.11	0.11	0.11	0.11	0.11	0.11
	8.31	5.89	3.75	2.41	1.56	1.03	0.69
12.00	0.11	0.12	0.12	0.12	0.12	0.12	0.12
	8.13	5.81	3.70	2.38	1.55	1.02	0.69
14.00	0.13	0.14	0.14	0.14	0.14	0.14	0.14
	8.04	5.73	3.67	2.37	1.55	1.03	0.70
16.00	0.15	0.16	0.16	0.16	0.16	0.16	0.16
	7.97	5.68	3.65	2.36	1.55	1.04	0.72
18.00	0.17	0.19	0.19	0.19	0.19	0.19	0.19
	7.90	5.66	3.64	2.36	1.56	1.05	0.73
20.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	7.88	5.63	3.63	2.37	1.57	1.08	0.76
22.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	6.82	4.90	3.17	2.09	1.39	0.96	0.68
24.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	5.93	4.27	2.77	1.84	1.24	0.86	0.62
26.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	5.18	3.74	2.44	1.62	1.10	0.77	0.57
28.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	4.53	3.28	2.15	1.43	0.99	0.70	0.52
30.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	3.97	2.88	1.90	1.28	0.88	0.64	0.48

(8-24-94)

(2) Four-day average concentration of un-ionized ammonia (as N) is not to exceed (0.66/A/B/C) mg/l, where: (8-24-94)
A = 1.4 if the water temperature (T) is greater than or equal to 15 degrees C (if T > 30 degrees C site-specific criteria should be defined), or (8-24-94)
A = 10power(0.03(20-T)) if T is less than 15 degrees C, and (8-24-94)
B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or (8-24-94)
B = (1 + 10power(7.4-pH))/1.25 if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined), and (8-24-94)
C = 16 if pH is greater than or equal to 7.7, or (8-24-94)
C = 24(10power(7.7-pH)/(1 + 10power(7.4-pH))) if the pH is less than 7.7. (8-24-94)

(a) The following Table gives four-day average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH

values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

TABLE IV--COLD WATER BIOTA: FOUR-DAY AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES.

WATER TEMP.	pH						
(DEGREES C)	6.50	6.60	6.80	7.00	7.20	7.40	7.60
0.0	0.00	0.00	0.00	0.00	0.00	0.00	0.01
	2.09	2.08	2.09	2.09	2.08	2.09	2.09
2.0	0.00	0.00	0.00	0.00	0.00	0.00	0.01
	2.02	2.02	2.03	2.02	2.02	2.03	2.03
4.0	0.00	0.00	0.00	0.00	0.00	0.01	0.01
	1.97	1.97	1.97	1.97	1.98	1.97	1.98
6.0	0.00	0.00	0.00	0.00	0.00	0.01	0.01
	1.92	1.93	1.92	1.93	1.93	1.93	1.93
8.0	0.00	0.00	0.00	0.00	0.00	0.01	0.01
	1.88	1.88	1.89	1.88	1.88	1.89	1.89
10.0	0.00	0.00	0.00	0.00	0.01	0.01	0.01
	1.85	1.85	1.85	1.85	1.85	1.85	1.86
12.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	1.81	1.81	1.82	1.82	1.82	1.82	1.83
14.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	1.79	1.79	1.79	1.79	1.79	1.80	1.80
16.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	1.66	1.67	1.66	1.67	1.67	1.67	1.68
18.0	0.00	0.00	0.00	0.01	0.01	0.01	0.02
	1.43	1.43	1.43	1.43	1.44	1.44	1.44
20.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	1.24	1.23	1.24	1.24	1.24	1.25	1.25
22.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	1.07	1.07	1.07	1.07	1.07	1.08	1.08
24.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	0.93	0.92	0.93	0.93	0.93	0.94	0.94
26.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	0.80	0.81	0.80	0.81	0.81	0.81	0.82
28.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	0.70	0.70	0.70	0.70	0.71	0.71	0.72
30.0	0.00	0.00	0.00	0.00	0.01	0.01	0.02
	0.61	0.61	0.61	0.61	0.62	0.62	0.63

TABLE IV (continued)

WATER TEMP. (DEGREES C)	pH 7.80	8.00	8.20	8.40	8.60	8.80	9.00
0.0	0.01	0.01	0.01	0.01	0.01	0.01	0.01
	1.78	1.26	0.80	0.51	0.32	0.21	0.14
2.0	0.01	0.01	0.01	0.01	0.01	0.01	0.01
	1.74	1.23	0.78	0.50	0.32	0.20	0.13
4.0	0.01	0.01	0.01	0.01	0.01	0.01	0.01
	1.69	1.20	0.76	0.49	0.31	0.20	0.13
6.0	0.01	0.02	0.02	0.02	0.02	0.02	0.02
	1.65	1.17	0.75	0.48	0.31	0.20	0.13
8.0	0.02	0.02	0.02	0.02	0.02	0.02	0.02
	1.62	1.15	0.73	0.47	0.30	0.20	0.13
10.0	0.02	0.02	0.02	0.02	0.02	0.02	0.02
	1.59	1.13	0.72	0.46	0.30	0.20	0.13
12.0	0.02	0.02	0.02	0.02	0.02	0.02	0.02
	1.56	1.11	0.71	0.46	0.30	0.20	0.13
14.0	0.02	0.03	0.03	0.03	0.03	0.03	0.03
	1.54	1.10	0.70	0.45	0.30	0.20	0.13
16.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	1.44	1.03	0.66	0.43	0.28	0.19	0.13
18.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	1.24	0.89	0.57	0.37	0.25	0.17	0.12
20.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	1.08	0.77	0.50	0.32	0.22	0.15	0.10
22.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	0.93	0.67	0.43	0.29	0.19	0.13	0.09
24.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	0.81	0.59	0.38	0.25	0.17	0.12	0.09
26.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	0.71	0.51	0.33	0.22	0.15	0.11	0.08
28.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	0.62	0.45	0.29	0.20	0.14	0.10	0.07
30.0	0.03	0.03	0.03	0.03	0.03	0.03	0.03
	0.54	0.39	0.26	0.18	0.12	0.09	0.07

(8-24-94)

iv. Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than 50 NTU instantaneously or more than 25 NTU for more than ten (10) consecutive days. (8-24-94)

d. Salmonid spawning: waters designated for salmonid spawning are to exhibit the following characteristics during the spawning period and incubation for the particular species inhabiting those waters: (7-1-93)

i. Dissolved Oxygen (8-24-94)

(1) Intergravel Dissolved Oxygen. (8-24-94)

(a) One-day minimum of not less than 5.0 mg/l. (8-24-94)

(b) Seven-day average mean of not less than 6.0 mg/l. (8-24-94)

(2) Water-Column Dissolved Oxygen. (8-24-94)

(a) One-day minimum of not less than 6.0 mg/l or ninety percent

of saturation, whichever is greater. (8-24-94)

ii. Water temperatures of 13 degrees C or less with a maximum daily average no greater than 9 degrees C. (8-24-94)

(3-3-87)

(2) Weekly average concentrations listed in Subsection 250.02.c.iii.(b) for the specific pH and temperature conditions indicated. (7-1-93)

(3) Where pH and temperature conditions fall outside the pH and temperature ranges listed in Subsections 250.02.c.iii.(1) and 250.02.c.iii.(2), the allowable daily maximum and weekly average concentrations of total ammonia shall be those values specified for other specific pH and temperature conditions in EPA's "Ambient Water Quality Criteria for Ammonia - 1984", EPA document number 440/5-85-001 dated January 1985. Copies of EPA's "Ambient Water Quality Criteria for Ammonia - 1984" may be obtained by requesting document number PB85-227114 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. (7-1-93)

iii. Ammonia (8-24-94)

(1) One-hour average concentration of un-ionized ammonia is not to exceed the criteria defined at Idaho Department of Health and Welfare Rules Section 250.02.c.iii.(1). (8-24-94)

(2) Four-day average concentration of un-ionized ammonia is not to exceed the criteria defined at Idaho Department of Health and Welfare Rules Section 250.02.c.iii.(2). (8-24-94)

iv. Unless modified for site-specific conditions, the time periods for salmonid spawning and incubation in the following Table shall apply for the indicated species. (8-24-94)

TABLE. Time Periods for Salmonid Spawning and Incubation.

Fish Species	Time Period (Annually)
Chinook salmon (spring)	Aug 1 - Apr 1
Chinook salmon (summer	Aug 15 - June 15
Chinook Salmon (fall)	Sept 15 - Apr 15
Sockeye Salmon	Oct 1 - June 1
Steelhead trout	Feb 1 - July 15
Redband trout	Mar 1 - July 15
Cutthroat trout	Apr 1 - Aug 1
Sunapee trout	Sept 15 - June 10
Bull trout	Sept 1 - Apr 1
Golden trout	June 15 - Aug 15
Kokanee	Aug 1 - June 1
Rainbow trout	Jan 15 - July 15
Mountain whitefish	Oct 15 - Mar 15
Brown trout	Oct 1 - Apr 1
Brook trout	Oct 1 - June 1
Lake trout	Oct 1 - Apr 1
Arctic grayling	Apr 1 - July 1

(8-24-94)

03. Water Supplies: (7-1-93)

a. Domestic: waters designated for domestic water supplies are to exhibit the following characteristics: (7-1-93)

i. All toxic substance criteria set forth in 40 CFR 131.36(b)(1), Column D1, revised as of December 22, 1992, effective

February 5, 1993 (57 FR 60848, December 22, 1992). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in Subsection 250.07; provided, however, the standard for arsenic shall be .02 ug/L for Column D1 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water).

~~(8-24-94)~~ ( )

ii. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Health and Welfare Rules Title 1, Chapter 8, "Rules Governing Public Drinking Water Systems." (8-24-94)

iii. Small public water supplies (Surface Water). (8-24-94)

(1) The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies. (8-24-94)

TABLE. DESIGNATED SMALL PUBLIC WATER SUPPLIES.

County	Water Body	Public Water Supply No.#	Supply System Name
Benewah	Adams Ck.	1050011	Fernwood Water Dist.
Boise	Elk Ck.	4080025	Idaho City Water Dept.
Boise	McBride Ck.	4080047	Terrace Lakes Rec. Ranch
Bonner	Berry Ck.	1090021	Colburn Water Assn.
Bonner	Strong Ck.	1090038	East Hope Water Dept.
Boundary	Meadow Ck.	1110001	Bee Line Water Assn.
Boundary	Curley Ck.	1110008	Curley Ck. Water Assn.
Boundary	Molar Ck.	1110017	Highland Flats Water Assn.
	Highland Ck.		
Boundary	Mission Ck.	1110019	Mission Creek Water Assn.
Boundary	Caribou Ck.	1110020	Moravia Water Assn.
Boundary	Brown Creek	1110023	Paradise Valley Water Assn.
	Cedar Ck.		
Boundary	Skin Ck.	1110025	Skin Ck. Water Assn.
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Ck. Water Assn.
Clearwater N.F.	Clearwater R.##	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Ck.	2180029	Potlatch Corp-Headquarters
Elmore	E.F. Montezuma Ck.	4200005	Atlanta Water Assn.
Idaho	Wall Creek	2250011	Clearwater Water Assn.
Idaho	Big Elk Ck.	2250017	Elk City Water/ Sewer Assn.
Nez Perce	Big Canyon Ck.	2350023	Peck Water System
Shoshone	Sawmill Gulch	1400016	Citizens Utility Co-Burke

	Canyon Ck.		
Shoshone	Spring Gulch	1400032	Leisure Acres Trailer Court
	Rosebud Gulch		
Shoshone	Alder Ck.	1400039	Murray Water Works
	East Alder Ck.		
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Valley	Boulder Ck.	4430059	Yellowpine Water System, Inc.

Public water supply number assigned by IDHW/DEQ.

Only the portion of the watershed below Dworshak Dam is included.

(8-24-94)

(2) For those surface waters identified in Section 250.03.a.iii.(1) turbidity as measured at the public water intake shall not be: (8-24-94)

(a) Increased by more than 5 NTU above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, when background turbidity is 50 NTU or less. (8-24-94)

(b) Increased by more than ten percent (10%) above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed 25 NTU, when background turbidity is greater than 50 NTU. (8-24-94)

b. Agricultural: water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Health and Welfare, Division of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (8-24-94)

c. Industrial: water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 250. or 275. through 298. (7-1-93)

Adopted by the House March 2, 1995
Adopted by the Senate March 8, 1995

(H.C.R. No. 15)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE REGARDING THE IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN.

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 the finding of the Legislature 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 First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the following rule of the Idaho Department of Health and Welfare IDAPA Title 16.02.15.100, relating to the immunization requirements for Idaho school children, be, and the same is hereby amended to read as follows:

100. IMMUNIZATION PROGRAM. The immunizations listed in Subsections 100.01. through 100.03. are required of children who are to attend preschool, kindergarten through grade twelve (12) in any Idaho public, private, or parochial school and must be administered in the manner and in accordance with medical standards recognized by the Idaho Board of Medicine and with the "Immunization Recommendations" available from the Bureau of Communicable Disease Prevention within the Department. (10-13-92)

01. Measles, Rubella, and Mumps. One (1) dose of Measles, Rubella and Mumps vaccine administered to the child on or after his first (1st) birthday; and (10-13-92)

02. Diphtheria, Tetanus, Pertussis (DTP), Diphtheria, Tetanus (DT Pediatric) and/or Tetanus, Diphtheria (Td). Any combination of four (4) or more doses of DTP (Diphtheria, Tetanus, Pertussis), DT ~~Pediatric~~ (Diphtheria, Tetanus) and/or Td (Tetanus, Diphtheria) vaccine, unless fewer doses are medically recommended (see Subsection 110.01.); and ~~(12-31-91)~~ ( )

03. Polio. Three (3) or more doses of Polio vaccine, unless fewer doses are medically recommended (see Subsection 110.01.). (12-31-91)

04. Hepatitis B. Three (3) doses of Hepatitis B vaccine administered to children born after November 22, 1991, unless fewer doses are medically recommended (see Subsection 110.01). ( )

Adopted by the House March 3, 1995
Adopted by the Senate March 9, 1995

(H.C.R. No. 16)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES OF THE IDAHO DEPARTMENT OF HEALTH AND WELFARE REGARDING THE IMMUNIZATION REQUIREMENTS FOR CHILDREN ATTENDING LICENSED DAY CARE FACILITIES IN IDAHO.

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 the finding of the Legislature 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 First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the following rule of the Idaho Department of Health and Welfare IDAPA Title 16.02.11.100, relating to the immunization requirements for children attending licensed day care facilities in Idaho be, and the same is hereby amended to read as follows:

100. IMMUNIZATION PROGRAM. In accordance with medical standards recognized by the Board of Medicine and the "Immunization Recommendations" available from the Department's Bureau of Preventive Medicine, within fourteen (14) days of a child's initial attendance to any licensed day care facility in Idaho, the following immunizations are required and must be administered, appropriate for age, to children four (4) months of age and older: (5-24-91)

01. Diphtheria, Tetanus and Pertussis (DTP). Four (4) or more doses of DTP (Diphtheria, Tetanus and Pertussis) vaccine are required and must be administered to the child unless fewer doses are medically recommended. ~~(5-24-91)~~ ( )

02. Polio. Three (3) or more doses of polio vaccine are required and must be administered to the child unless fewer doses are medically recommended. (5-24-91)

03. Measles, Rubella and Mumps. One (1) dose of measles, rubella and mumps vaccine is required and must be administered to the child on or after fifteen (15) months of age. (5-24-91)

04. Haemophilus Influenzae Type b. Haemophilus influenzae type b (Hib) vaccine is required and must be administered to the child as recommended by the Idaho Immunization Program. ~~(5-24-91)~~ ( )

05. Hepatitis B. Three (3) doses of Hepatitis B vaccine administered to children born after November 22, 1991, unless fewer doses are medically recommended (see Subsection 110.01.). ( )

Adopted by the House March 3, 1995
Adopted by the Senate March 9, 1995

(H.C.R. No. 17)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE, WITH FUNDING TO HIRE A PROFESSIONAL CONSULTANT, TO STUDY THE ISSUE OF CREATING A SINGLE UNIVERSITY SYSTEM FOR THE STATE, AND TO PROVIDE RECOMMENDATIONS ON THE ORGANIZATION AND FUNDING OF THE SYSTEM.

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

WHEREAS, it is essential to the future of the state that it provide a high quality education to its post-secondary students; and

WHEREAS, the population of the state and the number of its post-secondary students is growing at a rapid pace, placing financial and organizational stress on the state's colleges and universities; and

WHEREAS, the colleges and universities in the state are growing in complexity and need as they attempt to meet the greater sophistication and expectations of the students and citizens they serve; and

WHEREAS, the present post-secondary education system in the state consists of colleges and universities organized as isolated, separate institutions, thereby precluding cooperation and resource sharing; and

WHEREAS, the present post-secondary education system has produced infighting between colleges and universities and has prevented the beneficial spread of educational programs away from their traditional geographic locations; and

WHEREAS, other western states, notably California, Wyoming and Oregon, have state university systems placing state supported colleges and universities under a single organizational umbrella, thereby sharing resources and distributing programs throughout the state as educational needs dictate; and

WHEREAS, it is beneficial to examine the efficacy of a single university system for Idaho's colleges and universities; and

WHEREAS, it is necessary to hire a professional consultant to provide an informed and objective evaluation of the present college and university system and whether the state would be better served by a single university system; and

WHEREAS, the sum of $100,000 is a reasonable amount to budget for the hiring of a consultant and the conduct of a suitable evaluation.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a Committee and provide a budget of $100,000, to hire a consultant to study the present college and university system in the state and whether the students and citizens in the state are best served by that system, or whether efficiency and the quality of education would improve by placing all colleges and universities supported with state funds in a single organizational system similar to that used in other western states.

BE IT FURTHER RESOLVED that the Committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-third Idaho Legislature.

Adopted by the House March 6, 1995
Adopted by the Senate March 17, 1995

(H.C.R. No. 19)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE, COMMENDING CONTRIBUTIONS MADE ON BEHALF OF FURTHERING CHARACTER EDUCATION, AND STATING THE LEGISLATIVE COMMITMENT TO FACILITATE CHARACTER EDUCATION.

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

WHEREAS, Section 24, Article III, of the Constitution of the State of Idaho states in part, "The first concern of all good government is the virtue and sobriety of the people, and the purity of the home."; and

WHEREAS, the Legislature has adopted a statutory commitment to a thorough system of public schools (Section 33-1612, Idaho Code) defining thoroughness in education to include "the basic values of honesty, self-discipline, unselfishness, respect for authority and the central importance of work" and charged the Board of Trustees of each school district "to protect the morals and health of the pupils" (Section 33-512, Idaho Code); and

WHEREAS, there has been a revitalized interest throughout the nation in the importance of morality and moral leadership in society and a greater concern that character education must again become a fundamental component of the educational process; and

WHEREAS, as a society, we are now recognizing that many of the difficulties the country faces, especially the alarming increase in violent juvenile crime, are a result of the gradual erosion of our national commitment to fundamental values and standards of what is right and wrong; and

WHEREAS, The Book of Virtues, compiled by William J. Bennett, is a treasury of great moral stories, illustrating traits everyone recognizes as essentials of good character, and a book that will help children understand and develop character and help adults teach basic values; and

WHEREAS, several Idaho companies, namely: Lockheed Idaho Technologies, Monsanto, Broulim's, First Security Bank of Idaho, Bank of Eastern Idaho and Farmers & Merchants Bank, have contributed copies of this timely publication to Idaho schools, thus acting upon their commitment to help reduce juvenile crime with its distressing social and economic costs.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that, on behalf of the citizens of Idaho who cherish the basic values upon which our country was founded, we affirm our commitment to instilling those values in the young people in our school system today. We appreciate those who have contributed toward this goal and urge further efforts to bring these basic, traditional values back into the classrooms, into our homes and families, and into our society; and that The Book of Virtues be included as an option to local school boards in their determination of suitable curricular materials.

Adopted by the House March 6, 1995
Adopted by the Senate March 14, 1995

(H.C.R. No. 20)

A CONCURRENT RESOLUTION

AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF OPTIONAL FORMS OF COUNTY GOVERNMENT.

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

WHEREAS, at the general election in 1994, the electorate adopted an amendment to the Constitution of the State of Idaho authorizing the Legislature to provide by general law for optional forms of county government which counties may adopt upon approval of a majority of the voters in the county; and

WHEREAS, in order to determine the appropriate range of optional forms of county government from which Idaho's counties may choose, the Legislature will require information and education from county officials, business leaders and private citizens concerning the particular needs of their counties and those forms of government which may best address geographic, social and economic considerations within different regions of the state; and

WHEREAS, in creating appropriate implementing legislation the Legislature must also establish statutory methods and mechanisms to assist the counties in achieving an orderly transition to new forms of local government while preserving stability in the continued performance of governmental functions and the delivery of governmental services.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third 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 of optional forms of county government, which shall include the drafting of statutory methods and mechanisms to properly effectuate the change selected by the electorate.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and recommended legislation, if any, to the Second Regular Session of the Fifty-third Idaho Legislature.

Adopted by the House March 10, 1995
Adopted by the Senate March 17, 1995

(H.C.R. No. 21)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF TRANSPORTATION ISSUES AFFECTING THE COMPREHENSIVE MANAGEMENT OF TRANSPORTATION RESOURCES OF THIS STATE.

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

WHEREAS, there are many issues relating to transportation in the state of Idaho which individually require considerable attention due to rapidly changing conditions which are affecting operation of those systems; and

WHEREAS, it has become necessary for overall efficiency and productivity to review the issues in a comprehensive manner with consideration of the relationship of the parts to the whole; and

WHEREAS, among the issues requiring special attention are the regulation of motor carriers, the role of recreational use and maintenance of trails, review of the most recent report of the local highway needs assessment council, overview of the transition between the local highway needs assessment council and the local highway technical assistance council, the effectiveness of the local highway technical assistance council and review of its first annual report, the problem of diminishing revenues from established sources, and the need to understand and coordinate the impact of federal funds and regulations on state programs; and

WHEREAS, there is a compelling need to raise additional revenues in order to effect solutions to the problems; and

WHEREAS, the reasonableness of increasing existing fees and taxes in addition to identifying new sources of revenue should be deliberated carefully and should be coordinated with distribution of the increased revenues.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint a committee of not more than six members to undertake and complete a study of the issues affecting comprehensive management of the transportation resources of this state.

BE IT FURTHER RESOLVED, that the legislative members of the committee shall include members of the Senate Transportation Committee and the House Transportation and Defense Committee. The Legislative Council is also authorized to appoint nonlegislative members to sit with the committee who shall be nonvoting members and who shall attend and participate at their own expense. Nonlegislative members shall include the director of the Idaho Transportation Department or his designee, a representative from the Idaho Association of Counties, a representative from the Association of Idaho Cities, and a representative from the Idaho Association of Highway Districts.

BE IT FURTHER RESOLVED, that the committee shall report its findings, with any recommended legislation, to the Second Regular Session of the Fifty-third Idaho Legislature.

Adopted by the House March 8, 1995
Adopted by the Senate March 17, 1995

(H.C.R. No. 23)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND ENCOURAGING SCHOOL DISTRICTS OF THE STATE OF IDAHO TO ESTABLISH THE EXPERIENCED-BASED CAREER EDUCATION

PROGRAM WITHIN THEIR SCHOOL DISTRICT.

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

WHEREAS, many high school students within the state of Idaho are graduating without the knowledge of what professions are available for possible careers; and

WHEREAS, many high school students do not go to college; and

WHEREAS, a large number who do attend traditional college programs would choose vocational and applied technology programs if knowledge of their availability was known; and

WHEREAS, there is a need for a high school program to enable the high school students to explore careers requiring four year and two year degrees within their community; and

WHEREAS, the Experienced-Based Career Education Program adopted by School District Number 25 could be used as a model program.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-third Idaho Legislature, the House of Representatives and the Senate concurring therein, that:

1. The Legislature of the State of Idaho, encourages, supports, and recommends that school districts of the state of Idaho establish the Experienced-Based Education Program for the benefit of the high school students of the state of Idaho.

2. The Experienced-Based Career Education Program of School District Number 25 be the model program to the other school districts in the state of Idaho.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized to send copies of this Resolution to the Idaho School Boards Association, the Idaho Association of School Administrators, and all school districts within the state of Idaho.

Adopted by the House March 13, 1995
Adopted by the Senate March 17, 1995

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-third Legislature of the State of Idaho, First Regular Session thereof, which convened January 9, 1995, and which adjourned March 17, 1995, 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 25th day of April, 1995.

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.

INITIATIVES

"An Initiative Establishing Term Limits For Elected Federal, State, County, Municipal and School District Officials."

"Initiative relating to the number of years an elected official may serve: providing a new section to the Idaho Code, Section 34-907, limiting the number of years a person may serve in the following elected offices by restricting eligibility to appear on the ballot after serving a prescribed number of years: United States House of Representatives, United States Senate, state executive offices, state legislature, county elected offices; providing a new section to the Idaho Code, Section 50-478, restricting municipal officers' eligibility to appear on the ballot after serving eight years in one position; providing a new section to the Idaho Code, Section 33-443, restricting school district trustees' eligibility to appear on the ballot after serving six years in one district; providing that any person may stand for election as a write-in candidate; providing an effective date of January 1, 1995; providing that service prior to that date shall not be counted for purposes of ballot eligibility and providing a severability clause."

Be it enacted by the People of the State of Idaho:

Section 1. This act shall be known and may be enacted as "The Idaho Term Limits Act of 1994."

Section 2. That Chapter 9, Title 34, Idaho Code, be and the same is hereby amended by the addition of a new section to read as follows:

34-907. LIMITATION OF BALLOT ACCESS FOR MULTI-TERM INCUMBENTS. (1) A person shall not be eligible to have his or her name placed upon the primary or general election ballot for a county, state or federal office which they have previously held if they have served, will serve or but for resignation would have served, in that same office by the end of the current term of office for a length of time as follows:

a. As a member of the U.S. House of Representatives representing any district within the state, during six (6) or more of the previous eleven (11) years.

b. As a member of the U.S. Senate, during twelve (12) or more of the previous twenty three (23) years.

c. As a state elected official, during eight (8) or more of the previous fifteen (15) years.

d. As a state legislator, representing any district within the state, including all House seats within the same district, during eight (8) or more of the previous fifteen (15) years.

e. As a county commissioner, representing any district within the county, during six (6) or more of the previous eleven (11) years.

f. As any other county elected official, during eight (8) or more of the previous (15) years.

(2) Nothing in this section shall be construed as prohibiting any qualified voter of this state from casting a ballot in a general election for any person by writing the name of that person on any ballot, or as prohibiting such a properly marked general election ballot from being counted or tabulated, nor shall any provision of this section be construed as preventing or prohibiting any person from standing or campaigning for any elective office by means of a "write-in" campaign in a general election.

Section 3. That Chapter 4, Title 50, Idaho Code, be and the same is hereby amended by the addition of a new section to read as follows:

50-478. LIMITATION OF BALLOT ACCESS FOR MULTI-TERM INCUMBENTS. (1) A person shall not be eligible to have his or her name placed upon a special or general election ballot for a city office which they have previously held if they have served, will serve or but for resignation would have served, in that same office by the end of their current term of office for a length of time as follows:

a. As mayor during eight (8) or more of the previous fifteen (15) years.

b. As a member of city council representing any district or assigned member council seat during eight (8) or more of the previous fifteen (15) years.

(2) Nothing in this section shall be construed as prohibiting any qualified voter of the city from casting a ballot for any person by writing the name of that person on any ballot, or as prohibiting such a properly marked ballot from being counted or tabulated, nor shall any provision of this section be construed as preventing or prohibiting any person from standing or campaigning for any elective office by means of a "write-in" campaign.

Section 4. That Chapter 4, Title 33, Idaho Code, be and the same is hereby amended by the addition of a new section to read as follows:

33-443. LIMITATION OF BALLOT ACCESS FOR MULTI-TERM INCUMBENTS. (1) A person shall not be eligible to have his or her name placed upon the school election ballot for the office of school district trustee which they have previously held if they have served, will serve or but for resignation would have served, in that same office by the end of their current term of office, representing any zone of the district, during six (6) or more of the previous eleven (11) years.

(2) Nothing in the section shall be construed as prohibiting any qualified voter of the school district from casting a ballot for any person by writing the name of that person on any ballot, or as prohibiting such a properly marked ballot from being counted or tabulated, nor shall any provision of this section be construed as preventing or prohibiting any person from standing or campaigning for any elective office by means of a "write-in" campaign.

Section 5. This act shall take effect and be applicable to all school district, municipal, county, state and federal candidates whose elected terms of office begin on or after January 1, 1995. Service prior to January 1, 1995 shall not be counted for purpose of this act.

Section 6. 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.

Submitted on initiative to a vote of the people at the General Election held on November 8, 1994, and adopted by a majority of the vote cast on November 8, 1994. A Governor's proclamation dated November 23, 1994, declared the same to have been approved by the people.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 94-04

ADOLESCENT PREGNANCY PREVENTION

WHEREAS, approximately 84% of adolescent pregnancies are unintended; and

WHEREAS, the ratio of out-of-wedlock live births to adolescents has increased in the last three years; and

WHEREAS, the incidence of low-birth-weight babies, inadequate prenatal care, babies born out-of-wedlock, infant deaths, and stillbirths is significantly higher for adolescent parents; and

WHEREAS, from 1985 to 1990, the public cost related to adolescent childbearing cost the United States $120.3 billion; and

WHEREAS, in 1992 approximately 2,750 Idaho females age 10-19 years old became pregnant, resulting in a rate of 52 Idaho adolescents becoming pregnant each week; and

WHEREAS, Idaho spent at least $36 million in 1992 for costs associated with women who first gave birth during adolescence; and

WHEREAS, 33% of Idaho's adolescent pregnancies are repeat pregnancies; and

WHEREAS, adolescent childbearing causes delays in school completion, alters the young mother's choice of routes toward school completion and often thwarts her plans for post-secondary education; and

WHEREAS, nationally 80% of adolescent mothers drop out of school and only 56% graduate from high school; and

WHEREAS, it is in the best interest of all Idahoans to prevent unintended adolescent pregnancies; and

WHEREAS, effective responses to the problems of adolescent pregnancy must address three levels of prevention: first, to prevent adolescents from becoming sexually active, second, to prevent adolescents from becoming pregnant, and, finally, to prevent or reduce the negative consequences of adolescent pregnancy;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me by law, do hereby create the Governor's Council on Adolescent Pregnancy Prevention.

The duties of the Council shall include:

1. developing, implementing and maintaining a plan of collaboration and coordination of programs and resources associated with adolescent pregnancy that exist in state and other agencies and organizations; components of the plan will address demographic data collection and dissemination, identifying financial and other resources, and joint efforts in the development and delivery of related services;
2. authoring, publishing and delivering to the Governor and Legislature no later the December 15 of each year an annual report detailing the work and findings of the council;
3. investigating and recommending funding options, both public and private, to support programs and services designed to prevent or reduce the negative consequences of adolescent pregnancy;
4. establishing a process through any available funds that might be provided as grants or incentives for local community coalitions to develop and implement local prevention strate-

gies; and

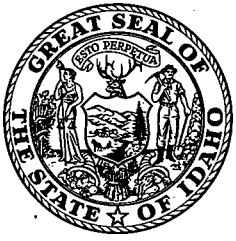
5. establishing and conducting, provided adequate resources are available and so designated, family-centered, abstinence-based statewide media campaigns and other statewide prevention programs.

The Council shall be limited to no more than 15 members, appointed by the Governor. The members will serve two-year terms. A chair of the Council shall be appointed annually by the Governor.

The Council members will include persons representative of:

- the Idaho Department of Health and Welfare;
- the Idaho Department of Employment;
- the Idaho Department of Education;
- the Idaho Office for Children;
- the Division of Vocational Education;
- public health districts;
- school districts;
- providers of medical care to women;
- county commissioners;
- the Idaho House of Representatives;
- the Idaho Senate;
- clergy; and
- private business.

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 sixth day of June, 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. 94-05

CONTINUATION OF THE IDAHO RAILROAD ADVISORY COUNCIL AND DESIGNATION OF THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR AS THE RECIPIENT OF FEDERAL GRANTS FOR LOCAL RAIL FREIGHT ASSISTANCE, REPEALING AND REPLACING EXECUTIVE ORDER 90-05

WHEREAS, it is the policy of the State of Idaho to promote the development and viability of railroad transportation within the State

of Idaho; and

WHEREAS, a unified system of rail transportation throughout the state is critical to Idaho's economy; and

WHEREAS, the subject of railroad abandonment is of significance to the state and particularly to its more sparsely populated rural areas; and

WHEREAS, it is essential to preserve those railroad lines that are important to Idaho's economy and overall transportation system through a statewide rail planning and project assistance program; and

WHEREAS, the United States Department of Transportation, through the Federal Railroad Administrator, under (1) sections 5(A) through 5(o) of the Department of Transportation Act, as amended, 49 U.S.C. 1654 et seq.; (2) the Local Rail Freight Assistance Act of 1990; and (3) 49 CFR Part 266, is authorized to provide rail service assistance funds to states in order to develop, promote, supervise, and support safe, adequate, and efficient rail transportation services; and

WHEREAS, such aid has been offered to Idaho; and

WHEREAS, section 5(a)(2) of the Act 49 U.S.C. 1654 (a)(2) requires that an agency of the State of Idaho be designated the authority and administrative jurisdiction to receive and expend such financial assistance;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue the Idaho Railroad Advisory Council, and I charge this Council with the responsibility to facilitate communications among all those interested in railroad transportation within the state with the goal of improving railroad transportation in Idaho. Further, I do hereby designate the Idaho Transportation Department and its Director to receive and expend monies from the Federal Railroad Administrator for Local Rail Freight Assistance for planning and projects, as provided under applicable federal law and existing commitments by the state.

The Idaho Railroad Advisory Council shall consist of the Director of the Department of Commerce, who shall be chairman; the Director of the Idaho Transportation Department; the President of the Idaho Public Utilities Commission; and such additional members as may be appointed by the Governor. All members shall serve without compensation, except that members who are not state officers or employees shall be reimbursed for their reasonable expenses for serving on the Council.

The Council shall assist the Idaho Transportation Department in preparing a railroad plan in accordance with applicable law under the Local Rail Service Assistance Program.

The Council shall provide policy guidance and recommendations in the administration of the local rail assistance program.

The Council shall seek guidance from industry groups, shippers, railroads, railroad labor, agricultural groups, consumers, state and local governments, and others interested in the preservation and development of rail lines within Idaho.

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-sixth day of May, 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. 94-06

STATE OF IDAHO COMPREHENSIVE POLICY ON THE USE OF AIRCRAFT BY ALL CIVILIAN STATE AGENCIES

WHEREAS, it is in the best interests of state employees, the general public, and the efficient operation of state government to be committed to the safe utilization of aircraft; and

WHEREAS, the state of Idaho is committed to ensuring the highest level of safety in the charter and operation of aircraft by state agencies and employees; and

WHEREAS, the state of Idaho is required by Title 21, Idaho Code, actively to promote aviation safety in all aircraft operations; and

WHEREAS, Title 21, Idaho Code requires that all state aviation operations comply with applicable Federal Regulations;

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 develop policies for the charter and use of aircraft that will ensure that there is full compliance with all applicable Federal Aviation Regulations pertaining to such operations. Specifically:
   a. All aircraft operations involving the transportation of passengers from point to point, both intrastate and interstate, in any aircraft operated by the State of Idaho shall be according to all applicable rules set forth in Federal Aviation Regulation, 14CFR part 135 ("FAR"). State-employed pilots shall meet all training and proficiency requirements of FAR part 135, and state-operated aircraft shall be maintained in accordance with the appropriate parts of FAR part 135.
   b. All aircraft operations involving aerial surveys, game counts, aerial photography, and all other aircraft use not involving aerial transportation of state personnel in point-to-point operations in the furtherance of State of Idaho objectives shall meet, at the minimum, the requirements of

the rules of 14 CFR part 91. Further, all charter operations for such activities shall be conducted either in state aircraft operated by the Idaho Transportation Department Division of Aeronautics or by duly qualified and certificated air charter organizations.

c. Further, all passenger or freight charter aircraft operations by state agencies will be only by Federal Aviation Administration (FAA) certificated Air Carrier Operators who hold current FAR part 135 or FAR part 121 Air Carrier Operations Certificates and are authorized by appropriate Operations Specifications to perform the operations for which they have been chartered.

This policy is in effect notwithstanding the fact that state aircraft operations are considered to be "Public Aircraft" operations.

2. Each department director or other appointing authority will be responsible for ensuring that his or her agency is complying with the above directives.

3. The control and operation of state-owned/leased civilian aircraft will be by the Idaho Transportation Department Division of Aeronautics. This organization may be used as a resource for the development of individual agency aviation-use policies.

4. Each department director or other appointing authority will develop stringent policies governing the operation of aircraft by state employees on official state business. Such policies will include minimum qualifications, minimum experience levels, and minimum certification levels, and shall be limited primarily to point-to-point operations. The carriage of state employee passengers in these circumstances shall be discouraged.

   a. As a minimum, pilots in operations described in paragraph #4 above will fulfill the following requirements when acting as pilot-in-command of aircraft on official state business when not carrying passengers:

      1) Hold at least a current Private Pilot Certificate issued by the FAA with at least a current third-class medical certificate.
      2) Have logged at least 150 hours of flying time.
      3) Meet all current requirements for type, category, and class of aircraft being used.

   b. Pilots carrying state employee passenger will:

      1) Hold a current Commercial Pilot Certificate, a current Private Pilot Certificate with instrument rating issued by the FAA, or a current Private Pilot Certificate, and annually pass a flight evaluation administered by personnel of the Idaho Transportation Department Division of Aeronautics.
      2) Hold at least a current third-class medical certificate.
      3) Have logged at least 500 hours of flying time.
      4) Meet all current requirements for type, category, and class of aircraft being used.

5. State employee personnel possessing current aviator ratings and who have a need to pilot rented or owned aircraft in the fulfillment of their state duties shall first be approved for such duties

by their agency and shall also be certified by the Idaho Transportation Department Division of Aeronautics that they meet the certification and experience required by this order. Further, the certification and experience requirements shall be attested to on an annual basis by the Idaho Department of Transportation Division of Aeronautics.

6. Each department director or other appointing authority will ensure that aircraft and pilots involved in paragraph four above will have sufficient insurance to meet state standards. Each aircraft will carry at least $1,000,000 bodily injury and property damage liability COMBINED SINGLE LIMITS. EXCEPTION--Single-engine, fixed-wing airplanes may be insured for a minimum of $500,000 COMBINED SINGLE LIMITS with any person sub-limits of no less than $100,000.

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 August, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-07

CONTINUING THE CENTER FOR VITAL STATISTICS AND HEALTH POLICY WITHIN THE DIVISION OF HEALTH, DEPARTMENT OF HEALTH AND WELFARE REPEALING AND REPLACING EXECUTIVE ORDER NO. 90-8

WHEREAS, the Congress of the United States established the National Center for Health Statistics as an organizational entity in the Public Health Service, has enacted the Health Services Research and Evaluation and Health Statistics Act of 1974 (P.L. 93-353), and has formally instituted the Cooperative Health Statistics System in 1978 (P.L. 95-623), which included the support, coordination and evaluation of State and Federal health statistics systems; and

WHEREAS, the executive agencies of the State of Idaho must continue their commitment to reducing duplication of data collection and processing through shared data systems; to improving the quality,

timeliness, and comparability of health statistics; to providing equal access to data to all appropriate data users (such access to be limited by the provision of guarantees for the confidentiality of individually identifiable data); and to supporting the goals and objectives of the Cooperative Health Statistics System established by the National Center for Health Statistics;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue within the Division of Health, Department of Health and Welfare, the Center for Vital Statistics and Health Policy pursuant to the provisions of Public Laws 93-353 and 95-623.

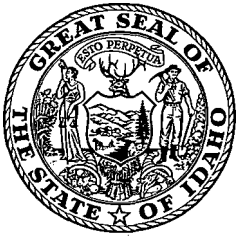
FURTHER, the purpose of the Center for Vital Statistics and Health Policy shall be to serve as the focal point for coordinating the collection, analysis, and dissemination of health data. The Center for Vital Statistics and Health Policy shall provide statistical support services to meet the needs of the federal, state, and local public health data users and providers in both the public and private sectors.

FURTHER, I authorize the Director of the Department of Health and Welfare to continue the Center for Vital Statistics and Health Policy Advisory Committee. The Advisory Committee shall advise the Department of Health and Welfare with respect to the design and use of statistical and informational systems within the Division of Health and shall make specific recommendations to:

1. Assure that state and local health providers, collectors, and users are appropriately involved in decision-making regarding health data;
2. Improve the availability and use of nonconfidential health data, with equal access to data limited only by the provision of guarantees of confidentiality or nondisclosure of the identity of individual respondents or data subjects;
3. Maintain an appropriate balance between legitimate access to data and protection of confidentiality and privacy;
4. Recommend such standards that relate to confidentiality, quality control, and physical security with respect to technical uses of major import regarding the compatibility and integration of health data systems.
5. Assist in the coordination of activities in the development of shared data systems for the purpose of reducing duplication of data collection and processing, minimizing respondent burden, and encouraging maximum compatibility of data; and
6. Assure that the needs of local, state, and national data users in both the public and private sectors have been considered and that the Division of Health's data systems are flexible and responsive to these needs.

FURTHER, the Center for Vital Statistics and Health Policy Advisory Committee shall report its recommendations in writing to the Division of Health Administrator as deemed necessary by the administrator.

This Executive Order repeals and replaces Executive Order No. 90-8.



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-sixth day of October, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-08

CONTINUING A SYSTEM FOR ALLOCATING VOLUME CAP IN THE STATE CONSISTENT WITH THE PROVISIONS OF TITLE 50, CHAPTER 28, IDAHO CODE, AND THE U.S. INTERNAL REVENUE CODE OF 1986, REPEALING AND REPLACING EXECUTIVE ORDER NO. 90-09

WHEREAS, Section 146 of the U.S. Internal Revenue Code of 1986 (the "Code") subjects certain private activity and non-private activity bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, as required by Section 146(e) of the Code, the Idaho Legislature did adopt the provisions of Title 50, Chapter 28, Idaho Code, (the "State Law") to provide a permanent allocation formula for Volume Cap in the state; and

WHEREAS, Section 50-2804 Idaho Code authorizes and directs the Governor of the State of Idaho to provide for the implementation and administration of the allocation formula established under Section 50-2803, Idaho Code, by executive order and the Governor did issue his Executive Order No. 90-09 providing therefor; and

WHEREAS, in order to renew the provisions contained in said Executive Order No. 90-09 and to continue to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities under the State Law, it is necessary and desirable to issue this Executive Order;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the power vested in me by the Constitution and laws of the State of Idaho, do hereby order and proclaim:

Section 1: As used in this Executive Order:

(1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order and the State Law.

(2) "Bonds" means any obligations for which an allocation of the Volume Cap is required by the Code and the State Law.

(3) "Certificates" means mortgage credit certificates described in Section 25 of the Code. With respect to any allocation of Allotment Dollars for the purpose of issuing certificates, certificates will be deemed "issued" when the mortgage credit certificate program for which the allocation is made is implemented.
(4) "Code" means the Internal Revenue Code of 1954, as amended by the Reform Act of 1986 and renamed the Internal Revenue Code of 1986, and any related regulations.
(5) "Department" means the Department of Commerce of the State.
(6) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.
(7) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.
(8) "Issuing Authority" means
    (a) any county, city or port district;
    (b) any public corporation created pursuant to Section 50-2703 of the Idaho Code or other entity acting on behalf of one or more counties, cities, or both;
    (c) the State; or
    (d) any other entity authorized to issue Bonds or Certificates in the State.
(9) "Program" means the program to be financed in whole or in part with the proceeds of the sale of Bonds or to be implemented through the issuance of Certificates.
(10) "Project" means the facility to be financed in whole or in part with the proceeds of sale of Bonds.
(11) "Qualifying Carryforward Project or Program" means a Project or Program qualifying for carryforward under Section 146(f) of the Code.
(12) "State" means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds or Certificates under State law.
(13) "State Law" means Title 50, Chapter 28, Idaho Code, as amended.
(14) "Volume Cap" means the volume cap for the State as computed under Section 146 of the Code.
(15) "Year" means each calendar year beginning January 1, 1994.

Section 2:

The Volume Cap for each Year is allocated to Issuing Authorities in accordance with the procedures set forth in this Executive Order. An allocation of the Volume Cap may be obtained by submitting an application to the Director in accordance with Section 3 or Section 5, as appropriate. The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of allocation in accordance with Section 4 or Section 5, as appropriate.

Section 3:

(1) Any Issuing Authority proposing to issue Bonds or Certificates shall, prior to the issuance of such Bonds or Certificates, submit an application to the Director which contains the following information and attachments:
   (a) the name of the Issuing Authority;
   (b) the mailing address of the Issuing Authority;
   (c) the tax identification number of the Issuing Authority;
   (d) the name, title and office telephone number of the official of the Issuing Authority to whom notices should be sent and from whom information can be obtained;
   (e) the principal amount of Bonds or Certificates proposed to be issued for which an application for an allocation of the Volume Cap is requested;
   (f) the nature and the specific location of the Project or the type of Program;
   (g) the initial owner or user of the Project or Program, if other than the Issuing Authority;
   (h) a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds or Certificates for the Project or Program;
   (i) with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur and, with respect to Certificates, the anticipated date on which the Certificates are expected to be issued;
   (j) the name, address, and telephone number of all parties to the transaction;
   (k) the applicable provisions of the Code under which the Bonds or Certificates are expected to be issued; and
   (l) any other information or attachments reasonably required by the Director.

(2) The Director shall
   (a) establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1); and
   (b) make such forms available to the public upon request.

(3) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.

Section 4:

(1) Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for an allocation of the Volume Cap, the Director shall, if the application is in satisfactory order, make the requested allocation in the amount so requested, if avail-

able, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the Project or Program for which the allocation has been made, and the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director shall be issued by the Director in the chronological order in which completed applications are received. No Issuing Authority issuing Bonds or Certificates is entitled to any allocation of the Volume Cap with respect to such Bonds or Certificates unless it has first received the aforementioned certificate of allocation from the Director evidencing the granting of an allocation for such Bonds or Certificates.

(2) Every allocation of the Volume Cap granted under this Executive Order by the Director for which Bonds or Certificates have not been issued with respect to such allocation, except those grants made pursuant to Section 5, shall remain effective until, and including, the earlier of

(a) the ninetieth day after the date on which such allocation was made;

(b) 12:00 o'clock midnight on December 30 of the Year in which such allocation was made; or

(c) the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 7(2). Any allocation for which Bonds or Certificates are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds or Certificates

(3) Until and including December 30 of each Year, any allocation of Allotment Dollars made in such Year, except allocations made pursuant to Section 5, for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(2) shall be available for reallocation to applying Issuing Authorities. On December 31 of each Year, any allocation of Allotment Dollars made in such Year for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(2) shall become available for reallocation only for Qualifying Carryforward Projects or Programs. In either case, such reallocations shall be made in the same manner as for original allocations of Allotment Dollars.

(4) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the

provisions of this Executive Order.

Section 5:

(1) Issuing Authorities with Qualifying Carryforward Projects or Programs may apply for an allocation of Allotment Dollars for such Qualifying Carryforward Projects or Programs by submitting an application to the Director which shall contain:

(a) the carryforward purpose for the bonds or Certificates under Section 146(f) of the Code;

(b) any other information required by Section 146(f) of the Code;

(c) a certification signed by both an official of the Issuing Authority responsible for the supervision of the issuance of the Bonds or Certificates and, if applicable, a representative of the person or entity constructing, acquiring, or rehabilitating the Project or administering the Program, stating that the Issuing Authority and, if applicable, such person or entity, will proceed with diligence to ensure the issuance of the Bonds or Certificates within the carryforward period provided by Section 146(f) of the Code;

(d) a preliminary opinion from bond counsel that the Project or Program qualifies for carryforward under Section 146(f) of the Code, if applicable;

(e) if applying for an allocation of Allotment Dollars for the purpose of issuing Certificates, the amount of qualified mortgage bonds defined in Section 143 of the Code which the Issuing Authority elects not to issue under the Code; and

(f) such other information and attachments as are set forth in Section 3(1).

(2) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if at the time such application is considered the amount of allocation of the Volume Cap requested in such application is in excess of the amount of the Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

(3) Allocations of the Volume Cap for Qualifying Carryforward Projects or Programs shall be granted by the Director in the amount requested by the applying Issuing Authority, if available, on or after December 1, but no later than December 31, of the Year in which an application in satisfactory order is submitted to the Director for an allocation of the Volume Cap for a Qualifying Carryforward Project or Program in the chro-

nological order in which applications for such allocations are received. The Director shall issue certificates of allocation evidencing the granting of an allocation within the time period specified in the preceding sentence to each Issuing Authority which applied to the Director and which received an allocation of the Volume Cap for a Qualifying Carryforward Project or Program for each such Qualifying Carryforward Project or Program of such Issuing Authority, such certificates of allocation to be similar to the certificates of allocation described in Section 4, stating the amount of Allotment Dollars which have been allocated to such Issuing Authority, specifying the Qualifying Carryforward Project or Program for which the allocation has been made and specifying the expiration date of the allocation, as provided by Section 146(f) of the Code.

Section 6:

No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 7:

(1) After the effective date of this Executive Order, any Issuing Authority issuing Bonds or Certificates without a certificate of allocation of the Director issued pursuant to Section 4 or Section 5, as appropriate, evidencing the granting of an allocation for such Bonds or Certificates, or any Issuing Authority issuing Bonds or Certificates after the expiration of an allocation under Section 4 or Section 5, as appropriate, is not entitled to any allocation of the Volume Cap for such Bonds or Certificates, and any Issuing Authority issuing Bonds or Certificates in excess of the allocation set forth in the certificate of allocation is not entitled to any allocation of the Volume Cap for such excess.

(2) Each Issuing Authority shall

(a) advise the Director on or before the earlier of the sixtieth day after the issuance of any Bonds or Certificates or December 30 of each Year, of the principal amount of Bonds or Certificates issued under the allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds or Certificates by delivering to the Director a copy of the Form 8038 which was delivered to

the Internal Revenue Service in connection with such Bonds or Certificates, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds or Certificates; or

(b) if all or a stated portion of such Bonds or Certificates will not be issued, advise the Director in writing, on or before the earlier of

(i) the fifteenth day after the earlier of

(A) the final decision not to issue all or a stated portion of such Bonds or Certificates or

(B) the expiration of the allocation, or

(ii) December 30 of the Year in which the allocation for such Bonds or Certificates was made.

(3) Each Issuing Authority shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority obtains an allocation of a portion of the Volume Cap for a particular Project or Program from the Director as provided in Section 4 or Section 5, as appropriate, but does not issue its Bonds or Certificates within the prescribed time limit, or issues a lesser amount of Bonds or Certificates within the prescribed time limit, such Issuing Authority may again submit an application with respect to the proposed Bonds or Certificates or portion of such Bonds or Certificates not issued for such Project or Program as provided in Section 4 or Section 5, as appropriate. Such application shall be treated as a new application.

Section 8:

In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

(1) determine the amount of Allotment Dollars available on December 31 of each Year for allocation for Qualifying Carryforward Projects or Programs and allocate the Allotment Dollars available for Qualifying Carryforward Projects or Programs as provided in this Executive Order;

(2) maintain a record of all applications filed by Issuing Authorities under Section 3 and Section 5 and all certificates of allocation issued under Section 4 and Section 5;

(3) maintain a record of all Bonds or Certificates issued by Issuing Authorities during each Year;

(4) maintain a record of all information filed by Issuing Authorities under this Executive Order;

(5) make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap for each Year and any amounts available, or at any time remaining available, for allocation under this Executive Order;

(6) serve as the State official designated under State law to make any certifications required to be made under the Code including, without limitation, the certification required by

Section 149(e)(2)(F) of the Code; and

(7) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 9:

If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid, inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with provisions of the State Law.

Section 10:

This Executive Order replaces Executive Order No. 90-09, which has expired, provided that such replacement shall not affect any allocations in the State made prior to the effective date hereof pursuant to any other Executive Orders or laws of the State.

Section 11:

The State pledges and agrees with the owners of any Bonds or Certificates to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds or Certificates.

Section 12:

No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 13:

The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds and Certificates providing a system for the implementation and administration of the formula specified in the State Law for allocating the Volume Cap within the meaning of Section 146 of the Code.

Section 14:

This Executive Order shall be effective immediately and shall continue in effect until such time as it may be repealed or superseded by operation of State or Federal law. Notwithstanding the foregoing, allocations for Qualifying Carryforward Projects or Programs pursuant to Section 5 hereof shall remain effective for the term of such allocation provided for in Section 146(f) of the Code.

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 November, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-09

CONTINUATION OF THE IDAHO DEPARTMENT OF EMPLOYMENT AS THE ORGANIZATIONAL UNIT TO BE RESPONSIBLE FOR THE STATE OF IDAHO'S LABOR MARKET INFORMATION PROGRAMS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 90-10

WHEREAS, the "Job Training Partnership Act of 1982" requires the Governor, in order to be eligible for federal financial assistance for state labor market information programs under this Act, to designate an organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system; and

WHEREAS, the state must design a comprehensive cost-efficient labor market and occupational supply and demand information system which

1. Is responsive to the economic demand and education and training supply support needs of the state and areas within the state; and
2. Meets 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 of 1982," the "Vocational Education Act of 1963," and the "Act of June 6, 1933," 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, since the Idaho Department of Employment in operating the state's Unemployment Insurance Program must collect from the employers of the state core information basic to any comprehensive statewide labor market and occupational supply and demand information system;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby continue the assignment to the Idaho Department of Employment of the role of organizational unit to be 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 as the disseminating and coordinating mechanism for occupational supply/demand and career information system. Such a system will use existing sources of information where possible, including data from and generated by the Idaho Department of Employment through its Labor Market Information and Occupational Employment Statistics programs.

AND I FURTHER DIRECT the following in an effort to reduce paperwork and multiple survey burdens of the employers of Idaho:

1. The Idaho Personnel Commission will utilize the Department of Employment's annual wage and salary survey to meet its obligation to recommend payline adjustment to the Governor and Legislature. All attributable costs to the Idaho Department of Employment for the Personnel Commission's portion of the annual wage and salary survey will be billed by the Department of Employment to the Personnel Commission.
2. The Regulatory Reform Task Force will act as a screening mechanism for all proposed surveys of the state's private employers by the Executive Branch who request information beyond that required by law for each agency to perform its statutory duties.
3. Executive Order No. 90-10 is hereby repealed and replaced.

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 ninth day of December, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-10

CONTINUATION OF UNIFORM STATE PLANNING REGIONS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 90-11

WHEREAS, Executive Order No. 72-3 created six official and uniform state planning regions to be utilized by all state departments and agencies and this has continued through such orders since 1972; and

WHEREAS, state departments and agencies continue to rely on divergent regional patterns for planning, administrative, technical assistance and data-gathering activities; and

WHEREAS, the need to coordinate the activities of state departments and agencies on a regional basis continues to exist; and

WHEREAS, the establishment of the aforementioned official and uniform state planning regions continues to result in a reduction of confusion among local public officials and in the more efficient delivery of services to the citizens of the State of Idaho by local governmental units; and

WHEREAS, the increase in the activities and involvement of the departments and agencies of the United States has intensified the need for the unimpeded cooperation among federal, state and local programs; and

WHEREAS, Public Law 90-577, the Intergovernmental Cooperation Act of 1968 and Part IV of the U.S. Office of Management and Budget Circular No. A-95, Revised, encourages the states "to exercise leadership in delineating and establishing a system of planning and development districts or regions in each state, which can provide a consistent geographic base for the coordination of federal, state and local development programs";

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by virtue of the powers vested in me, do issue this Executive Order continuing the official and uniform state planning regions to be utilized by all state departments and agencies. Six major regions shall continue to be as follows:

Region I:	Boundary, Bonner, Kootenai, Benewah and Shoshone Counties (Panhandle Region)
Region II:	Latah, Clearwater, Nez Perce, Lewis, and Idaho Counties (Clearwater Region)
Region III:	Adams, Valley, Washington, Payette, Gem, Canyon, Boise, Ada, Elmore, and Owyhee Counties (Southwest Region)
Region IV:	Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka, Twin Falls, and Cassia Counties (Magic Valley Region)
Region V:	Bingham, Power, Bannock, Oneida, Franklin, Caribou and Bear Lake Counties (Southeast Region)
Region VI:	Lemhi, Custer, Butte, Clark, Jefferson, Fremont, Madison, Teton, and Bonneville Counties (Eastern Region)

It is hereby ordered and directed that all state agencies continue

to conduct planning activities, collect data, compile reports, and report program progress on the basis of the State Planning Regions.

It is further ordered and directed that all agencies within the Executive Branch of Government continue to take the above Regional Districts into consideration in the future establishment and revision of all applicable state plans and programs.

It is further ordered and directed that state agencies may continue with the written authorization of the Governor to group or combine whole State Planning Regions into agency-designated larger geographic areas but shall continue to utilize the six state regions with the nomenclature and numerical designations established by this order for purposes of data gathering and reporting.

However, where warranted, special exceptions may be granted by the Governor to those state agencies showing just cause for exemption. Agencies seeking exemption must submit:

(a) A map depicting those regions which can be utilized and those where a modification from existing boundaries is deemed necessary;

(b) A written statement of justification citing statutes, federal regulations or guidelines, personnel difficulties, unreasonable workload assignments, existing investments in field facilities, or other major factors indicating sufficient cause for delay or total exemption from adoption of the State Multi-County Regions specified herein; and

(c) A timetable for eventual agency compliance with this order when appropriate.

All state agencies utilizing administrative districts are encouraged to continue to bring their administrative district boundaries into conformity with the boundaries of the six state planning regions.

The Department of Water Resources shall be exempted from this Order as their administrative regions are based on hydrologic drainage basins.

FURTHERMORE, local governmental units are encouraged to continue joint participation in regional councils of governments within this system of districts to enhance intergovernmental cooperation for the purposes of comprehensive planning and development and the administration of state and federally supported programs within the State of Idaho as authorized by the provisions of law.

This order contemplates that, if subsequent circumstances and developments warrant changes in the six regional boundaries due to the continuing process of local regional organization, appropriate revision of this order will be undertaken.

This Executive Order repeals and replaces Executive Order No. 90-11.

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 ninth day of December, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-11

CONTINUATION OF THE POLICY OF THE STATE ON LIFE-CYCLE COSTING PRACTICES AND DIRECTING THE ADMINISTRATOR OF THE DIVISION OF PURCHASING TO ASSIST STATE AGENCIES IN DEVELOPING PLANS TO UTILIZE LIFE-CYCLE COSTING PRACTICES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 90-12

WHEREAS, energy, its production, distribution, and utilization is a primary concern of all Idaho citizens; and

WHEREAS, the use of energy is an integral part of people's lives--in agriculture, in business and industry, at home and in state and local government; and

WHEREAS, to be effective, energy planning should be incorporated into decision-making; and, with regard to procurement practices and construction of new buildings by the state, life-cycle costing is one technique already in use in several states of the Union; and

WHEREAS, life-cycle costing is a technique whereby the long-term maintenance and operating costs of a building or product are considered in addition to its original purchase price or construction cost. These additional costs are often as important as the original cost and affect the true economy of buildings and products. Life-cycle costing techniques supplement the present minimum bid standards for controlling state contracting, purchasing and building practices. When applied logically, this method of cost evaluation has been proven effective in establishing the greatest gain between quality and thrift; and

WHEREAS, Idahoans are rightly concerned about the cost of government today. By encouraging wise management of energy and fiscal resources in government, through life-cycle costing, every Idaho citizen's tax dollar will be expended in a manner to guarantee maximum efficiency;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, do hereby declare that it will continue to be the policy of the state to continue to promote the conservation of energy and the life-

cycle cost or greatest value of commodities, and to effect coordination in the purchase of commodities by the State of Idaho.

To that end, all state agencies, prior to construction or renovation of any major facility, are directed to include in the design phase a provision for life-cycle costing. To accomplish the desired energy savings, agencies must calculate and define the additional costs of the life-cycle cost factors in their budget request of buildings. The Permanent Building Fund Advisory Council shall determine that all designs for buildings have been given a thorough analysis of life-cycle costing and energy-conscious design.

All state agencies are further directed to develop plans and specifications for energy efficiency in the acquisition of commodities purchased and/or acquired by the state, including life-cycle for the purchase of all major energy-consuming products.

I FURTHER DIRECT the Administrator of the Division of Purchasing to assist all state agencies in developing plans and specifications to utilize energy efficiency and life-cycle costing in their acquisition and bidding practices. The Administrator of the Division of Purchasing may, in his discretion, waive the requirements of life-cycle costing if he determines such exemption would be in the best interest of the State of Idaho.

This Executive Order repeals and replaces Executive Order No. 90-12.

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 ninth day of December, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-12

CONTINUATION OF A STATE HOUSING TAX CREDIT AGENCY REPEALING AND REPLACING EXECUTIVE ORDER NO. 90-13

WHEREAS, the United States Congress has enacted and amended the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, Section 42 of the Code authorizes a Low-Income Housing Credit; and

WHEREAS, Section 42(h) of the Code stipulates that the Housing Credit is subject to certain restrictions regarding the aggregate

credit allowable with respect to projects located in a state; and

WHEREAS, the Idaho Housing Agency was created by the adoption of Title 67, Chapter 62 of the Idaho Code to increase the supply of housing for persons and families of low income and to encourage cooperation and coordination among private enterprise and state and local government to sponsor, build and rehabilitate residential housing for such persons and families; and

WHEREAS, in order to establish and continue an equitable process for the allocation of the allowable Low-Income Housing Credit for the State of Idaho, it is necessary and desirable to issue this Executive Order to provide authorization required under Section 42(h) for a State Housing Credit agency as defined in the Code;

NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the power vested in me do hereby order as follows:

Section 1: As used in the Executive Order:

(a) "Annual Report" means the report required from any agency which allocates any housing credit amount to any building for any calendar year, as specified in Section 42(1)(3) of the Code.

(b) "Code" means the Internal Revenue Code of 1986, as amended, and any related regulations.

(c) "Executive Director" means the Executive Director of the Idaho Housing Agency or such other official or officials of the Idaho Housing Agency as the Executive Director shall designate to carry out the duties set forth in this Executive Order.

(d) "Housing Credit Ceiling" means the dollar amount of State Housing Credit Ceiling applicable to any state for any calendar year in an amount based upon the applicable per capita limit and the State's population as determined in accordance with Section 42(h)(3) of the Code.

(e) "Idaho Housing Agency" or "Agency" means the Idaho Housing Agency, an independent public body, corporate and politic, created by the Idaho Legislature under the provisions of Chapter 62, Title 67 of the Idaho Code, as amended.

(f) "Low-Income Housing Credit" means the federal tax credit authorized under Section 42 of the Code.

(g) "Qualified Low-Income Housing Project" means any project for residential rental property which meets the requirements of Section 42(g) of the Code; in general Section 42(g) of the Code pertains to the requirement that 20 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, or that 40 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

(h) "State" means the State of Idaho.

(i) "State Housing Credit Agency" means the agency authorized to carry out the provisions of Section 42(h), Section 42(1) and Section 42(m) of the Code and in particular the Idaho Housing Agency.

(j) "Year" means the period January 1 through December 31, inclusive, for each calendar year beginning January 1, 1994.

Section 2. The Code has created a Low-Income Housing Credit which can be granted by a State Housing Credit Agency for a Qualified Low-Income Housing Project.

The Code has further created a Housing Credit Ceiling which the state may use in any year to assist Qualified Low-Income Housing Projects during the allocation term.

Section 3. The state has delegated certain responsibilities and granted certain powers to the Idaho Housing Agency in order that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

Section 4. The state requires the development of a Qualified Allocation Plan described in Section 7(a) below for the allocation of the Low-Income Housing Credit in order to ensure fair and equal opportunity by interested parties in gaining an allocation of the Housing Credit Ceiling.

Section 5. The state requires the implementation of said Qualified Allocation Plan in order to ensure the proper use of such credits for Qualified Low-Income Housing Projects.

Section 6. An Annual Report shall be submitted to the Secretary of the Treasury and to the Governor of the State of Idaho with respect to the use of the Low-Income Housing Credit for any year.

Section 7. In consideration of the requirements of the state, the Governor appoints the Idaho Housing Agency to act as the State Housing Credit Agency for the state in the distribution of the Housing Credit Ceiling for any year.

The Idaho Housing Agency is required to:

(a) Establish a Qualified Allocation Plan as defined and provided for in Section 42(m) of the Code for the fair distribution of the Housing Credit Ceiling for the state;

(b) Distribute the Housing Credit Ceiling for Qualified Low-Income Housing Projects in the manner required under Section 42 of the Code.

(c) Submit an Annual Report to the Secretary of the Treasury and the Governor of the State of Idaho (at such time and in such manner as the Secretary shall prescribe) specifying:

(1) the amount of housing credit allocated to each building for such year,

(2) sufficient information to identify each such building and the taxpayer with respect thereto, and

(3) such other information as the Code, the Secretary, the Governor or the Legislature of the State of Idaho may require.

Section 8. The state pledges and agrees with the owners of any Qualified Low-Income Housing Project for which an allocation of the Housing Credit Ceiling has been granted under this Executive Order that the state will not retroactively alter the allocation of the Housing Credit Ceiling to such project except as may be required under the terms of the Code.

Section 9. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt, or liability of the state.

Section 10. The purpose of this Executive Order is to maximize the

opportunity for developing low-income housing units through the use of the Low-Income Housing Credit by providing a responsible State Housing Credit Agency within the meaning and requirements of Section 42 of the Code.

Section 11. This Executive Order shall be effective immediately and shall be applied to all allocations made after January 1, 1994, with respect to any Qualified Low-Income Housing Project. This Executive Order shall continue in effect until such time as it may be repealed or superseded by operation of the state or federal law.

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 ninth day of December, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 94-13

ESTABLISHMENT OF THE VOTER REGISTRATION SERVICES IN STATE AGENCIES

WHEREAS, voting is a fundamental right and responsibility of every U.S. citizen; and

WHEREAS, voter registration should be encouraged by governmental entities at all levels; and

WHEREAS, Idaho Code Section 34-410 provides for the distribution of mail registration forms through governmental entities; and

WHEREAS, State agencies across the state conduct a variety of programs where employees of state government come into contact with thousands of citizens eligible to vote if they become registered, and

WHEREAS, voter registration should be among the most accessible services provided by government to each citizen;

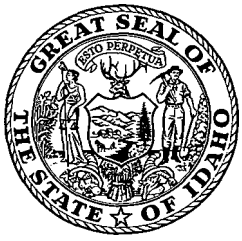
NOW, THEREFORE, I, CECIL D. ANDRUS, Governor of the State of Idaho, by the authority vested in me under the constitution and laws of this STATE do hereby order as follows:

1. All state agencies which have regular contact with the public in the daily administration of their business shall make mail voter registration applications available at their public offices. These applications shall be placed in visible locations at these offices so as to be readily accessible to mem-

bers of the public. Signs clearly indicating that applications are available shall be posted at these offices.

2. State departments that have regular contact with the public are requested to assist persons in registering to vote by:
   a. Upon request, assisting persons in completing the registration forms, and
   b. Collecting completed forms and forwarding them to the proper County Clerk.
3. Employees to the State departments that have regular contact with the public shall receive adequate training to insure the proper completion of voter registration forms. This training shall include but not be limited to:
   a. Proper completion of forms; and
   b. Knowledge of basic registration information, including registration deadlines and when registration of re-registration is required.
4. State employees shall make it clear whenever necessary that the receipt of State services does not depend in any way on whether a person is registered to vote.
5. Each State agency shall coordinate with the office of the Secretary of State and the County Clerks, procedures for the proper completion and forwarding of the registration forms.

Provisions for voter registration in state agencies shall be in effect on January 1, 1995.



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 ninth day of December, in the year of our Lord nineteen hundred ninety-four, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Cecil D. Andrus
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-01

ESTABLISHMENT OF THE CHARITABLE SOLICITATION POLICIES FOR STATE EMPLOYEES

WHEREAS, state employees desire to help improve their communities; and

WHEREAS, state employees have always been very generous in contributing to help those most vulnerable; and

WHEREAS, charitable solicitation should take place with the minimum administrative cost and with a minimum of employee administrative

involvement; and

WHEREAS, state employees should have the ability to choose to give to any health and human service tax exempt 501(c)3 charity;

NOW, THEREFORE, I, PHILIP E. BATT, 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. The State Employees United Community Campaign State Advisory Committee and Local Advisory Committees that oversee the SEUCC campaign's operations are terminated.
2. The State Employees United Community Campaign Regulations are terminated.
3. Formal charitable solicitation of state employees shall take place once a year as part of community-wide campaigns conducted by local United Way organizations.
4. State employees are encouraged to join with and provide leadership to their local United Way organizations to enhance and support their communities' annual campaign for human service.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capital in Boise on this fourteenth day of March in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-02

CONTINUING THE IDAHO CRIMINAL JUSTICE COUNCIL AND THE DRUG POLICY BOARD FOR THE STATE AND LOCAL ASSISTANCE FOR NARCOTICS CONTROL PROGRAM, REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-1

WHEREAS, combating crime and protecting citizens from criminal depredation is of vital concern to government; and

WHEREAS, it is in the best interests of the citizens of the State of Idaho that government promote efficiency and effectiveness of the criminal justice system; and

WHEREAS, communication and cooperation among the various facets of the community of criminal justice professionals is of utmost importance in promoting efficiency and effectiveness; and

WHEREAS, under provisions of the State and Local Assistance for Narcotics Control Program, established under the Anti-Drug Abuse Act of 1986, each state is strongly encouraged to establish a Drug Strategy Policy Board to serve as a forum for communication and a structure

for coordination, with responsibility for development of a statewide policy for disbursement of grant funds, representing state and local officials, components of the criminal justice system, education, and treatment;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby continue the Idaho Criminal Justice Council and charge this Council with the responsibility to facilitate communication among criminal justice professionals, to improve professionalism, and to improve cooperation and coordination at all levels of the criminal justice system, with the overall mission of reducing crime in Idaho. The Idaho Criminal Justice Council shall function as the Drug Policy Board, in conjunction with an advisory board representing state and local officials, and components of the criminal justice system, education, and treatment. The advisory board shall formulate a statewide policy for disbursement of grant funds for the Council's approval and shall make recommendations to the Council on all grant applications. Voting authority shall be vested in the Council.

The Council shall consist of fifteen (15) members comprised of the following representatives (or their designees) who shall serve at the pleasure of the Governor:

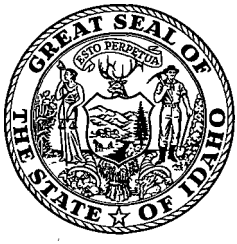
The Attorney General of the State of Idaho
The Director of the Idaho Department of Correction
The Director of the Idaho Department of Law Enforcement
The Director of the Idaho Department of Juvenile Corrections
The Executive Director of the Idaho Council on Domestic Violence
Two (2) Chiefs of Police
Two (2) Sheriffs
Two (2) Prosecuting Attorneys
One (1) representative of the juvenile justice system
One (1) representative of private security organizations
Two (2) citizens-at-large

The Drug Policy Advisory Board shall consist of the following representatives who shall serve at the pleasure of the Governor:

Four (4) members of the Criminal Justice Council
One (1) state narcotics officer
One (1) county narcotics officer
One (1) city narcotics officer
The state narcotics/drug education officer
The Health and Physical Education Consultant for the State Department of Education
The Executive Director of the Parents and Youth Against Drug Abuse Program
The Prevention Education Specialist, Substance Abuse Section, Idaho Department of Health and Welfare

This Executive Order repeals and replaces Executive Order No. 91-1.

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 the Capital in Boise on the twenty-second day of March, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 95-03

CONTINUATION OF THE DESIGNATION OF THE DEPARTMENT OF EMPLOYMENT AS THE RECIPIENT OF ALL FUNDS UNDER THE WAGNER-PEYSER ACT, AS AMENDED, BY THE JOB TRAINING PARTNERSHIP ACT TO BE ALLOCATED TO IDAHO IN SUPPORT OF THE STATE PLAN, REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-4

WHEREAS, the Job Training Partnership Act (JTPA), Public Law 97-300, wherein the Wagner-Peyser Act was amended for the purpose of fostering a new partnership between the federal government, the states, and private sector employers and to provide maximum authority and flexibility to the states in responding to the labor market needs of their jurisdictions; and

WHEREAS, Executive Order No. 91-4 assigned to the Department of Employment the general responsibility for administration of the Job Training Partnership Act of 1982; and

WHEREAS, that Act charges the Governor with substantial responsibility for implementing its provisions;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby order the following:

1. The designation of the Department of Employment as the signatory official for all grants and official documents required under the Wagner-Peyser Act, as amended;
2. The designation of the Department of Employment as the recipient of all funds to be allocated to or negotiated with Idaho in support of the state plans as required under Sections 7(a), 7(b), and 7(c) of the Act and as may be approved by the Employment and Training Administration;
3. Designation of the Department of Employment to enter into reimbursable agreements when appropriate for non-Wagner-Peyser authorized activities such as labor certification, migrant housing inspections, national labor market information, Disabled Veterans Outreach, and Local Veterans Employment Representatives; and

4. Further, as prescribed by the Act, Section 8(b), Employment Service component plans applying to each Service Delivery Area (SDA) will be developed jointly with the appropriate SDA officials and will be in accordance with the Governor's Coordination and Special Service Plan and the approved formula for distribution of resources.

This Executive Order repeals and replaces Executive Order No. 91-4.

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 the Capital in Boise on the seventh day of April in the year of our Lord nineteen hundred ninety-five and of the Independence of the United States of America the two hundred nineteenth, and of the Statehood of Idaho the one hundred fifth.

/s/ Philip E. Batt
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

INDEX

FIRST REGULAR SESSION - FIFTY-THIRD LEGISLATURE

SUBJECT INDEX

ABBREVIATIONS USED IN THIS INDEX

Approp = Appropriation
Bd = Board
Com = Commission
Comm = Committee
Dept = Department
Dist = District
F&G = Fish and Game
H&W = Health and Welfare
MV = Motor Vehicle
PUC = Public Utilities Commission
PERS = Public Employees Retirement System
INEL = Idaho National Engineering Laboratory

ABANDONED VEHICLES Chapter - Page
See MOTOR VEHICLES
ACCOUNTANTS
Accountancy, Bd, complaint, investigation, fees.....Ch.134 - 580
ACCOUNTS
Grape Growers, Wine Producers Com.....Ch.204 - 698
Medical Care Savings, income tax deduction.....Ch.362 - 1265
UCC Administrative, consolidation, Secretary/State.....Ch.163 - 643
ACTS
Collection Agency, established.....Ch.211 - 715
Disclosure of Material Transactions, (insurance co.)...Ch. 68 - 173
Environmental Audit Protection, created.....Ch.359 - 1218
Ground Water Dist, established.....Ch.290 - 982
International Banking, created.....Ch. 99 - 299
Interstate Branching, created, (banking).....Ch. 99 - 299
Juvenile Corrections, 1995, (omnibus bill).....Ch. 44 - 65
Local Land Use Planning, 1975, renamed.....Ch.181 - 664
Standard Appropriations, 1995.....Ch.153 - 620
State Trust/Outdoor Recreation Enhancement (STORE).....Ch.332 - 1103
Uniform Premarital Agreement, created.....Ch.229 - 780
University Debit Card, established.....Ch.133 - 579
AD VALOREM TAXATION
See TAX AND TAXATION, PROPERTY

ADMINISTRATION DEPARTMENT Chapter - Page
Approp.....Ch. 95 - 272
Approp.....Ch.151 - 617
Approp, CMFONI program.....Ch.151 - 617
Approp, full-time positions limited.....Ch.151 - 617
Approp, Information Technology Program, supp'l, FY95...Ch. 65 - 167
Approp, reduced, FY95.....Ch. 12 - 18
ADMINISTRATIVE PROCEDURE ACT
Rules/agency, adoption, appeal, indexing of.....Ch.270 - 868
Rules/agency, effective date, legislative review.....Ch.196 - 686
Rules/certain, continue July 1, 1996.....Ch.249 - 823
ADMINISTRATIVE RULES
See RULES
ADOPTION
Child, investigation, home study, social worker.....Ch.161 - 639
AGING, OFFICE ON
Aging, Com on, members, appointment.....Ch.189 - 676
Approp.....Ch.297 - 1042
Approp, full-time positions limited.....Ch.297 - 1042
Ombudsman for the Elderly, Office of, created.....Ch.189 - 676
AGRICULTURE
Agricultural Ground Water Quality, adopted.....Ch.273 - 920
Brand Bd, compensation reference deleted.....Ch.124 - 540
Brand inspection, false information, penalties.....Ch.123 - 539
Chemigation, license required, civil penalty.....Ch.100 - 326
Dairy processors, fees, increase, due date.....Ch. 78 - 208
Dept, approp.....Ch.242 - 803
Dept, approp, Animal Damage Control.....Ch.242 - 803
Dept, approp, Animal Industries.....Ch.242 - 803
Dept, approp, full-time positions limited.....Ch.242 - 803
Dept, approp, Inspections.....Ch.242 - 803
Dept, approp, Market & Development.....Ch.242 - 803
Dept, approp, Plant Industries.....Ch.242 - 803
Dept, approp, Sheep Com.....Ch.242 - 803
Dept, approp, supplemental, FY95.....Ch. 7 - 12
Dept, Quality Assurance Laboratory.....Ch.242 - 803
Farm produce dealers, bond, required.....Ch.101 - 326
Farm products/sacked, fraud prevention, law repealed...Ch. 71 - 183
Farm products, fraud/loss, law repealed.....Ch. 69 - 178
Grain, storage, withdraw, insure statement, repeal.....Ch. 56 - 128
Grazing Dists, Bds, renamed, terms increased.....Ch.113 - 382
Livestock, disease control fee, increase.....Ch. 33 - 51
Livestock, glanders disease, law repealed.....Ch. 57 - 128
Manure hauling vehicles, PUC jurisdiction, exempt.....Ch.102 - 329
Pesticides, airplane applicator, notice/ratite farms...Ch.217 - 755
Seed Advisory Bd, oil crop commodity, representation...Ch. 32 - 50
UofI, Research Program, approp, reduced, FY95.....Ch. 36 - 54
AIR POLLUTION
See ENVIRONMENT
AIRPLANES
Pesticide applicator, notice/48 hours, ratite farms....Ch.217 - 755
ALCOHOL
See LIQUOR

ALCOHOLIC BEVERAGES Chapter - Page
See LIQUOR
AMTRAK
See RAILROADS
ANIMALS
See also LIVESTOCK, WILDLIFE
Livestock, disease control fee, increase.....Ch. 33 - 51
Livestock, glanders disease, law repealed.....Ch. 57 - 128
ANNEXATION
Fire Protection Dist, petition, signatures reduced.....Ch. 84 - 248
APPOINTMENTS
Occupational Licenses Bureau, Chief, Gov appoint.....Ch.170 - 652
APPROPRIATIONS
Accountancy, Bd.....Ch.299 - 1043
Administration, Dept.....Ch.151 - 617
Administration, Dept, CMFONI program.....Ch.151 - 617
Administration, Dept, Personnel Com.....Ch. 95 - 272
Administration, Dept, reduced, FY95.....Ch. 12 - 18
Administration, Dept, supplemental, FY95.....Ch. 65 - 167
Aging, Office on.....Ch.297 - 1042
Agriculture, Dept.....Ch.242 - 803
Agriculture, Dept, Animal Damage Control.....Ch.242 - 803
Agriculture, Dept, Animal Industries.....Ch.242 - 803
Agriculture, Dept, Inspections.....Ch.242 - 803
Agriculture, Dept, Market & Development.....Ch.242 - 803
Agriculture, Dept, Plant Industries.....Ch.242 - 803
Agriculture, Dept, Quality Assurance Laboratory.....Ch.242 - 803
Agriculture, Dept, Sheep Com.....Ch.242 - 803
Agriculture, Dept, supplemental, FY95.....Ch. 7 - 12
Athletic Com, State.....Ch.299 - 1043
Athletic Com, State, supplemental, FY95.....Ch. 8 - 13
Attorney General.....Ch.335 - 1110
Attorney General, Special Litigation Program.....Ch.335 - 1110
Attorney General, State Legal Services Program.....Ch.343 - 1129
Blind, Visually Impaired, Com.....Ch.194 - 684
Blind, Visually Impaired, Com, supplemental, FY95.....Ch. 5 - 11
BSU.....Ch.239 - 799
BSU, Technology in Learning Council.....Ch.334 - 1109
Catastrophic Health Care Cost Fund.....Ch.323 - 1089
Catastrophic Health Care/CAT Fund, FY95.....Ch. 10 - 17
Commerce, Dept.....Ch.149 - 615
Controller, State.....Ch.198 - 689
Controller, State, supplemental, FY95.....Ch. 25 - 33
Correction, Dept.....Ch.347 - 1139
Correction, Dept, supplemental, FY95.....Ch. 20 - 29
Correctional institutions.....Ch.347 - 1139
CSI, Technology in Learning Council.....Ch.334 - 1109
Deaf & Blind School.....Ch.240 - 801
Deaf & Blind School, supplemental, FY95.....Ch. 4 - 10
Dental Education Program.....Ch.345 - 1135
Dentistry, Bd.....Ch.299 - 1043
Education, Bd, community college support.....Ch.313 - 1074
Education, Bd, Deaf & Blind School.....Ch.240 - 801

APPROPRIATIONS (Continued) Chapter - Page
Education, Bd, Economic Education Council.....Ch.293 - 1034
Education, Bd, Geological Survey Program.....Ch.293 - 1034
Education, Bd, Health Education Programs.....Ch.345 - 1135
Education, Bd, ISU, Museum of Natural History.....Ch.293 - 1034
Education, Bd, office administration.....Ch.355 - 1199
Education, Bd, office administration, supp'l, FY95.....Ch.355 - 1199
Education, Bd, public broadcasting system.....Ch.241 - 801
Education, Bd, Scholarships/Grants.....Ch.293 - 1034
Education, Bd, Small Business Development Centers.....Ch.293 - 1034
Education, Bd, Special Programs.....Ch.293 - 1034
Education, Bd, State Historical Society.....Ch.302 - 1050
Education, Bd, Technology in Learning Council.....Ch.334 - 1109
Education, Bd, UofI, Forest Research Program.....Ch.293 - 1034
Education, Bd, Vocational Education.....Ch.243 - 806
Education, Bd, Vocational Rehabilitation, Div.....Ch.300 - 1046
Employment, Dept, federal funds, construction/office...Ch. 35 - 54
Endowment Fund Investment Bd.....Ch.195 - 685
Engineers & Land Surveyors, Bd.....Ch.299 - 1043
F&G, Dept.....Ch.295 - 1038
F&G, Dept, depredation control/winter feeding.....Ch.295 - 1038
F&G, Dept, licenses, automated sales system.....Ch.307 - 1067
F&G, Dept, reduced, FY95.....Ch. 12 - 18
F&G, Dept, supplemental, FY95.....Ch. 21 - 30
Family Practice Residencies.....Ch.345 - 1135
Finance, Dept.....Ch.150 - 616
Financial Management Div.....Ch.147 - 614
Geologists Bd.....Ch.299 - 1043
Gooding School Dist, classroom space.....Ch.316 - 1078
Governor, Office of.....Ch.317 - 1079
Governor, Office of, administration.....Ch.317 - 1079
Governor, Office of, Blind, Visually Impaired, Com.....Ch.194 - 684
Governor, Office of, Financial Management Div.....Ch.147 - 614
Governor, Office of, Military Div.....Ch.237 - 798
Governor, Office of, revised, FY95, (line item VETO)...Ch. 38 - 56
H&W, Dept.....Ch.322 - 1086
H&W, Dept.....Ch.337 - 1113
H&W, Dept.....Ch.346 - 1136
H&W, Dept, Adult & ADC Assistance Payments.....Ch.322 - 1086
H&W, Dept, Bunker Hill/Environmental Remediation Fund..Ch.344 - 1130
H&W, Dept, Child Support Services.....Ch.322 - 1086
H&W, Dept, Community Mental Health Services.....Ch.337 - 1113
H&W, Dept, Community Rehabilitation, Div.....Ch.337 - 1113
H&W, Dept, Deaf/Hearing-Impaired Council.....Ch.346 - 1136
H&W, Dept, DEQ.....Ch.344 - 1130
H&W, Dept, Developmental Disabilities Council.....Ch.346 - 1136
H&W, Dept, Domestic Violence Council.....Ch.346 - 1136
H&W, Dept, Eligibility Services.....Ch.322 - 1086
H&W, Dept, Emergency Medical Services.....Ch.322 - 1086
H&W, Dept, Family Self-Support.....Ch.337 - 1113
H&W, Dept, Family/Children's Services, supp'l, FY95....Ch. 10 - 17
H&W, Dept, Family/Children's Services, supp'l, FY95....Ch. 37 - 55
H&W, Dept, Family/Community Services.....Ch.337 - 1113

APPROPRIATIONS (Continued) Chapter - Page
H&W, Dept, Indirect Support Services.....Ch.346 - 1136
H&W, Dept, INEL Oversight.....Ch.344 - 1130
H&W, Dept, Juvenile Justice.....Ch.337 - 1113
H&W, Dept, Laboratory Services.....Ch.322 - 1086
H&W, Dept, Medical Assistance Payments.....Ch.322 - 1086
H&W, Dept, Physical Health Services.....Ch.322 - 1086
H&W, Dept, reduced, FY95.....Ch. 17 - 22
H&W, Dept, State Hospital North.....Ch.337 - 1113
H&W, Dept, State Hospital South.....Ch.337 - 1113
H&W, Dept, State School and Hospital.....Ch.337 - 1113
H&W, Dept, Veterans Services.....Ch.346 - 1136
H&W, Dept, Welfare, Div, supplemental, FY95.....Ch. 10 - 17
H&W, Dept, Welfare, Div, supplemental, FY95.....Ch. 37 - 55
H&W, Dept, Youth Services Center, supplemental, FY95...Ch. 93 - 269
Health Dists, Public.....Ch.238 - 799
Hispanic Affairs, Com.....Ch.299 - 1043
Historical Society, State.....Ch.302 - 1050
Historical Society, State, supplemental, FY95.....Ch. 14 - 20
Human Rights Com.....Ch.197 - 688
Industrial Com.....Ch.298 - 1042
Insurance Fund, State.....Ch.199 - 691
Insurance Fund, State, reduced, FY95.....Ch. 12 - 18
Insurance, Dept.....Ch.192 - 682
ISU.....Ch.239 - 799
ISU, Technology in Learning Council.....Ch.334 - 1109
Juvenile Corrections, Dept.....Ch.336 - 1111
Juvenile Corrections, Dept, FY95.....Ch.260 - 843
Juvenile Corrections, Dept, Juvenile Justice Com.....Ch.336 - 1111
Labor & Industrial Services, Dept.....Ch.244 - 807
Lands, Dept.....Ch.331 - 1101
Lands, Dept, Fire Suppression Fund, supp'l, FY95.....Ch. 24 - 32
Lands, Dept, Forest Management/Fire Protection.....Ch.331 - 1101
Lands, Dept, Forest Mngmnt/Fire Protect, reduced/FY95..Ch. 19 - 27
Lands, Dept, Pest Control Deficiency, supp'l, FY95.....Ch. 24 - 32
Lands, Dept, reduced, FY95.....Ch. 19 - 27
Lands, Dept, Soil/Water Conservation.....Ch.331 - 1101
Lands, Dept, Soil/Water Conservation, reduced, FY95....Ch. 19 - 27
Lava Hot Springs Foundation.....Ch.312 - 1072
Law Enforcement, Dept.....Ch.285 - 946
Law Enforcement, Dept, Alcohol Beverage Control.....Ch.285 - 946
Law Enforcement, Dept, POST Academy.....Ch.285 - 946
Law Enforcement, Dept, Racing Com.....Ch.285 - 946
Law Library.....Ch.363 - 1273
LCSC.....Ch.239 - 799
Legislative Council, Legislative Services Office.....Ch.319 - 1082
Legislative Council, study, single university system...Ch.342 - 1129
Library, Bd, State.....Ch.236 - 796
Library, Bd, State, supplemental, FY95.....Ch. 18 - 26
Lieutenant Governor.....Ch.193 - 683
Liquor Dispensary, reduced, FY95.....Ch. 12 - 18
Liquor Dispensary, State.....Ch.261 - 844
Lottery Com.....Ch.148 - 615

APPROPRIATIONS (Continued) Chapter - Page
Medicine, Bd....Ch.299 - 1043
Military Div....Ch.237 - 798
Military Div, reduced, FY95....Ch. 12 - 18
NIC, Technology in Learning Council....Ch.334 - 1109
Nursing, Bd....Ch.299 - 1043
Occupational Licenses, Bureau of....Ch.299 - 1043
Optometry, Bd....Ch.299 - 1043
Outfitters & Guides Bd....Ch.299 - 1043
Parks & Recreation, Dept....Ch.312 - 1072
Parks & Recreation, Dept, Ashton to Tetonia Trail....Ch.309 - 1068
Parks & Recreation, Dept, reduced, FY95....Ch. 15 - 21
Parks & Recreation, Dept, supplemental, FY95....Ch. 22 - 30
Parks & Recreation, Dept, supplemental, FY95....Ch. 88 - 257
Parole Com....Ch.347 - 1139
Permanent Building Acct....Ch.310 - 1068
Permanent Building Acct, Administration/Dept/projects..Ch.310 - 1068
Permanent Building Acct, Asbestos Abatement....Ch.310 - 1068
Permanent Building Acct, BSU/UofI, Engineering plan....Ch.310 - 1068
Permanent Building Acct, Correction, Dept, projects....Ch.310 - 1068
Permanent Building Acct, EITC, Classroom/Lab Bldg....Ch.310 - 1068
Permanent Building Acct, ISU, Physical Science Bldg....Ch.310 - 1068
Permanent Building Acct, Juvenile Corrections....Ch.310 - 1068
Permanent Building Acct, Underground Storage Tanks....Ch.310 - 1068
Permanent Building Acct, UofI, Engineering/Physics....Ch.310 - 1068
PERSI....Ch.152 - 619
PERSI, 401(k) Administration Program....Ch.308 - 1067
Personnel Com, full-time positions limited....Ch. 95 - 272
Pharmacy, Bd....Ch.299 - 1043
Public School Income Fund....Ch. 89 - 257
Public School Technology Program....Ch. 89 - 257
Public schools, Substance Abuse Programs, supp'l....Ch.160 - 637
Public Works Contractors State License Bd....Ch.299 - 1043
PUC....Ch.130 - 563
PUC, supplemental, FY95....Ch.130 - 563
Racing, Com, supplemental, FY95....Ch. 23 - 31
Real Estate Com....Ch.299 - 1043
Revenue & Taxation, Dept....Ch.301 - 1048
Secretary of State....Ch.257 - 840
Self-governing agencies....Ch.299 - 1043
Shorthand Reporters/Certified, Bd....Ch.299 - 1043
Snake Basin Adjudication, reduced, FY95....Ch. 6 - 12
Snake Basin Adjudication, Water Resources, Dept....Ch.315 - 1076
Snake Basin Adjudication, Water Resources, Dept....Ch.343 - 1129
Standard, Act, 1995....Ch.153 - 620
Substance Abuse Program, public schools, intent....Ch.284 - 945
Superintendent of Public Instruction/Education, Dept...Ch.146 - 613
Supreme Court....Ch.363 - 1273
Transportation Dept....Ch.324 - 1090
Transportation Dept, pavement rehabilitation program...Ch.278 - 939
Transportation Dept, pavement rehabilitation program...Ch.139 - 593
Transportation Dept, roads/bridges, (line item VETO)...Ch.139 - 593
Treasurer, State....Ch.263 - 845

APPROPRIATIONS (Continued) Chapter - Page
UofI.....Ch.239 - 799
UofI, Agricultural Research Program.....Ch.282 - 943
UofI, Agricultural Research Program, reduced, FY95.....Ch. 36 - 54
UofI, Agricultural Research, sugar beet rhizomania.....Ch.325 - 1091
UofI, Center for Business Development/Research.....Ch.333 - 1108
UofI, Cooperative Extension Program.....Ch.282 - 943
UofI, Technology in Learning Council.....Ch.334 - 1109
Veterinary Medicine, Bd.....Ch.299 - 1043
Vocational Education.....Ch.243 - 806
Vocational Rehabilitation, Div.....Ch.300 - 1046
Vocational Rehabilitation, Div, Independent Living.....Ch.300 - 1046
WAMI Education Program.....Ch.345 - 1135
Water Management Fund.....Ch.200 - 692
Water Management Fund, Snake River Aquifer, recharge...Ch.200 - 692
Water Management Fund, Soda Springs Dam site, study....Ch.200 - 692
Water Resources, Dept.....Ch.315 - 1076
Water Resources, Dept, reduced, FY95.....Ch. 6 - 12
Water Resources, Dept, supplemental, FY95.....Ch. 13 - 20
Water Resources, Dept, supplemental, FY95.....Ch. 86 - 250
WICHE/University of Utah, Education, Bd.....Ch.345 - 1135
WOI Veterinary Education Program.....Ch.345 - 1135
Women's Programs, Com on.....Ch.262 - 844
ARCHERY
Season, crossbow hunting, handicapped provisions.....Ch.366 - 1280
ASSESSMENTS
See TAX AND TAXATION
ATHLETICS
Com, State, approp, supplemental, FY95.....Ch. 8 - 13
Com, State, approp, supplemental, FY95.....Ch.299 - 1043
World Sports Humanitarian Hall of Fame, encouraged.....SCR122 - 1334
ATTORNEY GENERAL
Approp.....Ch.335 - 1110
Approp, full-time positions limited.....Ch.343 - 1129
Approp, full-time positions limited.....Ch.335 - 1110
Approp, Special Litigation Program.....Ch.335 - 1110
Approp, State Legal Services Program.....Ch.343 - 1129
Legal services/state/all, perform, exceptions.....Ch.141 - 599
Residence requirement, repealed.....Ch. 30 - 48
ATTORNEYS
Prosecuting, Payette County, full-time, when.....Ch.191 - 682
AUCTIONS AND AUCTIONEERS
License, required.....Ch.206 - 701
AUDITOR, STATE
See CONTROLLER
AUDITS
Environmental, disclosure requirements.....Ch.359 - 1218
BANKS AND BANKING
Garnishment search fee, records.....Ch.330 - 1099
Interstate/international, federal conformity.....Ch. 99 - 299
Investment securities, UCC, article 8, enacted.....Ch.272 - 873
University debit card, campus purchases only.....Ch.133 - 579

BARBERS Chapter - Page
Barbershops, license, fees, supervision requirement....Ch. 77 - 207
Teacher's certificate, eligibility, qualifications.....Ch.225 - 776
BARLEY
See AGRICULTURE
BEARS
See WILDLIFE
BEER
See also LIQUOR
Licensees, manufacturers/wholesalers/retailers.....Ch.311 - 1071
Retailers, wholesaler assistance reference, deleted....Ch.172 - 654
Sales, definitions, revised.....Ch.311 - 1071
BEVERAGES
See LIQUOR
BIDS
Competitive, city, requirements.....Ch.164 - 644
Conflict, application, state land lease/grazing.....Ch.231 - 783
Conflict, application, state land lease, date.....Ch.174 - 655
Counties, joint purchasing agreements.....Ch.171 - 653
BINGO
Regulations, Advisory Bd, membership/powers/duties.....Ch.350 - 1151
BIRTH CERTIFICATES
Natural father/name, entered, affidavit/notarized.....Ch. 53 - 120
Paternity, determination, report, form, simplified.....Ch. 31 - 49
Registration, filing, state registrar.....Ch. 28 - 42
BLIND
Com, Visually Impaired, approp.....Ch.194 - 684
Com, Visually Impaired, approp, supp'l FY95.....Ch. 5 - 11
Deaf & Blind School, approp.....Ch.240 - 801
Deaf & Blind School, approp/full-time positions/limit..Ch.240 - 801
BOISE STATE UNIVERSITY
See COLLEGES AND UNIVERSITIES
BONDS
Farm produce dealers, additional.....Ch.101 - 326
Manufactured home dealer, money deposit, in lieu of....Ch.202 - 694
BRANDS
Bd, compensation reference, deleted.....Ch.124 - 540
Inspections, false information, penalties.....Ch.123 - 539
BREWERIES
Beer, licensure, definitions, clarified.....Ch.311 - 1071
BRIDGES
Bridge/ferry license, authorized.....Ch.206 - 701
BROADCASTING
See PUBLIC BROADCASTING
BUDGETS
County, procedures, clarified, revised.....Ch. 61 - 134
Governor's, Address.....HCR2 - 1336
State, annual, format, Financial Management, Div.....Ch.153 - 620
BUSES
School, construction standards, adoption.....Ch.259 - 843
BUSINESS
General, corporations, filing requirements/Sec/State...Ch.126 - 542
License, required, taxes, distribution.....Ch.206 - 701

BUSINESS (Continued) Chapter - Page
Limited liability partnerships, registration.....Ch. 92 - 263
CANCER
Central, Registry Fund, purpose, reporting.....Ch. 67 - 170
CANDIDATES
Election, various offices, term limits.....Initiative 2 - 1371
Independent, declaration, filing time.....Ch.115 - 385
CAPITOL MALL
Fiber Optic Network, CMFONI program, approp.....Ch.151 - 617
CARE FACILITIES
See HOSPITALS, NURSING HOMES
CATTLE
See LIVESTOCK
CENSUS
2000, Reapportionment Com, legislative study comm.....SCR105 - 1297
CHARITIES
Food, surplus/prepared, restaurants donate.....Ch. 85 - 249
Ronald McDonald House, rooms, sales tax exempt.....Ch.219 - 762
Sales Tax Act, exemptions/certain.....Ch. 54 - 122
CHILD PROTECTIVE ACT
Child abuse, evidence of, reporting, ministers/exempt..Ch.328 - 1097
Child abuse, evidence of, reporting, ministers exempt..Ch.329 - 1098
Child abuse, report/false, civil damages.....Ch.276 - 924
CHILD SUPPORT
See CHILDREN, DOMESTIC RELATIONS
CHILDREN
Abuse, allegation, divorce proceeding, investigation...Ch.275 - 923
Abuse, report/false, civil damages.....Ch.276 - 924
Abuse, report/false, misdemeanor penalties.....Ch.275 - 923
Abuse, reporting of, ministers exempt.....Ch.328 - 1097
Abuse, reporting of, ministers exempt.....Ch.329 - 1098
Adoption, investigation, home study, social worker.....Ch.161 - 639
Birth certificate, natural father/name, by affidavit...Ch. 53 - 120
Birth certificate, paternity report, form simplified...Ch. 31 - 49
Child custody, grandparents considered, when.....Ch.128 - 561
Child safety seat, MV, required, any operator.....Ch. 55 - 127
Child support, guidelines, sunset date, postponed.....Ch.258 - 841
Child support, income withholding, employer penalty....Ch.201 - 693
Child support, judgment, lien, 23 years, nonrenewal....Ch.264 - 846
Child support, payment, to caregiver.....Ch.320 - 1083
Immunization, Hepatitus B, H&W, Dept, rule amended.....HCR15 - 1361
Immunization, Hepatitus B, H&W, Dept, rule amended.....HCR16 - 1362
Paternity, genetic tests, H&W, Dept, filiation order...Ch.234 - 791
Trusts, court approved payments.....Ch.214 - 742
CIGARETTES
Tax, distribution, counties, juvenile services.....Ch.368 - 1281
Tax, moneys, Substance Abuse Programs, public schools..Ch.160 - 637
Tax, unstamped, transporter, documentation required....Ch. 43 - 64
CIRCUIT BREAKER TAX RELIEF
See TAX AND TAXATION, PROPERTY
CITIES
Bids/competitive, requirements.....Ch.164 - 644
Computerized mapping system, fees, collection.....Ch.129 - 562

CITIES (Continued) Chapter - Page
Construction, energy conservation, administration.....Ch.292 - 1025
Employees, seasonal/casual, defined, PERSI.....Ch.143 - 606
Franchise ordinances, utilities, fees.....Ch.226 - 777
Hospital authorities, joint county-city, created.....Ch.221 - 765
Hospitals, lease, nonprofit corporation.....Ch.222 - 768
Officers, term limits.....Initiative 2 - 1371
Surface mining, reclamation plan, notice.....Ch.364 - 1274
CIVIL ACTIONS
Child abuse, report/false, civil damages.....Ch.276 - 924
Judgments, fines, collection, execution, when.....Ch.205 - 700
CLEAN INDOOR AIR ACT
See ENVIRONMENT
CLERGY
Evidence/child abuse, reporting required, immunity.....Ch.328 - 1097
Evidence/child abuse, reporting required, immunity.....Ch.329 - 1098
COLLECTION AGENCIES
Act, created, offices, home/branch, requirements.....Ch.211 - 715
COLLECTIVE BARGAINING
Right to work, applicable, private/public employment...Ch.178 - 662
COLLEGES AND UNIVERSITIES
BSU, approp.....Ch.239 - 799
BSU, approp, Technology in Learning Council.....Ch.334 - 1109
Community, approp.....Ch.313 - 1074
CSI, approp, Technology in Learning Council.....Ch.334 - 1109
Debit card program, campus purchases only.....Ch.133 - 579
Donation, equipment/technological, income tax deduct...Ch.314 - 1075
Education, Bd, approp, Dental Education Program.....Ch.345 - 1135
Education, Bd, approp, Economic Education Council.....Ch.293 - 1034
Education, Bd, approp, Family Practice Residencies.....Ch.345 - 1135
Education, Bd, approp, full-time positions limited.....Ch.293 - 1034
Education, Bd, approp, Geological Survey Program.....Ch.293 - 1034
Education, Bd, approp, Health Education Programs.....Ch.345 - 1135
Education, Bd, approp, ISU, Museum of Natural History..Ch.293 - 1034
Education, Bd, approp, Scholarships/Grants.....Ch.293 - 1034
Education, Bd, approp, Small Business Development.....Ch.293 - 1034
Education, Bd, approp, Special Programs.....Ch.293 - 1034
Education, Bd, approp, WAMI Program.....Ch.345 - 1135
Education, Bd, approp, WICHE/University of Utah.....Ch.345 - 1135
Education, Bd, approp, WOI Veterinary Education Prog...Ch.345 - 1135
Education, Bd, nursing education programs, approve.....Ch.351 - 1163
ISU, approp.....Ch.239 - 799
ISU, approp, Technology in Learning Council.....Ch.334 - 1109
LCSC, approp.....Ch.239 - 799
LCSC, approp, Technology in Learning Council.....Ch.334 - 1109
NIC, approp, Technology in Learning Council.....Ch.334 - 1109
Single university system, study, approp.....Ch.342 - 1129
Single university system, study, consultant, budget.....HCR17 - 1363
UofI, approp.....Ch.239 - 799
UofI, approp, Ag Research, full-time positions limit...Ch.282 - 943
UofI, approp, Ag Research, sugar beet rhizomania.....Ch.325 - 1091
UofI, approp, Agricultural Research Program.....Ch.282 - 943
UofI, approp, Agricultural Research, reduced, FY95.....Ch. 36 - 54

COLLEGES AND UNIVERSITIES (Continued) Chapter - Page
UofI, approp, Cooperative Extension Program.....Ch.282 - 943
UofI, approp, Technology in Learning Council.....Ch.334 - 1109
UofI, Center for Business Development/Research.....Ch.333 - 1108
COMMERCE
Dept, approp.....Ch.149 - 615
Dept, approp, full-time positions limited.....Ch.149 - 615
COMMERCIAL TRANSACTIONS
Interest, legal rate, calculated, method revised.....Ch.304 - 1053
COMMITTEES
Legislative, minutes, format, Joint Rule 19.....SCR101 - 1293
COMMODITIES
Oil crop, Seed Advisory Bd, representation.....Ch. 32 - 50
COMPUTERS
Capitol Mall Fiber Optic Network, CMFONI, approp.....Ch.151 - 617
Computerized mapping systems, city collect fees.....Ch.129 - 562
Licensing equipment, F&G, Dept.....Ch.287 - 951
CONFERENCES
CSG, restore balance/federal, state sovereignty.....SCR103 - 1294
CONSERVATION
Energy-efficient construction standards, adopted.....Ch.292 - 1025
Soil, Dist, supervisors, election.....Ch.256 - 837
CONSTITUTION
Constitutional Defense Council created.....Ch.327 - 1096
U.S., amendment, advisory vote provision, deleted.....Ch.227 - 779
U.S., 10th amendment, state sovereignty claimed.....HCR7 - 1343
CONSTITUTIONAL AMENDMENTS
U.S., referendum, advisory vote provision, deleted.....Ch.227 - 779
U.S., 10th, state sovereignty claimed.....HCR7 - 1343
CONSTRUCTION
County Building, Fund, law enforcement facilities.....Ch.369 - 1284
Energy-efficient, standards, adopted.....Ch.292 - 1025
CONTRACTORS
Plumbing, specialty, licensure, certification.....Ch.253 - 828
CONTRACTS
Printing, legislative bills.....HCR3 - 1337
Printing, legislative journals.....HCR4 - 1339
Printing, Session Laws.....HCR8 - 1344
CONTROLLED SUBSTANCES ACT
Drug list, federal regulations, conformance.....Ch. 1 - 3
Drug trafficking sentence, not suspended/withheld.....Ch. 58 - 129
Heroin, trafficking in, penalty reduced, when.....Ch.103 - 331
CONTROLLER
State, approp.....Ch.198 - 689
State, approp, full-time positions limited.....Ch.198 - 689
State, approp, supplemental, FY95.....Ch. 25 - 33
State, residence requirement, repealed.....Ch. 30 - 48
CORPORATIONS
General business, filing requirements/Secretary/State..Ch.126 - 542
Income tax, computation, taxable income, clarified.....Ch.111 - 347
Nonprofit, city hospitals, lease.....Ch.222 - 768
S, income tax, capital gains, partnerships.....Ch. 83 - 238

CORRECTIONS Chapter - Page
Bd, prisoner furlough, serious illness, treatment.....Ch. 34 - 52
Dept, approp.....Ch.347 - 1139
Dept, approp, full-time positions limited.....Ch.347 - 1139
Dept, approp, Parole Com.....Ch.347 - 1139
Dept, approp, supplemental, FY95.....Ch. 20 - 29
Juvenile, Dept, approp.....Ch.336 - 1111
Juvenile, Dept, approp, full-time positions limited....Ch.336 - 1111
Juvenile, Dept, approp, FY95.....Ch.260 - 843
Juvenile, Dept, established, (omnibus bill).....Ch. 44 - 65
Juvenile, Dept, HB98, trailer bill.....Ch.277 - 925
CORRECTIONAL INSTITUTIONS
Approp, Correction, Dept.....Ch.347 - 1139
Juvenile offender, detention, costs, parents pay.....Ch.354 - 1198
Juvenile offender, detention, escape from, penalties...Ch. 74 - 194
Juvenile offender, detention, fingerprints/photos.....Ch. 49 - 115
Juvenile offender, detention, staff/assault, penalty...Ch. 51 - 118
Prisoners, furlough, serious illness, treatment.....Ch. 34 - 52
COUNSELORS
Domestic violence counseling, required, when.....Ch.223 - 770
COUNTIES
Ada, endowment land, lease, long-term, commercial use..Ch.185 - 670
Budget, procedures, revised, clarified.....Ch. 61 - 134
Building Construction Fund, law enforcement facilities.Ch.369 - 1284
Construction, energy conservation, administration.....Ch.292 - 1025
Government, optional forms, legislative study comm.....HCR20 - 1366
Hospital authorities, joint county-city, created.....Ch.221 - 765
Joint purchasing agreements, program.....Ch.171 - 653
Juvenile services, cigarette tax, distribution.....Ch.368 - 1281
Medical indigent, claims, limit, $10,000, balance CAT..Ch. 9 - 14
Officers, military leave of absence, compensation.....Ch.114 - 384
Officers, term limits.....Initiative 2 - 1371
Payette, prosecuting attorney, full-time, when.....Ch.191 - 682
Property, lease, play field, memorial stadium.....Ch.156 - 633
Surface mining, reclamation plan, notice.....Ch.364 - 1274
COURTS
Child custody, grandparents considered, when.....Ch.128 - 561
Child support, guidelines, sunset date, postponed.....Ch.258 - 841
Child support, income withholding, employer penalty....Ch.201 - 693
Child support, judgment, lien, 23 years, nonrenewal....Ch.264 - 846
Child support, payment, to caregiver.....Ch.320 - 1083
Crime victims, rights, investigation/prosecution.....Ch.142 - 604
Death sentence, post-conviction petition, new counsel..Ch.140 - 594
Defendant, bail, deposit in lieu of, disposition.....Ch.158 - 636
Defendant, right to counsel, appointment, when.....Ch. 59 - 130
Double jeopardy, crime/single act, two/more crimes.....Ch. 16 - 22
Drug trafficking sentence, not suspended/withheld.....Ch. 58 - 129
Evidence, records, optical imaging, admissibility.....Ch. 39 - 58
Juvenile evidentiary hearing, witness, intimidation....Ch. 50 - 117
Juvenile offender, arson/first degree, tried as adult..Ch. 48 - 114
Juvenile offender, crimes/certain, detention time.....Ch. 45 - 107
Juvenile offender, detention costs, parents pay, when..Ch.354 - 1198
Juvenile offender, restitution, victim, limitation.....Ch.274 - 920

COURTS (Continued) Chapter - Page
Juvenile offender, tried as adult, stay/adult court....Ch. 46 - 110
Juvenile offender, under 14, tried as adult, when.....Ch. 47 - 111
Prisoner/sentenced, jurisdiction, 1st 180 days.....Ch.247 - 817
Small claims, personal property, recovery, when.....Ch.183 - 669
Supreme, approp.....Ch.363 - 1273
Trusts, awards, minors, incompetent persons.....Ch.214 - 742
CRIME
See CRIMINAL OFFENSES & PROCEDURES
CRIMINAL OFFENSES & PROCEDURES
Child abuse, allegation, divorce, investigation.....Ch.275 - 923
Child abuse, evidence of, reporting, ministers exempt..Ch.329 - 1098
Child abuse, reports/false, misdemeanor penalties.....Ch.275 - 923
Death sentence, post-conviction petition, new counsel..Ch.140 - 594
Defendant, bail, deposit in lieu of, disposition.....Ch.158 - 636
Defendant, right to counsel, 6 months jail included....Ch. 59 - 130
Domestic violence, conviction, counseling required.....Ch.223 - 770
Domestic violence, protection order, renewal, 1 year...Ch.357 - 1212
Double jeopardy, crime, single act, two/more crimes....Ch. 16 - 22
Drug trafficking sentence, not suspended/withheld.....Ch. 58 - 129
DUI, administrative license suspend, enforcement/stay..Ch.190 - 681
Fines, nonpayment, jail time, credit, $35/day.....Ch.265 - 848
Fingerprints, processing, fee, established.....Ch. 29 - 46
Heroin, trafficking in, penalty reduced, when.....Ch.103 - 331
Juvenile Corrections Act, HB98, trailer bill.....Ch.277 - 925
Juvenile Corrections Act, 1995, (omnibus bill).....Ch. 44 - 65
Juvenile hearing, witness intimidation, prohibited.....Ch. 50 - 117
Juvenile offender, arson/first degree, tried as adult..Ch. 48 - 114
Juvenile offender, crimes/certain, detention time.....Ch. 45 - 107
Juvenile offender, detention ctr personnel, assault....Ch. 51 - 118
Juvenile offender, detention costs, parents pay, when..Ch.354 - 1198
Juvenile offender, detention, escape from, penalty.....Ch. 74 - 194
Juvenile offender, detention, fingerprints/photos.....Ch. 49 - 115
Juvenile offender, restitution, victim, limitation.....Ch.274 - 920
Juvenile offender, tried as adult, stay/adult court....Ch. 46 - 110
Juvenile offender, under 14, tried as adult, when.....Ch. 47 - 111
Marijuana, possession/minor, penalties increased.....Ch.361 - 1264
Parks & Recreation areas, rule violation, infraction...Ch. 40 - 59
Prisoner/sentenced, court jurisdiction, 1st 180 days...Ch.247 - 817
Prisoners, furlough, serious illness, treatment.....Ch. 34 - 52
Theft/grand, series of, common scheme/plan, penalty....Ch.216 - 754
Victims, rights, investigation/prosecution.....Ch.142 - 604
CRIMINALS
See CRIMINAL OFFENSES & PROCEDURES
CROPS
See AGRICULTURE
DAIRY PRODUCTS
See AGRICULTURE, MILK & MILK PRODUCTS
DAMS
Repairs, emergency, deficiency warrants.....Ch.282 - 943
DEAF
Deaf & Blind School, approp.....Ch.240 - 801
Deaf & Blind School, approp/full-time positions/limit..Ch.240 - 801

DEAF (Continued) Chapter - Page
Deaf & Blind School, approp, supplemental, FY95.....Ch. 4 - 10
DEATH
Certificate, registration, filing, state registrar.....Ch. 28 - 42
Sentence, post-conviction petition, new counsel.....Ch.140 - 594
DEEDS
Trust, reconveyance, release, conditions.....Ch.326 - 1092
DEVELOPMENT
Planned unit developments, Recreation Dists.....Ch.353 - 1193
DISABLED
Children, MV license plate/handicapped, parents.....Ch.246 - 815
Handicapped, archery seasons, crossbow provisions.....Ch.366 - 1280
DISEASES
Hepatitus B, immunization/children, rule amended.....HCR15 - 1361
Hepatitus B, immunization/children, rule amended.....HCR16 - 1362
Livestock, control fee, increase.....Ch. 33 - 51
Livestock, glanders, law repealed.....Ch. 57 - 128
DISTRICTS
See also SCHOOL DISTRICTS
Fire Protection, annexation, petition, signatures.....Ch. 84 - 248
Grazing, Bds, renamed, terms increased.....Ch.113 - 382
Health, Public, approp.....Ch.238 - 799
Highway, Coms, recall election, petition, form.....Ch.245 - 809
Hospital, election date, 4th Tuesday/May, when.....Ch.154 - 631
Irrigation, election dates, conformity.....Ch.125 - 541
Library, elections/trustees, public/free, code update..Ch.119 - 513
Port, records/certain, exempt disclosure.....Ch.207 - 703
Recreation, planned unit development, electors.....Ch.353 - 1193
Recreation, public transportation system, authorized...Ch.353 - 1193
Soil Conservation, supervisors, election.....Ch.256 - 837
Special, officers/elected, recall, signatures/form.....Ch.266 - 848
Taxing, budget cap, HB156, technical correction.....Ch.155 - 632
Taxing, name change, procedure.....Ch.159 - 636
Uniform, Elections Law, consolidation, conformance.....Ch.118 - 417
Water Measurement, created.....Ch.291 - 1013
Water, Ground, established.....Ch.290 - 982
Water, Ground, Management, artesian wells/repair plan..Ch.294 - 1036
DIVORCE
See DOMESTIC RELATIONS
DOMESTIC RELATIONS
Adoption, child, home study, social worker.....Ch.161 - 639
Birth certificate, natural father/name, by affidavit...Ch. 53 - 120
Birth certificate, paternity report, form simplified...Ch. 31 - 49
Child support, guidelines, sunset date, postponed.....Ch.258 - 841
Child support, income withholding, employer penalty....Ch.201 - 693
Child support, judgment, lien, 23 years, nonrenewal....Ch.264 - 846
Child support, payment, to caregiver.....Ch.320 - 1083
Divorce, child abuse, allegation, investigation.....Ch.275 - 923
Divorce, child abuse, reports/false, misdemeanor.....Ch.275 - 923
Divorce, child custody, grandparents considered, when..Ch.128 - 561
Marriage, common-law, not recognized after 1/1/96.....Ch.104 - 334
Paternity, genetic tests, H&W, Dept, filiation order...Ch.234 - 791
Premarital agreements, enforceability.....Ch.229 - 780

DOMESTIC VIOLENCE Chapter - Page
Conviction, counseling required.....Ch.223 - 770
Protection order, renewed, 1 year terms.....Ch.357 - 1212
DONATIONS
Food, surplus/prepared, restaurants, to charities.....Ch. 85 - 249
DRIVER TRAINING
Program, School Dist, reimbursement, factor increased..Ch.279 - 939
DRIVERS
See also MOTOR VEHICLES
DUI, administrative license suspend, enforcement/stay..Ch.190 - 681
License, class D, renewal by mail, fee.....Ch. 76 - 205
License, motorcycle endorsement, skills test, 9/1/98...Ch.339 - 1119
License, suspended, marijuana possession by minor.....Ch.361 - 1264
Training program, School Dist, reimbursement, factor...Ch.279 - 939
DRUGS
Controlled substance, schedule I & II, list amended....Ch. 1 - 3
DUI, administrative license suspend, enforcement/stay..Ch.190 - 681
Heroin, trafficking in, penalty reduced, when.....Ch.103 - 331
Substance Abuse Programs, public schools, tobacco tax..Ch.160 - 637
Trafficking, sentence, not suspended/withheld.....Ch. 58 - 129
EDUCATION
See also COLLEGES AND UNIVERSITIES, VOCATIONAL EDUCATION
Alternative high school, report/annual, expenditures...Ch.108 - 341
Attendance/school, denial, expulsion/other schools.....Ch.252 - 827
Attendance/school, denial, suspension, extended.....Ch.250 - 825
Bd, approp, BSU, ISU, LCSC, UofI.....Ch.239 - 799
Bd, approp, BSU, Technology in Learning Council.....Ch.334 - 1109
Bd, approp, community colleges.....Ch.313 - 1074
Bd, approp, CSI, Technology in Learning Council.....Ch.334 - 1109
Bd, approp, Deaf & Blind School.....Ch.240 - 801
Bd, approp, Deaf & Blind School, supplemental, FY95....Ch. 4 - 10
Bd, approp, Dental Education Program.....Ch.345 - 1135
Bd, approp, Economic Education Council.....Ch.293 - 1034
Bd, approp, Geological Survey Program.....Ch.293 - 1034
Bd, approp, Health Education Programs.....Ch.345 - 1135
Bd, approp, ISU, Museum of Natural History.....Ch.293 - 1034
Bd, approp, ISU, Technology in Learning Council.....Ch.334 - 1109
Bd, approp, LCSC, Technology in Learning Council.....Ch.334 - 1109
Bd, approp, Library, Bd, State, supplemental, FY95.....Ch. 18 - 26
Bd, approp, NIC, Technology in Learning Council.....Ch.334 - 1109
Bd, approp, office administration.....Ch.355 - 1199
Bd, approp, office administration, supp'l, FY95.....Ch.355 - 1199
Bd, approp, office/admin, full-time positions limited..Ch.355 - 1199
Bd, approp, public broadcasting system.....Ch.241 - 801
Bd, approp, Scholarships/Grants.....Ch.293 - 1034
Bd, approp, Small Business Development Centers.....Ch.293 - 1034
Bd, approp, Special Programs.....Ch.293 - 1034
Bd, approp, Special Progs/full-time positions/limit....Ch.293 - 1034
Bd, approp, State Historical Society.....Ch.302 - 1050
Bd, approp, UofI, Forest Research Program.....Ch.293 - 1034
Bd, approp, UofI, Technology in Learning Council.....Ch.334 - 1109
Bd, approp, Vocational Education.....Ch.243 - 806
Bd, approp, Vocational Rehabilitation, Div.....Ch.300 - 1046

EDUCATION (Continued) Chapter - Page
Bd, approp, WAMI Education Program.....Ch.345 - 1135
Bd, approp, WICHE, University of Utah.....Ch.345 - 1135
Bd, approp, WOI Veterinary Education Program.....Ch.345 - 1135
Bd, Goals 2000, federal funds, expenditure, approval...Ch.355 - 1199
Bd, nursing education requirements, approval required..Ch.351 - 1163
Bd, school bus construction standards, adoption.....Ch.259 - 843
BSU, approp.....Ch.239 - 799
Driver training, School Dist, reimbursement, factor....Ch.279 - 939
Enrollment/dual, alternative/public schools.....Ch.224 - 775
Experienced-Based Career, Program, school dists.....HCR23 - 1367
Firearms, on school property, student expelled.....Ch.248 - 819
Juvenile, Corrections Act, records, release, when.....Ch.218 - 755
Literacy Month, November 1995, recognized.....SCR104 - 1296
Proprietary schools, degrees conferred, authority.....Ch.107 - 340
Public School Income Fund, approp.....Ch. 89 - 257
Public School Technology Program, approp.....Ch. 89 - 257
School Dist, levies/M&O, reduced .4% to .3%.....Ch. 26 - 33
Single university system, study, approp.....Ch.342 - 1129
Single university system, study, consultant.....HCR17 - 1363
Substance Abuse Programs, tobacco tax moneys.....Ch.160 - 637
Superintendent of Public Instruction, approp.....Ch.146 - 613
Support Program, ADA calculation, natural disasters....Ch.306 - 1057
Support Program, distribution/minimum, each dist.....Ch.321 - 1085
Support Program, staff allowance, appeal procedure.....Ch.271 - 871
Support Program, staff allowance, computation.....Ch. 52 - 119
Teachers, unethical conduct/allegation, hearing.....Ch.235 - 794
UofI, approp, Ag Research, sugar beet rhizomania.....Ch.325 - 1091
UofI, approp, Agricultural Research Program.....Ch.282 - 943
UofI, approp, Center/Business Development/Research.....Ch.333 - 1108
UofI, approp, Cooperative Extension Service.....Ch.282 - 943
Values/character, legislative commitment, Book/Virtue...HCR19 - 1364
ELDERLY
See SENIOR CITIZENS
ELECTIONS
Candidates, independent, declaration, filing time.....Ch.115 - 385
Candidates, various offices, term limits.....Initiative 2 - 1371
Ground Water Dists, voter qualifications.....Ch.290 - 982
Hospital Dists, date, 4th Tuesday/May, when.....Ch.154 - 631
Irrigation Dists, dates, conformity.....Ch.125 - 541
Library Dist, conformity, code update.....Ch.119 - 513
Recall, Highway Dist Coms, petition, form.....Ch.245 - 809
Recall, special dist officers, signatures, form.....Ch.266 - 848
Recreation Dists, elector/qualified, defined.....Ch.353 - 1193
Soil conservation dists supervisors.....Ch.256 - 837
U.S. constitutional amendment, advisory vote deleted...Ch.227 - 779
Uniform Dist, Law, consolidation, conformance.....Ch.118 - 417
Voter registration, administration, compliance.....Ch.215 - 747
EMPLOYEES AND EMPLOYMENT
Child support, income withholding, employer penalty....Ch.201 - 693
Dept, approp, federal funds, construction, offices.....Ch. 35 - 54
Financial Management, Div, exempt Personnel Com.....Ch.365 - 1276
Firefighter/paid, applicant, standards, ineligibility..Ch.188 - 675

EMPLOYEES AND EMPLOYMENT (Continued) Chapter - Page
PERSI, employee/city, seasonal/casual, defined.....Ch.143 - 606
PERSI, supplemental benefit plans.....Ch.120 - 520
Right to work, applicable, private/public employment...Ch.178 - 662
School Dist, Support Program, staff allowance.....Ch. 52 - 119
School Dist, Support Program, staff allowance, appeal..Ch.271 - 871
Small Employer Health Insurance Act, amended.....Ch.360 - 1235
State, classified to nonclassified, certain positions..Ch.365 - 1276
State, Personnel Matters/Special Comm on, repealed.....Ch.208 - 709
State, vacation time accrual, authorization.....Ch.210 - 714
Teachers, unethical conduct/allegation, hearing.....Ch.235 - 794
Unemployment benefits, reemployment services, require..Ch. 98 - 289
EMPLOYMENT SECURITY LAW
Insurance benefits, reemployment services, required....Ch. 98 - 289
ENDOWMENT FUND
Investment Bd, approp.....Ch.195 - 685
Investment Bd, approp, full-time positions limited.....Ch.195 - 685
ENERGY
Alternative, device/residential, tax deduction.....Ch. 91 - 261
Efficient construction standards, adopted.....Ch.292 - 1025
ENVIRONMENT
Air pollution, rules, H&W, Dept, amended.....SCR114 - 1298
Air pollution, rules, H&W, Dept, amended.....SCR116 - 1312
DEQ, administrators, classification to nonclassified...Ch.365 - 1276
Environmental Health Specialists, Bd, exam, fees.....Ch. 11 - 17
Environmental audits, disclosure requirements.....Ch.359 - 1218
Indoor air quality, new homes, warning notice.....Ch.292 - 1025
ESTATES
Assets list, sent, Tax Com, requirement deleted.....Ch.166 - 648
Personal property, collection, affidavit.....Ch.167 - 650
Recovery claim, medical assistance liens, property.....Ch.105 - 336
Trust, trustees, additional powers.....Ch.180 - 663
EVIDENCE
Records, optical imaging process, admissibility.....Ch. 39 - 58
EXAMINERS BOARD
Deficiency warrants, dams, emergency repairs.....Ch.283 - 944
Employees/state, vacation time accrual, authorization..Ch.210 - 714
EXECUTIVE MANSION
Governor's Housing Comm, created, duties, members.....Ch.367 - 1281
EXECUTIVE ORDERS
94-04 thru 94-13.....1377
95-01 thru 95-03.....1401
FARMS
See AGRICULTURE
FEDERAL GOVERNMENT
See GOVERNMENT
FEDERAL LAWS
National Highway System, Congress approve, requested.....HJM2 - 1290
Vocational Rehabilitation Act, references, corrected...Ch. 2 - 9
FEES
Accountants, licensure, applications/all.....Ch.134 - 580
Amusement devices, permit, in lieu of tax.....Ch.340 - 1126
Barbershops, license, maximum.....Ch. 77 - 207

FEES (Continued) Chapter - Page
Computerized mapping systems, city.....Ch.129 - 562
Dairy processors, increase, due date.....Ch. 78 - 208
Environmental Health Specialists, Bd, exam, license....Ch. 11 - 17
F&G, migratory waterfowl stamp, sunset date extended...Ch.175 - 657
Fingerprints, processing.....Ch. 29 - 46
Garnishment search, bank records.....Ch.330 - 1099
Hazardous waste disposal, rendered nonhazardous.....Ch.127 - 560
Livestock disease control, increase.....Ch. 33 - 51
Manufactured home dealer, money deposit in lieu/bond...Ch.202 - 694
Motor carriers, uniform per vehicle.....Ch.131 - 564
MV, drivers license, class D, renewal by mail.....Ch. 76 - 205
Podiatrists, Bd, exam, licensure.....Ch. 27 - 41
FINANCE
Dept, approp.....Ch.150 - 616
Dept, approp, full-time positions limited.....Ch.150 - 616
Investment securities, UCC, article 8, enacted.....Ch.272 - 873
FINANCIAL INSTITUTIONS
See BANKS AND BANKING
FINANCIAL MANAGEMENT
Div, approp.....Ch.147 - 614
Div, approp, full-time positions limited.....Ch.147 - 614
Div, budget/state/annual, format.....Ch.153 - 620
Div, employees, exempt Personnel Com.....Ch.365 - 1276
FINES
Judgments, collection, execution, when.....Ch.205 - 700
Nonpayment, jail confinement, credit, time served.....Ch.265 - 848
FINGERPRINTS
Juvenile offenders, detention.....Ch. 49 - 115
Identification, records, processing fee, established...Ch. 29 - 46
FIRE
Prevention personnel, safety inspections, pesticides...Ch.106 - 339
Protection Dist, annexation, petition, signatures.....Ch. 84 - 248
FIREARMS
Injuries/criminal, report to Law Enforcement agencies..Ch.169 - 651
Weapon/concealed, license, procedure, revised.....Ch.356 - 1201
Weapon, improper handling, F&G license revoked, when...Ch. 66 - 168
Weapon, on school property, student expulsion.....Ch.248 - 819
FIREMEN
Firefighters/paid, applicant, standards, ineligible....Ch.188 - 675
Safety inspections, pesticide regulation, uniformity...Ch.106 - 339
FISCAL NOTES
Author, impact, comm review.....HCR9 - 1346
FISH AND GAME
Archery season, crossbow hunting, handicapped.....Ch.366 - 1280
Dept, approp.....Ch.295 - 1038
Dept, approp, depredation control/winter feeding.....Ch.295 - 1038
Dept, approp, full-time positions limited.....Ch.295 - 1038
Dept, approp, licenses, automated sales system.....Ch.307 - 1067
Dept, approp, reduced, FY95.....Ch. 12 - 18
Dept, approp, supplemental, FY95.....Ch. 21 - 30
Grizzly Bear Management Oversight Comm, sunset/extend..Ch.296 - 1041
Hunting violation/1st time, hunter education, when.....Ch.318 - 1080

FISH AND GAME (Continued) Chapter - Page
License, application, false information, prohibited....Ch. 63 - 157
License, issuance, computerized system.....Ch.287 - 951
License, purchase, telephone/other electronic means....Ch. 64 - 158
License, revoked, weapon/improper handling.....Ch. 66 - 168
License, revoked, wildlife/poaching, national park.....Ch.280 - 940
Migratory waterfowl stamp, sunset date extended.....Ch.175 - 657
Upland game bird stamp, habitat improvement/sunset.....Ch.176 - 658
FOOD
Surplus, prepared, restaurants, donate charities.....Ch. 85 - 249
FORESTS AND FORESTRY
Forest Practices, violators, post bond, required.....Ch.281 - 941
Land, taxation, technical corrections.....Ch. 90 - 259
Log scaling, log brands, abandoned/canceled, reissued..Ch.177 - 660
Products Com, members, terms, assessments.....Ch.255 - 835
Reforestation Law, cut-over/burned land, repealed.....Ch.173 - 655
Timber sales, salvage/direct, dollar limits set.....Ch.165 - 647
FRANCHISES
City, utilities, fees.....Ch.226 - 777
FRATERNAL ORGANIZATIONS
Fraternal benefit societies, mutual life insurance co..Ch.213 - 722
Fraternal benefit societies, regulation.....Ch.213 - 722
FRAUD
Farm products/sacked, fraud prevention, law repealed...Ch. 71 - 183
Farm products, loss, law repealed.....Ch. 69 - 178
FUELS
Tax, accts, found worthless, governance.....Ch.303 - 1051
Tax, motor, administration, distributors license.....Ch.132 - 565
Tax, special, collection, federal law conformance.....Ch.348 - 1142
FUNDS
Alternative high school, report/annual, required.....Ch.108 - 341
Bingo, State, established.....Ch.350 - 1151
Catastrophic Health Care Cost/CAT, approp.....Ch.323 - 1089
Catastrophic Health Care Cost/CAT, approp, FY95.....Ch. 10 - 17
Country Building, law enforcement facilities.....Ch.369 - 1284
Federal, Employment, Dept, office construction.....Ch. 35 - 54
Legal Services/State, established.....Ch.141 - 599
Local Highway Technical Assistance Council, use.....Ch.268 - 866
School Dist, Gooding, approp, classroom space.....Ch.316 - 1078
School Dist, levies/M&O, reduced .4% to .3%.....Ch. 26 - 33
School Support Prog/ADA calculation, natural disaster..Ch.306 - 1057
School Support Program, distribution/min, each dist....Ch.321 - 1085
School Support Program, staff allowance, computation...Ch. 52 - 119
State Trust/Outdoor Recreation Enhancement (STORE).....Ch.332 - 1103
FUNERALS
Director, licensure, perform director functions.....Ch.112 - 381
GARNISHMENT
Search fee, banks receive.....Ch.330 - 1099
GAS
See FUELS
GOVERNMENT
County, optional forms, legislative study comm.....HCR20 - 1366
Federal, CSG/conference, restore balance, sovereignty..SCR103 - 1294

GOVERNMENT (Continued) Chapter - Page
Local, regulatory takings, private property.....Ch.182 - 668
Officers, various, term limits.....Initiative 2 - 1371
State, Constitutional Defense Council, sovereignty.....Ch.327 - 1096
State, employees/certain, classified to nonclassified..Ch.365 - 1276
State, Personnel Matters/Special Comm, repealed.....Ch.208 - 709
GOVERNOR
Budget Address.....HCR2 - 1336
Executive Orders
94-04 thru 94-13.....1377
95-01 thru 95-03.....1401
Housing Comm, created, duties, members.....Ch.367 - 1281
Occupational Licenses Bureau, Chief, appointment.....Ch.170 - 652
Office of, approp.....Ch.317 - 1079
Office of, approp, administration.....Ch.317 - 1079
Office of, approp, full-time postions limited.....Ch.317 - 1079
Office of, approp, Military Div.....Ch.237 - 798
Office of, approp, PERSI.....Ch.152 - 619
Office of, approp, revised, FY95, (line item VETO).....Ch. 38 - 56
Residence requirement, repealed.....Ch. 30 - 48
State of Budget Address.....HCR2 - 1336
State of State Address.....HCR1 - 1336
GRAIN
See AGRICULTURE
GRAPES
Growers, Wine Producers Com, bank acct.....Ch.204 - 698
Wine, tax/annual, $25 per acre, each winery $300.....Ch.204 - 698
GRAZING
Dists, Bds, renamed, terms increased.....Ch.113 - 382
Land, lease, applicants/2/more, same land, auction.....Ch.231 - 783
GUNS
See FIREARMS
HANDGUNS
See FIREARMS
HANDICAPPED
See DISABLED
HAZARDOUS SUBSTANCES
Nuclear waste, INEL/permanent repository, opposed.....HCR10 - 1347
Waste, rendered nonhazardous, disposal fee.....Ch.127 - 560
HEALTH
Care, Catastrophic, Cost Fund, CAT, approp.....Ch.323 - 1089
Care, Catastrophic, Cost Fund, CAT, approp/FY95.....Ch. 10 - 17
Care, medical indigents, county limit $10,000.....Ch. 9 - 14
Care, Medically Needy Program, deleted.....Ch. 41 - 62
Central Cancer Registry Fund, purpose, reporting.....Ch. 67 - 170
Insurance, Individual, Availability Act, amended.....Ch.360 - 1235
Insurance, Medicare supplement/preexisting condition...Ch.254 - 831
Insurance, Small Employer Act, amended.....Ch.360 - 1235
Insurance, tobacco usage, rating factor.....Ch.360 - 1235
Medical Care Savings Acct, income tax deduction.....Ch.362 - 1265
Public, Dists, approp.....Ch.238 - 799
HEALTH AND WELFARE
Bd, Central Cancer Registry Fund, purpose, reporting...Ch. 67 - 170

HEALTH AND WELFARE (Continued) Chapter - Page
Dept, approp.....Ch.346 - 1136
Dept, approp.....Ch.322 - 1086
Dept, approp.....Ch.337 - 1113
Dept, approp, Adult & ADC Assistance Payments.....Ch.322 - 1086
Dept, approp, Bunker Hill Remediation Fund.....Ch.344 - 1130
Dept, approp, Child Support Services.....Ch.322 - 1086
Dept, approp, Community Mental Health Services.....Ch.337 - 1113
Dept, approp, Community Rehabilitation, Div.....Ch.337 - 1113
Dept, approp, Deaf/Hearing-Impaired Council.....Ch.346 - 1136
Dept, approp, DEQ.....Ch.344 - 1130
Dept, approp, Developmental Disabilities Council.....Ch.346 - 1136
Dept, approp, Domestic Violence Council.....Ch.346 - 1136
Dept, approp, Eligibility Services.....Ch.322 - 1086
Dept, approp, Emergency Medical Services.....Ch.322 - 1086
Dept, approp, Family Self-Support.....Ch.337 - 1113
Dept, approp, Family/Children's Services, supp'l/FY95..Ch. 10 - 17
Dept, approp, Family/Children's Services, supp'l/FY95..Ch. 37 - 55
Dept, approp, full-time positions limited.....Ch.346 - 1136
Dept, approp, Indirect Support Services.....Ch.346 - 1136
Dept, approp, INEL Oversight.....Ch.344 - 1130
Dept, approp, Juvenile Justice.....Ch.337 - 1113
Dept, approp, Laboratory Services.....Ch.322 - 1086
Dept, approp, Medical Assistance Payments.....Ch.322 - 1086
Dept, approp, Physical Health Services.....Ch.322 - 1086
Dept, approp, reduced, FY95.....Ch. 17 - 22
Dept, approp, State Hospital North.....Ch.337 - 1113
Dept, approp, State Hospital South.....Ch.337 - 1113
Dept, approp, State School and Hospital.....Ch.337 - 1113
Dept, approp, Veterans Services.....Ch.346 - 1136
Dept, approp, Welfare, Div, supplemental, FY95.....Ch. 10 - 17
Dept, approp, Welfare, Div, supplemental, FY95.....Ch. 37 - 55
Dept, approp, Youth Services Center, supp'l, FY95.....Ch. 93 - 269
Dept, child paternity, filiation order, when.....Ch.234 - 791
Dept, child support, guidelines, sunset date/postpone..Ch.258 - 841
Dept, child support, income withheld/employer penalty..Ch.201 - 693
Dept, child support, judgment, lien, 23 years.....Ch.264 - 846
Dept, DEQ administrators, nonclassified positions.....Ch.365 - 1276
Dept, Medicaid services, physician/reimbursement.....Ch.230 - 782
Dept, Medicaid, pharmacy reimbursement levels.....Ch.228 - 779
Dept, Medically Needy Program, deleted.....Ch. 41 - 62
Dept, rule, air pollution, amended.....SCR114 - 1298
Dept, rule, air pollution, amended.....SCR116 - 1312
Dept, rule, child immunization, Hepatitus B, amend.....HCR15 - 1361
Dept, rule, child immunization, Hepatitus B, amend.....HCR16 - 1362
Dept, rule, water quality/wastewater, amended.....HCR11 - 1349
HIGHER EDUCATION
See EDUCATION, COLLEGES AND UNIVERSITIES
HIGHWAYS
See also ROADS
Dist Coms, recall election, petition, form.....Ch.245 - 809
Local, Technical Assistance Council, funds, use.....Ch.268 - 866
National, System, Congress approve, requested.....HJM2 - 1290

HIGHWAYS (Continued) Chapter - Page
Rights-of-way/public, abandonment procedure, clarify...Ch.121 - 522
HISTORICAL SOCIETIES
Bd, members, compensation, increased.....Ch.187 - 675
State, approp.....Ch.302 - 1050
State, approp, full-time positions limited.....Ch.302 - 1050
State, approp, supplemental, FY95.....Ch. 14 - 20
HOMES
Construction standards, indoor air quality notice.....Ch.292 - 1025
Manufactured, siting, planning, comprehensive plan.....Ch.305 - 1054
HOMESTEADS
See TAX AND TAXATION, PROPERTY
HOSPITALS
City-county/joint, authorities, created.....Ch.221 - 765
City, lease, nonprofit corporation.....Ch.222 - 768
Dists, election date, 4th Tuesday/May, when.....Ch.154 - 631
HOTELS AND MOTELS
Sales tax, Ronald McDonald House, rooms, exempt.....Ch.219 - 762
HOUSING
Governor's, Comm, created, members duties.....Ch.367 - 1281
HUMAN RIGHTS
Com, approp.....Ch.197 - 688
Com, approp, full-time positions limited.....Ch.197 - 688
HUNTING
See FISH AND GAME
IDAHO NATIONAL ENGINEERING LABORATORY
INEL Oversight, approp, H&W, Dept.....Ch.344 - 1130
INEL, Governor's efforts, supported.....HCR10 - 1347
INEL, nuclear waste, permanent repository, opposed.....HCR10 - 1347
IDAHO STATE UNIVERSITY
See COLLEGES AND UNIVERSITIES
IMMUNIZATION
Hepatitus B, children, H&W, Dept, rule amended.....HCR15 - 1361
Hepatitus B, children, H&W, Dept, rule amended.....HCR16 - 1362
INCOME TAX
See TAX AND TAXATION, INCOME
INDIANS
Kootenai Tribe, sales tax issue, study comm, resolve...SCR119 - 1333
INDIGENTS
Catastrophic Health Care Cost Fund, approp.....Ch.323 - 1089
Catastrophic Health Care Cost Fund, approp, FY95.....Ch. 10 - 17
Medical, claims, county limit, $10,000, balance CAT....Ch. 9 - 14
Medically Needy Program, deleted.....Ch. 41 - 62
INDUSTRIAL COMMISSION
Approp.....Ch.298 - 1042
Approp, full-time positions limited.....Ch.298 - 1042
INITIATIVES
Term limits for elected officials.....Initiative 2 - 1371
INSPECTORS AND INSPECTIONS
Brand, false information, penalties.....Ch.123 - 539
Fire personnel, pesticide regulation, uniformity.....Ch.106 - 339
Recreational vehicles, removed/mobile home provisions..Ch.267 - 856

INSURANCE Chapter - Page
Code, technical changes....Ch.289 - 967
Dept, approp....Ch.192 - 682
Dept, approp, full-time positions limited....Ch.192 - 682
Dept, director, administrative authority, divs/units...Ch.135 - 585
Dept, director, information used, judicial proceeding..Ch.136 - 587
Fund, State, approp....Ch.199 - 691
Fund, State, approp, full-time positions limited....Ch.199 - 691
Fund, State, approp, reduced, FY95....Ch. 12 - 18
Guaranty Assoc, self-governing, AG consolidation....Ch.184 - 670
Health, Individual, Availability Act, amended....Ch.360 - 1235
Health, Small Employer Act, amended....Ch.360 - 1235
HMOs, basic surplus deposit, required....Ch.360 - 1235
Insurers, Disclosure of Material Transactions Act....Ch. 68 - 173
Insurers, foreign title, deposit, acceptance....Ch.117 - 416
Insurers, forms, filing/use/disapproval of....Ch.137 - 591
Insurers, mutual/reciprocal, funds/surplus required....Ch. 96 - 273
Insurers, out-of-state, sanctions imposed, compliance..Ch.138 - 592
Life/mutual, fraternal benefit societies, conversion...Ch.213 - 722
Medicare supplement, preexisting condition....Ch.254 - 831
Title, insurer, reconveyance, trust deeds, release....Ch.326 - 1092
INTEREST
Legal rate, calculated/applied, method revised....Ch.304 - 1053
INTERNAL REVENUE
See TAX AND TAXATION, INCOME
INVESTMENTS
Capital, tax credit, limitations, clarified....Ch. 94 - 269
Securities, UCC, article 8, enacted....Ch.272 - 873
IRRIGATION
See also WATER
Dists, election dates, conformity....Ch.125 - 541
JAILS
See also CORRECTIONAL INSTITUTIONS
Time, fine nonpayment, credit, $35/day....Ch.265 - 848
JUDGMENTS
Fines, collection, execution, when....Ch.205 - 700
JUVENILES
Corrections, Dept, approp....Ch.336 - 1111
Corrections, Dept, approp, full-time positions limit...Ch.336 - 1111
Corrections, Dept, approp, FY95....Ch.260 - 843
Corrections, Dept, established, (omnibus bill)....Ch. 44 - 65
Corrections, Dept, trailer bill, HB98....Ch.277 - 925
Evidentiary hearing, witness intimidation, prohibited..Ch. 50 - 117
Offender, arson/first degree, tried as adult....Ch. 48 - 114
Offender, crimes/certain, detention time/maximum....Ch. 45 - 107
Offender, detention, costs, parents pay, when....Ch.354 - 1198
Offender, detention, escape from, penalties....Ch. 74 - 194
Offender, detention, fingerprints/photos....Ch. 49 - 115
Offender, detention, personnel, assault upon, felony...Ch. 51 - 118
Offender, marijuana possession, penalties increased....Ch.361 - 1264
Offender, records, release, School Dist request....Ch.218 - 755
Offender, restitution, victim, limits/not subject to...Ch.274 - 920
Offender, tried as adult, stay in adult court....Ch. 46 - 110

JUVENILES (Continued) Chapter - Page
Offender, under age 14, tried as adult, when.....Ch. 47 - 111
Probation services, cigarette tax moneys, distribution.Ch.368 - 1281
Trusts, court approved payments.....Ch.214 - 742
LABOR
Right to work, applicable, private/public employment...Ch.178 - 662
LABOR AND INDUSTRIAL SERVICES
Dept, approp.....Ch.244 - 807
Dept, approp, full-time positions limited.....Ch.244 - 807
Dept, paid firefighters standards, ineligibility.....Ch.188 - 675
LAND
Annexation, Fire Protection Dist, petition/75% owners..Ch. 84 - 248
Bd, Table Rock cross, ACLU, Jaycees' land title.....HJM4 - 1291
Bd, timber sales, salvage/direct, dollar limits set....Ch.165 - 647
Dept, approp.....Ch.331 - 1101
Dept, approp, Fire Suppression Fund, supp'l, FY95.....Ch. 24 - 32
Dept, approp, Forest Management/Fire Protection.....Ch.331 - 1101
Dept, approp, full-time positions limited.....Ch.331 - 1101
Dept, approp, Pest Control Deficiency, supp'l, FY95....Ch. 24 - 32
Dept, approp, reduced, FY95.....Ch. 19 - 27
Dept, approp, Soil/Water Conservation.....Ch.331 - 1101
Dept, forest practices violations, post bond required..Ch.281 - 941
Dept, surface mining, reclamation plan, notice.....Ch.364 - 1274
Endowment/state, lease/grazing, conflict bid.....Ch.231 - 783
Endowment/state, lease, Ada County, long-term, use.....Ch.185 - 670
Endowment/state, lease, conflict bid application.....Ch.174 - 655
Forest, taxation, technical corrections.....Ch. 90 - 259
Local, Use Planning Act, 1975, renamed.....Ch.181 - 664
Surveying, description, coordinate system 1983, use....Ch. 70 - 178
LAVA HOT SPRINGS
Foundation, approp.....Ch.312 - 1072
LAW ENFORCEMENT
Dept, approp.....Ch.285 - 946
Dept, approp, Alcohol Beverage Control.....Ch.285 - 946
Dept, approp, full-time positions limited.....Ch.285 - 946
Dept, approp, Racing Com.....Ch.285 - 946
Dept, approp, Racing Com, supplemental, FY95.....Ch. 23 - 31
Dept, fingerprints, processing, fee.....Ch. 29 - 46
Dept, State Police, Div, redesignated.....Ch.116 - 386
Facilities, County Building Contruction Fund.....Ch.369 - 1284
Firearm injuries/criminal, report, required.....Ch.169 - 651
Police officer, extraterritorial authority.....Ch.269 - 867
LEASES
Cities, hospitals, nonprofit corporation.....Ch.222 - 768
County property, play field, memorial stadium.....Ch.156 - 633
Endowment land, Ada County, long-term, commercial use..Ch.185 - 670
Endowment land, conflict bid application, date.....Ch.174 - 655
Endowment land, grazing, conflict bid application.....Ch.231 - 783
LEGISLATION
Fiscal note, SOP, author, impact, comm review.....HCR9 - 1346
LEGISLATIVE COUNCIL
Approp, Legislative Services Office.....Ch.319 - 1082
Approp, study, single university system.....Ch.342 - 1129

LEGISLATIVE COUNCIL (Continued) Chapter - Page
County government, optional forms, study comm.....HCR20 - 1366
Kootenai Tribe, sales tax issue, study comm, resolve...SCR119 - 1333
Outdoor recreation facilities, study comm.....SCR118 - 1332
Reapportionment Com, implementation, study comm.....SCR105 - 1297
Single university system, consultant, study comm.....HCR17 - 1363
Transportation issues, study comm.....HCR21 - 1366
LEGISLATORS
See LEGISLATURE
LEGISLATURE
Accountancy, Bd, quality review rules, approved.....HCR6 - 1342
Administrative rules, effective date, review process...Ch.196 - 686
Air pollution, rules, H&W, Dept, amended.....SCR114 - 1298
Air pollution, rules, H&W, Dept, amended.....SCR116 - 1312
Amtrak, continued operation, urged.....SJM103 - 1283
Bills, printing contract.....HCR3 - 1337
Budget Address, Governor.....HCR2 - 1336
County government, optional forms, study comm.....HCR20 - 1366
CSG Conference, restore balance/federal system.....SCR103 - 1294
Education, character, commitment to, Book of Virtues....HCR19 - 1364
Experienced-Based Career Education, school dists.....HCR23 - 1367
Immunization, children, Hepatitus B, rule, amended.....HCR15 - 1361
Immunization, children, Hepatitus B, rule, amended.....HCR16 - 1362
INEL, Governor's efforts, supported.....HCR10 - 1347
Journals, legislative, printing contract.....HCR4 - 1339
Kootenai Tribe, sales tax issue, study comm, resolve...SCR119 - 1333
Legislation, fiscal note/SOP/impact, comm review.....HCR9 - 1346
Literacy Month, November 1995, recognized.....SCR104 - 1296
Mail-order business, sales tax allowed.....HJM1 - 1289
Minutes, committee meetings, format, Joint Rule 19.....SCR101 - 1293
National Highway System, Congress approve, requested.....HJM2 - 1290
Nuclear waste, permanent repository/INEL, opposed.....HCR10 - 1347
Outdoor recreation facilities, study comm.....SCR118 - 1332
Reapportionment Com, implementation, study comm.....SCR105 - 1297
Session Laws, printing contract.....HCR8 - 1344
Single university system, study, consultant, budget.....HCR17 - 1363
Sovereignty, U.S. constitution, 10th amendment.....HCR7 - 1343
State of State Address.....HCR1 - 1336
Subpoenas, witness/comm, oaths/false testimony.....Ch.232 - 787
Table Rock cross, ACLU, Jaycees' land title.....HJM4 - 1291
Transportation issues, legislative study comm.....HCR21 - 1366
Water quality standards, rules, H&W, Dept, amended.....HCR11 - 1349
World Sports Humanitarian Hall of Fame, encouraged.....SCR122 - 1334
LEVIES
See TAX AND TAXATION, PROPERTY
LIABILITY
Limited, companies, filing requirements/Sec/State.....Ch.126 - 542
Limited, partnerships, registration, requirements.....Ch. 92 - 263
LIBRARIES
Dists, "public/free," code updated, election/trustees..Ch.119 - 513
Law, approp.....Ch.363 - 1273
State, Bd, approp, full-time positions limited.....Ch.236 - 796
State, Bd, approp, supplemental, FY95.....Ch. 18 - 26

LICENSES Chapter - Page
Accountants, fees.....Ch.134 - 580
Amusement devices, annual fee per device.....Ch.340 - 1126
Auctioneers, required.....Ch.206 - 701
Barbers, barbershops, fees, original/renewals.....Ch. 77 - 207
Beer, sales, manufacturer/wholesaler/retailer.....Ch.311 - 1071
Bridge/ferry, authorized.....Ch.206 - 701
Business, required, taxes, distribution.....Ch.206 - 701
Chemigation, required, civil penalty.....Ch.100 - 326
Concealed weapons, procedure/criteria, revised.....Ch.356 - 1201
Drivers, class D, renewal by mail, fee.....Ch. 76 - 205
Drivers, DUI, administrative, suspension/enforcement...Ch.190 - 681
Drivers, motorcycle endorsement, skills test, 9/1/98...Ch.339 - 1119
Drivers, suspended, marijuana possession by minor.....Ch.361 - 1264
Drivers, test book, Open Range Law information.....Ch.209 - 710
Environmental Health Specialists, Bd, exam, fees.....Ch. 11 - 17
F&G, application, false information, prohibited.....Ch. 63 - 157
F&G, hunting, revoked, weapon, improper handling.....Ch. 66 - 168
F&G, issuance, computerized system.....Ch.287 - 951
F&G, purchase, telephone/other electronic means.....Ch. 64 - 158
F&G, revoked, wildlife/poaching, national park.....Ch.280 - 940
Liquor, ski resort, qualifications.....Ch.358 - 1214
Liquor, split ownership facility, new owner.....Ch.145 - 612
Manufactured home dealer, money deposit/lieu of bond...Ch.202 - 694
Morticians, funeral directors, required, when.....Ch.112 - 381
Motor fuels distributor, required.....Ch.132 - 565
MV, plates/handicapped, parents of disabled child.....Ch.246 - 815
MV, plates, old timer/classic, pre-1994, redesign.....Ch.109 - 342
MV, plates, timber, special, fee, color/design.....Ch.186 - 674
Pawnbrokers, required.....Ch.206 - 701
Plumbers, specialty contractors, certification.....Ch.253 - 828
Podiatrists, Bd, exam, fees.....Ch. 27 - 41
Real estate, suspension, when.....Ch. 97 - 280
Real estate, voluntary termination, when.....Ch. 73 - 192
Veterinarians, certified euthanasia agents.....Ch. 62 - 145
LIENS
Medical assistance, estate recovery claim, property....Ch.105 - 336
Property/personal, certain, filed, Secretary/State.....Ch.157 - 635
LIEUTENANT GOVERNOR
Office of, approp.....Ch.193 - 683
Office of, approp, full-time positions limited.....Ch.193 - 683
LIQUOR
See also BEER, WINE
Beer, retailers, wholesaler assistance reference.....Ch.172 - 654
Beer, sales, definitions, revised.....Ch.311 - 1071
Dispensary, State, approp.....Ch.261 - 844
Dispensary, State, approp, full-time positions limit...Ch.261 - 844
Dispensary, State, approp, reduced, FY95.....Ch. 12 - 18
DUI, administrative license suspend, enforcement/stay..Ch.190 - 681
License, ski resort, qualifications.....Ch.358 - 1214
License, split ownership facility, new owner.....Ch.145 - 612
LITERACY
Month, November 1995, recognized.....SCR104 - 1296

LIVESTOCK Chapter - Page
See also ANIMALS
Brand Bd, compensation reference deleted.....Ch.124 - 540
Brand inspection, false information, penalties.....Ch.123 - 539
Disease control fee, increase.....Ch. 33 - 51
Disease, glanders, law repealed.....Ch. 57 - 128
LOG SCALING
Log brands, abandoned/canceled, reissued, when.....Ch.177 - 660
LOTTERIES
Com, approp.....Ch.148 - 615
Com, Bingo games/sessions, set by rule.....Ch.350 - 1151
Com, full-time positions limited.....Ch.148 - 615
MAIL ORDER
Business, sales tax allowed.....HJM1 - 1289
MANDATES
Federal, Constitutional Defense Council, sovereignty...Ch.327 - 1096
MANUFACTURED HOMES
See MOBILE HOMES
MAPS
Computerized, system, cities collect fees.....Ch.129 - 562
MARIJUANA
Juvenile offender, possession, penalties increased.....Ch.361 - 1264
MARRIAGE
Common-law, not recognized after Jan.1, 1996.....Ch.104 - 334
Joint probate, death of surviving spouse.....Ch.168 - 651
Premarital agreements, enforceability.....Ch.229 - 780
MEDICAID ASSISTANCE
See PUBLIC ASSISTANCE, MEDICAL
MEDICAL
Assistance, liens, estate recovery claim, property.....Ch.105 - 336
Care Savings Acct, income tax deduction.....Ch.362 - 1265
Care, Catastrophic Health Care Cost Fund, approp.....Ch.323 - 1089
Care, Catastrophic Health Care Cost Fund, approp/FY95..Ch. 10 - 17
Indigent, claims, county limit, $10,000, balance CAT...Ch. 9 - 14
Medicaid-covered services, physician reimbursement.....Ch.230 - 782
Medicaid, pharmacy reimbursement, no reductions.....Ch.228 - 779
Medically Needy Program, deleted.....Ch. 41 - 62
MEDICAL ASSISTANCE
See PUBLIC ASSISTANCE, MEDICAL
MEDICARE
Supplement, preexisting condition.....Ch.254 - 831
MEDICINE
Physicians, medicaid-covered services, reimbursement...Ch.230 - 782
MEETINGS
Legislative comm, minutes, format, Joint Rule 19.....SCR101 - 1293
MEMORIALS
Amtrak, continued operation, urged.....SJM103 - 1283
Mail-order business, sales tax allowed.....HJM1 - 1289
National Highway System, Congress approve requested.....HJM2 - 1290
Table Rock cross, ACLU, Jaycees' land title.....HJM4 - 1291
MILITARY AND MILITIA
County officers, leave of absence, compensation.....Ch.114 - 384
Div, approp.....Ch.237 - 798

MILITARY AND MILITIA (Continued) Chapter - Page
Div, approp, full-time positions limited.....Ch.237 - 798
Div, approp, reduced, FY95.....Ch. 12 - 18
Memorial, park/play field, living/deceased military....Ch.156 - 633
MILK AND MILK PRODUCTS
Dairy processors, fees, increase, due date.....Ch. 78 - 208
MINES AND MINING
Bunker Hill, Remediation Fund, approp, H&W, Dept.....Ch.344 - 1130
Surface, reclamation plan, notice, cities/counties.....Ch.364 - 1274
MINISTERS
Evidence/child abuse, reporting required, immunity.....Ch.328 - 1097
Evidence/child abuse, reporting required, immunity.....Ch.329 - 1098
MINORS
See JUVENILES, CHILDREN
MOBILE HOMES
Manufactured homes, dealer, money deposit/lieu of bond.Ch.202 - 694
Manufactured homes, electrical service equipment.....Ch.341 - 1128
Manufactured homes, siting, comprehensive plan.....Ch.305 - 1054
Recreational vehicles, removed from provisions.....Ch.267 - 856
MORTICIANS
Licensure required, perform mortician functions.....Ch.112 - 381
MOTOR CARRIERS
Fees/operating, unpaid, seizure, port of entry.....Ch.251 - 826
Load/gross, allowable, highways, tandem axles.....Ch. 72 - 183
Load/variable, suspension axle, criteria.....Ch.122 - 526
Manure hauling vehicles, PUC jurisdiction, exempt.....Ch.102 - 329
Regulation, filing requirements, uniform fees.....Ch.131 - 564
MOTOR FUELS
See FUELS
MOTOR VEHICLES
See also DRIVERS
Commercial, fees, unpaid/seizure, port of entry.....Ch.251 - 826
Commercial, gross loads/allowable/tandem axles.....Ch. 72 - 183
Commercial, variable load suspension axle.....Ch.122 - 526
Drivers license test book, Open Range Law/information..Ch.209 - 710
Drivers license, class D, renewal by mail, fee.....Ch. 76 - 205
Drivers license, motorcycle endorsement, skills test...Ch.339 - 1119
Drivers license, suspend, marijuana possession/minor...Ch.361 - 1264
DUI, administrative license suspend/enforcement/stay...Ch.190 - 681
License plates, handicapped, parents/disabled child....Ch.246 - 815
License plates, old timer/classic, pre-1994, redesign..Ch.109 - 342
License plates, timber/special, fee, color/design.....Ch.186 - 674
Manure hauling vehicles, PUC jurisdiction, exempt.....Ch.102 - 329
Motor carriers, regulation, filing requirements.....Ch.131 - 564
Safety seat, child, required, any MV operator.....Ch. 55 - 127
Salvage certificate/ownership, certain vehicles.....Ch.162 - 641
MOTORCYCLES
Endorsement, MV drivers license, skills test, 9/1/98...Ch.339 - 1119
NATIONAL GUARD
County officers, leave of absence, compensation.....Ch.114 - 384
NATIVE AMERICANS
Kootenai Tribe, sales tax issue, study comm, resolve...SCR119 - 1333

NEGOTIATIONS Chapter - Page
See COLLECTIVE BARGAINING
NUCLEAR WASTES
See WASTES
NURSES AND NURSING
Education requirements, Education, Bd, approval.....Ch.351 - 1163
OCCUPATIONAL LICENSES BUREAU
Chief, Governor appoint.....Ch.170 - 652
Environmental Health Specialists, Bd, exam, fees.....Ch. 11 - 17
OFFICERS
County, military leave of absence, compensation.....Ch.114 - 384
Executive, residence requirements, repealed.....Ch. 30 - 48
Special dist elected, recall, signatures, form.....Ch.266 - 848
Term limits.....Initiative 2 - 1371
OIL
Crop commodity, Seed Advisory Bd, representation.....Ch. 32 - 50
OMBUDSMAN
Elderly, Office for, created.....Ch.189 - 676
ORGANIZATIONS
Charitable, food/surplus, restaurants donate.....Ch. 85 - 249
Nonprofit, Ronald McDonald House, rooms, tax exempt....Ch.219 - 762
PARKS AND RECREATION
Areas, rule violations, infraction penalties.....Ch. 40 - 59
Dept, approp.....Ch.312 - 1072
Dept, approp, full-time positions limited.....Ch.312 - 1072
Dept, approp, reduced, FY95.....Ch. 15 - 21
Dept, approp, supplemental, FY95.....Ch. 22 - 30
Dept, approp, supplemental, FY95.....Ch. 88 - 257
National park, wildlife/poaching, F&G license revoked..Ch.280 - 940
Play field, memorial stadium, county property, lease...Ch.156 - 633
State Trust/Outdoor Recreation Enhancement (STORE).....Ch.332 - 1103
PARTNERSHIPS
Limited liability, registration, requirements.....Ch. 92 - 263
Limited, filing requirements/Secretary/State.....Ch.126 - 542
PATERNITY
Genetic tests, H&W, Dept, filiation order, when.....Ch.234 - 791
Report, birth certificate, form simplified.....Ch. 31 - 49
PAWNBROKERS
License, required.....Ch.206 - 701
PEACE OFFICERS
See POLICEMEN
PERFORMANCE EVALUATIONS
See LEGISLATURE
PERMANENT BUILDING ACCOUNT
Administration, Dept, projects, approp.....Ch.310 - 1068
Approp.....Ch.310 - 1068
Asbestos Abatement, approp.....Ch.310 - 1068
BSU/UofI, Engineering Building, design, approp.....Ch.310 - 1068
Correction, Dept, projects, approp.....Ch.310 - 1068
EITC, Classroom/Lab Building, approp.....Ch.310 - 1068
ISU, Physical Science Building, approp.....Ch.310 - 1068
Juvenile Corrections facilities, approp.....Ch.310 - 1068
Underground Storage Tank Program, approp.....Ch.310 - 1068

PERMANENT BUILDING ACCOUNT (Continued) Chapter - Page
UofI, Engineering/Physics Buildings, approp.....Ch.310 - 1068
PERMITS
Amusement devices, fee, in lieu of tax.....Ch.340 - 1126
PERSONNEL COMMISSION
Approp.....Ch. 95 - 272
Approp, full-time positions limited.....Ch. 95 - 272
Employees/state, certain, classified to nonclassified..Ch.365 - 1276
PERSONNEL MATTERS
See LEGISLATURE
PESTICIDES
Airplane applicator, notice/48 hour, ratite farms.....Ch.217 - 755
State, regulation, fire personnel, safety inspections..Ch.106 - 339
PHARMACIES AND PHARMACISTS
Bd, disciplinary charges, hearing fees, costs.....Ch. 42 - 63
Reimbursement levels, Medicaid, no reduction.....Ch.228 - 779
PHYSICIANS AND SURGEONS
Medicaid-covered services, reimbursement.....Ch.230 - 782
PLANNING AND ZONING
Com, members, residency requirements.....Ch.181 - 664
Housing, manufactured, siting, comprehensive plan.....Ch.305 - 1054
Local Land Use Planning Act, 1975, renamed.....Ch.181 - 664
PLUMBERS AND PLUMBING
Contractors, specialty, licensure, certification.....Ch.253 - 828
PODIATRISTS
Bd, exam, fees, licensure.....Ch. 27 - 41
POLICEMEN
See also LAW ENFORCEMENT
Extraterritorial authority.....Ch.269 - 867
State, Div, redesignated, Law Enforcement, Dept.....Ch.116 - 386
PORT DISTRICTS
Records/certain, exempt disclosure.....Ch.207 - 703
PORT OF ENTRY
MV, fees/operating, unpaid, seizure, 72 hours.....Ch.251 - 826
PRINTING
Contract, legislative bills.....HCR3 - 1337
Contract, legislative journals.....HCR4 - 1339
Contract, Session Laws.....HCR8 - 1344
PRISONERS
Furlough, serious illness, diagnosis, treatment.....Ch. 34 - 52
Sentenced, court jurisdiction, 1st 180 days.....Ch.247 - 817
PRISONS
See CORRECTIONAL INSTITUTIONS
PROBATE
Estate, assets list, sent, Tax Com, deleted.....Ch.166 - 648
Joint, death of surviving spouse, 3 year provision.....Ch.168 - 651
Personal property, collection, affidavit.....Ch.167 - 650
Trust instrument, transfer, voluntary/involuntary.....Ch.179 - 662
Trustees, additional powers.....Ch.180 - 663
PROFESSIONAL STANDARDS COMMISSION
Teachers, unethical conduct/allegation, hearing.....Ch.235 - 794

PROPERTY Chapter - Page
See also TAX AND TAXATION, PROPERTY
County, lease, play field, memorial stadium.....Ch.156 - 633
Personal, collection, affidavit, estates.....Ch.167 - 650
Personal, liens/certain, filed, Secretary/State.....Ch.157 - 635
Personal, recovery, small claims court, when.....Ch.183 - 669
Personal, rolls, abstract, filing, Tax Com.....Ch. 80 - 209
Private, regulatory takings, local governments.....Ch.182 - 668
Real, personal, casualty loss, tax exempt, when.....Ch.220 - 764
Tax, ad valorem, cap, HB156, technical correction.....Ch.155 - 632
Tax, ad valorem, exemption, elderly, low income.....Ch. 81 - 211
Tax, ad valorem, mill levy/market value, percentage....Ch. 82 - 218
Tax, ad valorem, relief, .4% to .3%.....Ch. 26 - 33
PROPERTY TAX
See TAX AND TAXATION, PROPERTY
PROSECUTING ATTORNEYS
See ATTORNEYS
PUBLIC ASSISTANCE
Medicaid-covered services, physician reimbursement.....Ch.230 - 782
Medicaid, pharmacy reimbursement, no reduction.....Ch.228 - 779
Medical indigent, claim, limit, $10,000, balance CAT...Ch. 9 - 14
Medical, estate recovery claim, real property.....Ch.105 - 336
Medically Needy Program, deleted.....Ch. 41 - 62
PUBLIC BROADCASTING
Approp, Education, Bd.....Ch.241 - 801
Approp, full-time positions limited.....Ch.241 - 801
PUBLIC EMPLOYEES
See EMPLOYEES AND EMPLOYMENT
PUBLIC EMPLOYEES RETIREMENT SYSTEM
See RETIREMENT
PUBLIC UTILITIES
See UTILITIES
PUBLIC UTILITIES COMMISSION
See UTILITIES
PURCHASING
Joint, agreements, counties.....Ch.171 - 653
RACING
Com, approp, supplemental, FY95.....Ch. 23 - 31
RAILROADS
Amtrak, continued operation, urged.....SJM103 - 1283
REAL ESTATE
Broker, license, suspension, when.....Ch. 97 - 280
Broker, limited liability company, allowed.....Ch. 75 - 196
License, voluntary termination, when.....Ch. 73 - 192
REAPPORTIONMENT
Com, implementation, legislative study comm.....SCR105 - 1297
RECORDS
Optical imaging process, evidence, storage.....Ch. 39 - 58
Public, concealed weapon license, applicant, exempt....Ch.356 - 1201
Public, environmental audits, disclosure requirements..Ch.359 - 1218
Public, juvenile offender, release, School Dist.....Ch.218 - 755
Public, Port Dists, certain, exempt disclosure.....Ch.207 - 703
Public, residential addresses, disclosure, when.....Ch. 87 - 251

RECREATION Chapter - Page
Aerial tramway/snowgrooming equipment, tax exempt.....Ch.288 - 966
Dists, planned unit development, electors.....Ch.353 - 1193
Outdoor, facilities, legislative study comm.....SCR118 - 1332
Play field, memorial stadium, county property, lease...Ch.156 - 633
State Trust/Outdoor Recreation Enhancement (STORE).....Ch.332 - 1103
RECREATIONAL VEHICLES
Inspections, park trailers, manufacturer standards.....Ch.267 - 856
REFERENDUMS
U.S. constitutional amendment, advisory vote, deleted..Ch.227 - 779
RESOLUTIONS, CONCURRENT
Accountancy, Bd, quality review rules, approved.....HCR6 - 1342
Air pollution, rules, H&W, Dept, amended.....SCR114 - 1298
Air pollution, rules, H&W, Dept, amended.....SCR116 - 1312
Bills, legislative, printing contract.....HCR3 - 1337
Budget Address, Governor.....HCR2 - 1336
County government, optional forms, study comm.....HCR20 - 1366
CSG Conference, restore balance/federal system.....SCR103 - 1294
Education, character, commitment to, Book of Virtues....HCR19 - 1364
Experienced-Based Career Education, school dists.....HCR23 - 1367
Freedom/speech, 1st amendment, restraint encouraged....SCR125 - 1335
Immunization, children, Hepatitus B, rule amended.....HCR15 - 1361
Immunization, children, Hepatitus B, rule, amended.....HCR16 - 1362
INEL, Governor's efforts, supported.....HCR10 - 1347
Journals, legislative, printing contract.....HCR4 - 1339
Kootenai Tribe, sales tax issue, study comm, resolve...SCR119 - 1333
Legislation, fiscal note/SOP/impact, comm review.....HCR9 - 1346
Literacy Month, November 1995, recognized.....SCR104 - 1296
Minutes, meetings/comm, format, Joint Rule 19.....SCR101 - 1293
Outdoor recreation facilities, legislative study comm..SCR118 - 1332
Reapportionment Com, implement, legislative study.....SCR105 - 1297
Session Laws, printing contract.....HCR8 - 1344
Single university system, study, consultant, hire.....HCR17 - 1363
Sovereignty, U.S. constitution, 10th amendment.....HCR7 - 1343
State of State Address.....HCR1 - 1336
Transportation issues, legislative study comm.....HCR21 - 1366
Water quality standards, rules, H&W, Dept, amended.....HCR11 - 1349
World Sports Humanitarian Hall of Fame, encouraged.....SCR122 - 1334
RESORTS
Ski, liquor license, qualifications.....Ch.358 - 1214
Ski, snowgrooming equipment, parts, sales tax exempt...Ch.288 - 966
RESTAURANTS
Food, prepared surplus, donate, charities.....Ch. 85 - 249
RETIREMENT
PERSI, approp.....Ch.152 - 619
PERSI, approp, full-time positions limited.....Ch.152 - 619
PERSI, approp, Portfolio Investment Program.....Ch.152 - 619
PERSI, approp, 401(k) Administration Program.....Ch.308 - 1067
PERSI, employee/city, seasonal/casual, defined.....Ch.143 - 606
PERSI, supplemental benefit plans.....Ch.120 - 520
REVENUE
Taxation, Dept, approp.....Ch.301 - 1048
Taxation, Dept, approp, full-time positions limited....Ch.301 - 1048

REVENUE AND TAXATION Chapter - Page
See REVENUE, TAX AND TAXATION
RIGHT TO WORK
Law, applicable to private/public employment.....Ch.178 - 662
RIVERS
Snake, Basin Adjudication, approp, reduced, FY95.....Ch. 6 - 12
RULES
Accountancy, Bd, quality review, approved.....HCR6 - 1342
Administrative, adoption/appeal/indexing of.....Ch.270 - 868
Administrative, certain, continue July 1, 1996.....Ch.249 - 823
Administrative, effective date, legislative review.....Ch.196 - 686
H&W, Dept, air pollution, amended.....SCR114 - 1298
H&W, Dept, air pollution, amended.....SCR116 - 1312
H&W, Dept, immunization/child, Hepatitus B, amended.....HCR16 - 1362
H&W, Dept, immunization/child, Hepatitus B, amended.....HCR15 - 1361
H&W, Dept, water quality/wastewater, amended.....HCR11 - 1349
Joint, 18, fiscal note/SOP/impact, comm review.....HCR9 - 1346
Joint, 19, minutes, meetings/comm, format.....SCR101 - 1293
SAFETY
Inspections, fire personnel, pesticide regulation.....Ch.106 - 339
Seat, child, MV, required, any operator.....Ch. 55 - 127
SALARIES
Historical Society, Bd, increased.....Ch.187 - 675
School Dists, Support Program, staff allowance.....Ch. 52 - 119
SALES
Beer, definitions, revised.....Ch.311 - 1071
Timber, salvage/direct, dollar limits set.....Ch.165 - 647
SALES TAX
See TAX AND TAXATION, SALES
SCALING
Log, brands, abandoned/canceled, reissued, when.....Ch.177 - 660
SCHOOL DISTRICTS
Alternative high school, report/annual, expenditures...Ch.108 - 341
Attendance, denial, suspension/extend, authorization...Ch.250 - 825
Attendance, denial, when.....Ch.252 - 827
Driver training, reimbursement, factor increased.....Ch.279 - 939
Enrollment/dual, alternative/public schools.....Ch.224 - 775
Experienced-Based Career Education Program.....HCR23 - 1367
Firearms, on school property, student expelled.....Ch.248 - 819
Gooding, approp, classroom space.....Ch.316 - 1078
Juveniles, Corrections Act, records, release, request..Ch.218 - 755
Levy, M&O, property tax reduced, .4% to .3%.....Ch. 26 - 33
School buses, construction standards, adoption.....Ch.259 - 843
Substance Abuse Program, approp.....Ch.284 - 945
Support Program, ADA calculation, natural disasters....Ch.306 - 1057
Support Program, distribution/minimum, each dist.....Ch.321 - 1085
Support Program, staff allowance, appeal procedure.....Ch.271 - 871
Support Program, staff allowance, computation.....Ch. 52 - 119
Teachers, unethical conduct/allegation, hearing.....Ch.235 - 794
Trustees, term limits.....Initiative 2 - 1371
SCHOOLS
Alternative, report/annual, fund expenditure.....Ch.108 - 341
Attendance, denial, expulsion/other schools.....Ch.252 - 827

SCHOOLS (Continued) Chapter - Page
Attendance, denial, suspension/extend/authorization....Ch.250 - 825
Buses, construction standards, adoption.....Ch.259 - 843
Deaf & Blind, approp, supplemental, FY95.....Ch. 4 - 10
Driver training, School Dist, reimbursement, factor....Ch.279 - 939
Enrollment/dual, alternative/public schools.....Ch.224 - 775
Experienced-Based Career Education Program.....HCR23 - 1367
Firearms, on school property, student expelled.....Ch.248 - 819
Gooding, Dist, approp, classroom space.....Ch.316 - 1078
Juvenile, Corrections Act, records, release, request...Ch.218 - 755
Levies, M&O, property tax, reduced .4% to .3%.....Ch. 26 - 33
Proprietary, degrees/confer, authority clarified.....Ch.107 - 340
Public, Income Fund, approp.....Ch. 89 - 257
Public, Substance Abuse Program, tobacco tax moneys....Ch.160 - 637
Public, Technology Program, approp.....Ch. 89 - 257
Substance Abuse Program, approp.....Ch.284 - 945
Support Program, ADA calculation, natural disasters....Ch.306 - 1057
Support Program, distribution/minimum, each dist.....Ch.321 - 1085
Support Program, staff allowance, appeal procedure.....Ch.271 - 871
Support Program, staff allowance, computation.....Ch. 52 - 119
Teachers, unethical conduct/allegation, hearing.....Ch.235 - 794
Values/character, legislative commitment, Book/Virtues..HCR19 - 1364
SECRETARY OF STATE
Approp.....Ch.257 - 840
Approp, full-time positions limited.....Ch.257 - 840
Business organizations/various, ministerial duties.....Ch.126 - 542
Liens, property/personal, certain, filed.....Ch.157 - 635
Residence requirement, repealed.....Ch. 30 - 48
UCC Administrative Acct, consolidation.....Ch.163 - 643
SECURITIES
Investment, UCC, article 8, enacted.....Ch.272 - 873
Sale, prospectus, delivery requirement.....Ch.212 - 721
SEEDS
Advisory Bd, oil crop commodity, representation.....Ch. 32 - 50
SELF-GOVERNING AGENCIES
Approp.....Ch.299 - 1043
Approp, full-time positions limited.....Ch.299 - 1043
SENIOR CITIZENS
Ombudsman for the Elderly, Office of, created.....Ch.189 - 676
Tax, property, exemption, procedure revised.....Ch. 81 - 211
SENTENCING
See COURTS
SKI RESORTS
See RESORTS
SKIING
Aerial tramway/snowgrooming equipment, tax exempt.....Ch.288 - 966
Ski resorts, liquor license, qualifications.....Ch.358 - 1214
SOCIAL WORK
Adoption, investigation, home study, social worker.....Ch.161 - 639
SOIL
Conservation Dist, supervisors, election.....Ch.256 - 837
SPEECH
Freedom/speech, 1st amendment, restraint encouraged....SCR125 - 1335

SPEECH (Continued) Chapter - Page
World, Humanitarian Hall of Fame, I-84, encouraged.....SCR122 - 1334
SPRAYERS AND DUSTERS
Pesticide, airplane applicator, notice, ratite farms...Ch.217 - 755
STAMPS
Migratory waterfowl, F&G, sunset date extended.....Ch.175 - 657
Upland game bird, F&G, habitat improvement, sunset.....Ch.176 - 658
STATE AFFAIRS
CSG Conference, restore balance, federal system.....SCR103 - 1294
Executive officers, residence requirements, repealed...Ch. 30 - 48
Personnel Matters/Special Comm on, repealed.....Ch.208 - 709
Sovereignty, Constitutional Defense Council.....Ch.327 - 1096
Sovereignty, U.S. constitution, 10th amendment.....HCR7 - 1343
State of Budget Address.....HCR2 - 1336
State of State Address.....HCR1 - 1336
STATE AGENCIES
Administrative rules, adoption, appeal, indexing of....Ch.270 - 868
Administrative rules, certain, continue July 1, 1996...Ch.249 - 823
Administrative rules, legislative review, final.....Ch.196 - 686
Budget, annual, format, Financial Management, Div.....Ch.153 - 620
Employees, certain, classification to nonclassified....Ch.365 - 1276
Legal services/all, Attorney General, exceptions.....Ch.141 - 599
STATEMENT OF PURPOSE
Author, fiscal note, impact, required, Joint Rule 18.....HCR9 - 1346
STUDENTS
Attendance/school, denial of, when.....Ch.252 - 827
Attendance/school, denial, suspension, extended.....Ch.250 - 825
Firearms, on school property, expulsion mandatory.....Ch.248 - 819
Immunization, Hepatitus B, H&W, Dept, rule amended.....HCR15 - 1361
Immunization, Hepatitus B, H&W, Dept, rule amended.....HCR16 - 1362
Public/alternative schools, dual enrollment.....Ch.224 - 775
STUDIES
Kootenai Tribe, sales tax issue, study comm resolve....SCR119 - 1333
Outdoor recreation facilities, legislative, comm.....SCR118 - 1332
Reapportionment Com, implement, legislative, comm.....SCR105 - 1297
Single university system, approp.....Ch.342 - 1129
Single university system, consultant/hire.....HCR17 - 1363
Soda Springs Dam site, Bear River, approp.....Ch.200 - 692
Transportation issues, legislative, comm.....HCR21 - 1366
SUBPOENAS
Legislative, witness/comm, oaths/false testimony.....Ch.232 - 787
SUPERINTENDENT OF PUBLIC INSTRUCTION
Approp.....Ch.146 - 613
Approp, Substance Abuse Program, legislative intent....Ch.284 - 945
Full-time positions, limited.....Ch.146 - 613
Goals 2000, federal funds, expenditure, approval.....Ch.355 - 1199
Residence requirement, repealed.....Ch. 30 - 48
SUPREME COURT
See COURTS
SURVEYING AND SURVEYORS
Land, description, coordinate system 1983, use.....Ch. 70 - 178
TAX AND TAXATION
Amusement devices, permit fee, in lieu of tax.....Ch.340 - 1126

TAX AND TAXATION (Continued) Chapter - Page
Assessment, personal property, rolls, abstract/filing..Ch. 80 - 209
Cigarette, distribution, counties, juvenile services...Ch.368 - 1281
Cigarette, unstamped, transporter, documentation.....Ch. 43 - 64
Com, estate, assets list sent, requirement deleted.....Ch.166 - 648
Com, hold other offices, permitted.....Ch.144 - 611
Dists, budget cap, HB156, technical correction.....Ch.155 - 632
Dists, name change, procedure.....Ch.159 - 636
Fuels, accts, found worthless, governance.....Ch.303 - 1051
Fuels, motor, administration, distributor license.....Ch.132 - 565
Fuels, special, collection, federal law conformance....Ch.348 - 1142
Land/forest, technical corrections.....Ch. 90 - 259
Revenue & Taxation, Dept, approp.....Ch.301 - 1048
Revenue & Taxation, Dept, approp, full-time positions..Ch.301 - 1048
Wine grapes, per acre, each winery.....Ch.204 - 698
TAX AND TAXATION, INCOME
Credit, capital investment, limitations, clarified.....Ch. 94 - 269
Deduction, alternative energy device/residential.....Ch. 91 - 261
Deduction, equipment/technological/donated, colleges...Ch.314 - 1075
Deduction, Medical Care Savings Acct.....Ch.362 - 1265
Individual/corporate, computation/definitions clarify..Ch.111 - 347
Internal Revenue Code, 1995, amended.....Ch. 79 - 209
Resident/part-year, S corporations, capital gains.....Ch. 83 - 238
TAX AND TAXATION, PROPERTY
Ad valorem, budget cap, HB 156, technical correction...Ch.155 - 632
Ad valorem, exemption, elderly, low income persons.....Ch. 81 - 211
Ad valorem, levy, mills to percentage, market value....Ch. 82 - 218
Ad valorem, relief, .4% to .3%.....Ch. 26 - 33
Levy, School Dists, M&O, reduced, .4% to .3%.....Ch. 26 - 33
Real, personal, casualty loss, tax exempt, when.....Ch.220 - 764
TAX AND TAXATION, SALES
Act, technical corrections, charities, exemptions.....Ch. 54 - 122
Aerial tramways/snowgrooming equipment, exempt.....Ch.288 - 966
Amusement devices, permit fee, in lieu of tax.....Ch.340 - 1126
Collection, statute of limitations, removed, when.....Ch.110 - 346
Kootenai Tribe, sales tax issue, study comm resolve....SCR119 - 1333
Mail-order business, out-of-state, collection allowed....HJM1 - 1289
Ronald McDonald House, rooms, exempt.....Ch.219 - 762
School Dist, levies, reduced, sales tax receipts.....Ch. 26 - 33
TEACHERS
Unethical conduct/allegation, hearing.....Ch.235 - 794
TELECOMMUNICATIONS
InterLATA, service restrictions, dialing parity.....Ch. 60 - 133
Service, resale, definition, not public utiltiy.....Ch.349 - 1150
TELEPHONES
Corporation, interLATA restrictions, dialing parity....Ch. 60 - 133
Service, resale, definition, not public utility.....Ch.349 - 1150
TELEVISION
See also PUBLIC BROADCASTING
THEFT
Grand, series of, common scheme/plan, penalty.....Ch.216 - 754
TIMBER
See FORESTS AND FORESTRY

TITLE INSURANCE Chapter - Page
See INSURANCE
TOBACCO
Cigarettes, unstamped, transporter, documentation.....Ch. 43 - 64
Tax, distribution, county juvenile probation services..Ch.368 - 1281
Tax, moneys, Substance Abuse Programs, public schools..Ch.160 - 637
Usage, insurance/health, rating factor.....Ch.360 - 1235
TRAILERS
Park, recreational vehicles, manufacturer standards....Ch.267 - 856
TRANSPORTATION
Bd, membership, increased, terms, compensation.....Ch.203 - 695
Dept, approp.....Ch.324 - 1090
Dept, approp, full-time positions limited.....Ch.324 - 1090
Dept, approp, pavement rehabilitation program.....Ch.139 - 593
Dept, approp, pavement rehabilitation program.....Ch.278 - 939
Dept, approp, roads/bridges, (line item VETO).....Ch.139 - 593
Dept, drivers license test book, Open Range Law info...Ch.209 - 710
National Highway System, Congress approve, requested.....HJM2 - 1290
Public, systems, Recreation Dists, authorized.....Ch.353 - 1193
School bus construction standards, adoption.....Ch.259 - 843
TREASURER AND TREASURIES
State, approp.....Ch.263 - 845
State, approp, full-time positions limited.....Ch.263 - 845
State, residence requirement, repealed.....Ch. 30 - 48
TRUST DEEDS
See DEEDS
TRUSTS
Estate, trustees, additional powers.....Ch.180 - 663
Instrument, transfer, voluntary/involuntary.....Ch.179 - 662
Minors, incompetent persons, court approved payments...Ch.214 - 742
Special Needs, minor/incompetent person, court awards..Ch.214 - 742
State, Outdoor Recreation Enhancement (STORE).....Ch.332 - 1103
TUMOR REGISTRY
Central, Cancer Fund, name change, purpose, reporting..Ch. 67 - 170
UNEMPLOYMENT
Insurance benefits, reemployment services, required....Ch. 98 - 289
UNIFORM COMMERCIAL CODE
Administrative Acct, consolidated, Secretary/State.....Ch.163 - 643
Investment securities, uniform law.....Ch.272 - 873
UNIFORM CONTROLLED SUBSTANCES ACT
See CONTROLLED SUBSTANCES ACT
UNIFORM LAWS
Uniform Dist Elections Law, election consolidation.....Ch.118 - 417
Uniform Premarital Agreement Act, created.....Ch.229 - 780
UNIONS
Right to work, applicable, private/public employment...Ch.178 - 662
UTILITIES
City, franchise ordinances, fees.....Ch.226 - 777
Public/defined, telephone service resale/not included..Ch.349 - 1150
PUC, approp.....Ch.130 - 563
PUC, approp, full-time positions, number limited.....Ch.130 - 563
PUC, approp, supplemental, FY95.....Ch.130 - 563
PUC, jurisdiction exempt, vehicles/manure hauling.....Ch.102 - 329

VETERANS Chapter - Page
Bureau, U.S., name change, Veterans Affairs, Dept.....Ch. 3 - 9
VETERINARY MEDICINE
Licensure, certified euthanasia agents, amendments.....Ch. 62 - 145
VICTIMS
Juvenile offender, restitution, limits/not subject to..Ch.274 - 920
Rights, during investigation/prosecution.....Ch.142 - 604
VIDEO GAMES
Amusement devices, permit fee, in lieu of tax.....Ch.340 - 1126
VISUALLY IMPAIRED
See BLIND
VITAL STATISTICS
Birth certificate, natural father/name, by affidavit...Ch. 53 - 120
Birth certificate, paternity report, form simplified...Ch. 31 - 49
Birth, death, registration/filing, state registrar.....Ch. 28 - 42
VOCATIONAL EDUCATION
Approp.....Ch.243 - 806
Approp, Displaced Homemaker Program.....Ch.243 - 806
Proprietary schools, degrees conferred, authority.....Ch.107 - 340
VOCATIONAL REHABILITATION
Act, references, corrections.....Ch. 2 - 9
Div, approp.....Ch.300 - 1046
Div, approp, full-time positions limited.....Ch.300 - 1046
Div, approp, Independent Living Council.....Ch.300 - 1046
VOTERS
Registration, administration, compliance, federal law..Ch.215 - 747
WAGES
See SALARIES
WAREHOUSES
Grain storage, withdraw, statement/insurance, repeal...Ch. 56 - 128
WARRANTS
Deficiency, dams, emergency repairs.....Ch.283 - 944
WASTES
Hazardous, rendered nonhazardous, disposal fee.....Ch.127 - 560
Nuclear, permanent repository/INEL, opposed.....HCR10 - 1347
WATER
Agricultural Ground, Quality Protection, adopted.....Ch.273 - 920
Antidegradation policy, instream beneficial use.....Ch.352 - 1165
Basin Advisory Groups, created.....Ch.352 - 1165
Ground, Basins, recharge, fee waiver, extended.....Ch.338 - 1117
Ground, Dists, established.....Ch.290 - 982
Ground, withdrawal report, cease diversion, when.....Ch.286 - 949
Irrigation Dists, election dates, conformity.....Ch.125 - 541
Management Fund, approp.....Ch.200 - 692
Management Fund, approp, Snake River Aquifer recharge..Ch.200 - 692
Management Fund, approp, Soda Springs dam site, study..Ch.200 - 692
Measurement Dists, created.....Ch.291 - 1013
Quality, standards, H&W, Dept, rules amended.....HCR11 - 1349
Rights, domestic uses, clarified.....Ch.233 - 790
Surface, quality standards, federal Clean Water Act....Ch.352 - 1165
Wells/artesian, repair plan, Ground, Management Dists..Ch.294 - 1036
WATER RESOURCES
Dept, approp.....Ch.315 - 1076

WATER RESOURCES (Continued) Chapter - Page
Dept, approp, full-time positions limited.....Ch.315 - 1076
Dept, approp, reduced, FY95.....Ch. 6 - 12
Dept, approp, Snake Basin Adjudications.....Ch.343 - 1129
Dept, approp, supplemental, FY95.....Ch. 13 - 20
Dept, approp, supplemental, FY95.....Ch. 86 - 250
Dept, Snake Basin Adjudication, approp, reduced, FY95..Ch. 6 - 12
Dept, Water Measurement Dists, supervise.....Ch.291 - 1013
WATERSHEDS
Advisory Groups, duties, water quality standards.....Ch.352 - 1165
WEAPONS
See also FIREARMS
Concealed, license, procedure/criteria, revised.....Ch.356 - 1201
Firearms, on school property, student expelled.....Ch.248 - 819
Hunting, improper handling, license revoked.....Ch. 66 - 168
WELFARE
See PUBLIC ASSISTANCE
WELLS
Artesian, repair plan, Ground Water Management Dist....Ch.294 - 1036
WHEAT
See AGRICULTURE
WILDLIFE
Grizzly Bear Management Oversight Comm, sunset/extend..Ch.296 - 1041
Migratory waterfowl stamp, F&G, sunset date extended...Ch.175 - 657
National park, poaching, F&G license revoked.....Ch.280 - 940
Upland game bird stamp, F&G, habitat improvement.....Ch.176 - 658
WILLS
Joint probate, death of surviving spouse.....Ch.168 - 651
WINE
Grape Growers, Producers Com, bank acct.....Ch.204 - 698
Tax/grapes, Idaho grown, $25 per acre, $300 winery.....Ch.204 - 698
WITNESSES
Intimidation, prohibited, juvenile hearing.....Ch. 50 - 117
Legislative committee, subpoena/oaths/false testimony..Ch.232 - 787
WOMEN
Programs, Com on, approp.....Ch.262 - 844
Programs, Com on, approp, full-time positions limited..Ch.262 - 844
YOUTH REHABILITATION ACT
Juvenile Corrections Act, HB98, trailer bill.....Ch.277 - 925
Juvenile detention facility, escape from, penalties....Ch. 74 - 194
Juvenile offender, arson/first degree, tried as adult..Ch. 48 - 114
Juvenile offender, crimes/certain, detention time.....Ch. 45 - 107
Juvenile offender, detention costs, parents pay, when..Ch.354 - 1198
Juvenile offender, detention, fingerprints/photos.....Ch. 49 - 115
Juvenile offender, restitution, victim, limitation.....Ch.274 - 920
Juvenile offender, tried as adult, stay/adult court....Ch. 46 - 110
Juvenile offender, under 14, tried as adult, when.....Ch. 47 - 111
Recodified, Juvenile Corrections Act, (omnibus bill)...Ch. 44 - 65
ZONING
See PLANNING AND ZONING

TABLE OF AMENDMENTS, REPEALS, ADDITIONS AND REFERENCES

FIRST REGULAR SESSION - FIFTY-THIRD LEGISLATURE

CODE INDEX

Code citation, action, bill number and
session law chapter number is shown
of bills which passed

		Chapter - Page
TITLE 1		
1-2301	Amended	Ch.183 - 669
TITLE 5		
5-245	Amended	Ch.264 - 846
5-245	Referred to	Ch.264 - 847
5-326	Referred to	Ch.290 - 1009
TITLE 6		
6-210	Referred to	Ch.274 - 923
6-610A	Amended	Ch.116 - 398
6-1102	Referred to	Ch.288 - 966
6-1301	Amended	Ch. 85 - 250
TITLE 7		
7-1106	Amended	Ch.234 - 791
7-1110	Amended	Ch.234 - 792
7-1115	Amended	Ch.234 - 792
7-1116	Amended	Ch.234 - 792
7-1119	Amended	Ch.234 - 793
7-1205	Amended	Ch.201 - 693
TITLE 8		
8-507	Amended	Ch.330 - 1099
8-507A	Amended	Ch.330 - 1100
8-507B	Amended	Ch.330 - 1101
TITLE 9		
Chapter 3	Referred to	Ch. 99 - 322
9-338	Referred to	Ch.356 - 1203
9-340	Amended	Ch.207 - 703
9-340	Amended	Ch.359 - 1223
9-340	Amended	Ch.356 - 1206
9-340	Amended	Ch.218 - 756
9-340	Referred to	Ch.136 - 590

TITLE 9 (Continued)		Chapter - Page
9-417	Amended	Ch. 39 - 58
9-801	New Section Added	Ch.359 - 1219
9-802	New Section Added	Ch.359 - 1219
9-803	New Section Added	Ch.359 - 1220
9-804	New Section Added	Ch.359 - 1221
9-805	New Section Added	Ch.359 - 1221
9-806	New Section Added	Ch.359 - 1221
9-807	New Section Added	Ch.359 - 1221
9-808	New Section Added	Ch.359 - 1222
9-809	New Section Added	Ch.359 - 1222
9-810	New Section Added	Ch.359 - 1223
9-811	New Section Added	Ch.359 - 1223
TITLE 10		
10-1110	Amended	Ch.264 - 847
10-1111	Amended	Ch.264 - 847
TITLE 11		
11-101	Amended	Ch.264 - 847
TITLE 15		
15-3-111	Amended	Ch.168 - 651
15-3-301	Amended	Ch.166 - 648
15-3-805	Referred to	Ch.105 - 337
15-3-1201	Amended	Ch.167 - 650
15-5-401	Referred to	Ch.214 - 744
15-5-409	Amended	Ch.214 - 745
15-5-409a	Amended	Ch.214 - 746
15-5-508	Amended	Ch.179 - 662
15-7-402	New Section Added	Ch.180 - 663
TITLE 16		
16-1506	Amended	Ch.161 - 639
16-1619	Amended	Ch.329 - 1098
16-1620	Amended	Ch.328 - 1097
16-1620A	New Section Added	Ch.276 - 924
Chapter 18	Referred to	Ch. 44 - 75
Chapter 18	Referred to	Ch. 74 - 195
Chapter 18	Referred to	Ch.277 - 938
16-1801	Amended	Ch. 44 - 68
16-1801	Redesignated 20-501	Ch. 44 - 68
16-1802	Amended	Ch. 44 - 71
16-1802	Redesignated 20-502	Ch. 44 - 71
16-1803	Amended	Ch. 44 - 75
16-1803	Redesignated 20-505	Ch. 44 - 75
16-1804	Amended	Ch. 44 - 76
16-1804	Redesignated 20-506	Ch. 44 - 76
16-1805	Amended	Ch. 44 - 77
16-1805	Redesignated 20-507	Ch. 44 - 77
16-1806	Amended	Ch. 44 - 77
16-1806	Redesignated 20-508	Ch. 44 - 77
16-1806	Amended	Ch. 47 - 113
16-1806	Referred to	Ch. 74 - 196
16-1806A	Amended	Ch. 44 - 79
16-1806A	Redesignated 20-509	Ch. 44 - 79
16-1806A	Amended	Ch. 46 - 110

TITLE 16 (Continued)		Chapter - Page
16-1806A	Amended	Ch. 47 - 113
16-1806A	Amended	Ch. 48 - 114
16-1806A	Referred to	Ch. 74 - 196
16-1807	Amended	Ch. 44 - 80
16-1807	Redesignated 20-510	Ch. 44 - 80
16-1807A	Amended	Ch. 44 - 80
16-1807A	Redesignated 20-511	Ch. 44 - 80
16-1808	Amended	Ch. 44 - 81
16-1808	Redesignated 20-512	Ch. 44 - 81
16-1809	Amended	Ch. 44 - 82
16-1809	Redesignated 20-513	Ch. 44 - 82
16-1809A	Amended	Ch. 44 - 82
16-1809A	Redesignated 20-514	Ch. 44 - 82
16-1810	Amended	Ch. 44 - 83
16-1810	Redesignated 20-515	Ch. 44 - 83
16-1811	Amended	Ch. 49 - 115
16-1811	Amended	Ch. 44 - 83
16-1811	Redesignated 20-516	Ch. 44 - 83
16-1812	Amended	Ch. 44 - 85
16-1812	Redesignated 20-517	Ch. 44 - 85
16-1812A	Amended	Ch. 44 - 86
16-1812A	Redesignated 20-518	Ch. 44 - 86
16-1813	Amended	Ch. 44 - 86
16-1813	Redesignated 20-519	Ch. 44 - 86
16-1814	Amended	Ch. 45 - 107
16-1814	Amended	Ch. 44 - 87
16-1814	Redesignated 20-520	Ch. 44 - 87
16-1814	Amended	Ch.274 - 920
16-1814	Referred to	Ch.277 - 928
16-1814A	Amended	Ch. 44 - 90
16-1814A	Redesignated 20-521	Ch. 44 - 90
16-1814B	Amended	Ch. 44 - 90
16-1814B	Redesignated 20-522	Ch. 44 - 90
16-1814C	Amended	Ch. 44 - 90
16-1814C	Redesignated 20-523	Ch. 44 - 90
16-1815	Amended	Ch.354 - 1198
16-1815	Amended	Ch. 44 - 91
16-1815	Redesignated 20-524	Ch. 44 - 91
16-1816	Amended	Ch. 44 - 91
16-1816	Redesignated 20-525	Ch. 44 - 91
16-1817	Amended	Ch. 44 - 92
16-1817	Redesignated 20-526	Ch. 44 - 92
16-1818	Amended	Ch. 44 - 92
16-1818	Redesignated 20-527	Ch. 44 - 92
16-1819	Amended	Ch. 44 - 92
16-1819	Redesignated 20-528	Ch. 44 - 92
16-1820	Amended	Ch. 44 - 93
16-1820	Redesignated 20-529	Ch. 44 - 93
16-1822	Repealed	Ch. 44 - 93
16-1823	Amended	Ch. 44 - 93
16-1823	Redesignated 20-530	Ch. 44 - 93
16-1824	Repealed	Ch. 44 - 93

TITLE 16 (Continued)		Chapter - Page
16-1825	Repealed	Ch. 44 - 93
16-1826	Amended	Ch. 44 - 93
16-1826	Redesignated 20-504	Ch. 44 - 93
16-1827	Amended	Ch. 44 - 94
16-1827	Redesignated 20-531	Ch. 44 - 94
16-1828	Amended	Ch. 44 - 94
16-1828	Redesignated 20-532	Ch. 44 - 94
16-1829	Amended	Ch. 44 - 94
16-1829	Redesignated 20-533	Ch. 44 - 94
16-1830	Repealed	Ch. 44 - 95
16-1831	Repealed	Ch. 44 - 95
16-1832	Repealed	Ch. 44 - 95
16-1833	Repealed	Ch. 44 - 95
16-1834	Repealed	Ch. 44 - 95
16-1835	Repealed	Ch. 44 - 95
16-1836	Amended	Ch. 44 - 95
16-1836	Redesignated 20-534	Ch. 44 - 95
16-1837	Amended	Ch. 44 - 96
16-1837	Redesignated 20-535	Ch. 44 - 96
16-1838	Amended	Ch. 44 - 96
16-1838	Redesignated 20-536	Ch. 44 - 96
16-1839	Amended	Ch. 44 - 96
16-1839	Redesignated 20-537	Ch. 44 - 96
16-1840	Amended	Ch. 44 - 96
16-1840	Redesignated 20-538	Ch. 44 - 96
16-1841	Amended	Ch. 44 - 97
16-1841	Redesignated 20-539	Ch. 44 - 97
16-1843	Repealed	Ch. 44 - 97
16-1844	Amended	Ch. 44 - 97
16-1844	Redesignated 20-540	Ch. 44 - 97
16-1845	Repealed	Ch. 44 - 97
16-1847	Amended	Ch. 44 - 97
16-1847	Redesignated 20-541	Ch. 44 - 97
16-1848	Amended	Ch. 44 - 100
16-1848	Redesignated 20-547	Ch. 44 - 100
16-1849	Amended	Ch. 44 - 98
16-1849	Redesignated 20-542	Ch. 44 - 98
16-1850	Repealed	Ch. 44 - 98
16-1910	Amended	Ch. 44 - 106
TITLE 18		
18-301	Repealed	Ch. 16 - 22
18-915	Amended	Ch. 51 - 118
18-918	Amended	Ch.223 - 770
18-1502C	Amended	Ch.361 - 1265
18-2408	Amended	Ch.216 - 754
18-2505	Amended	Ch. 74 - 195
18-2506	Amended	Ch. 74 - 195
18-2604	Amended	Ch. 50 - 117
18-3302	Amended	Ch.356 - 1201
18-3302D	Amended	Ch.248 - 819
Chapter 54	Referred to	Ch.223 - 789
18-5401	Amended	Ch.232 - 789

TITLE 18 (Continued)		Chapter - Page
18-5413	New Section Added	Ch.275 - 924
18-8002A	Enforcement Stayed	Ch.190 - 682
18-8002B	New Section Added	Ch.190 - 682
18-8102	Amended	Ch.116 - 399
TITLE 19		
Chapter 7	Referred to	Ch.269 - 868
19-851	Amended	Ch. 59 - 132
19-2515	Amended	Ch.140 - 594
19-2516	Repealed	Ch.140 - 596
19-2601	Amended	Ch.247 - 817
19-2702	Amended	Ch.205 - 700
19-2719	Amended	Ch.140 - 596
19-2719A	New Section Added	Ch.140 - 598
19-2818	New Section Added	Ch.140 - 598
19-2923	Amended	Ch.158 - 636
19-2926	Amended	Ch.158 - 636
19-4801	Repealed	Ch.116 - 390
19-4802	Repealed	Ch.116 - 390
19-4803	Repealed	Ch.116 - 390
19-4804	Amended	Ch.116 - 390
19-4804	Redesignated 67-2905	Ch.116 - 390
19-4805	Repealed	Ch.116 - 391
19-4806	Repealed	Ch.116 - 391
19-4807	Amended	Ch.116 - 391
19-4807	Redesignated 67-2906	Ch.116 - 391
19-4809	Amended	Ch.116 - 391
19-4809	Redesignated 67-2907	Ch.116 - 391
19-4810	Repealed	Ch.116 - 391
19-4811	Amended	Ch.116 - 391
19-4811	Redesignated 67-2908	Ch.116 - 391
19-4812	Amended	Ch. 29 - 46
19-4812	Amended	Ch.116 - 392
19-4812	Redesignated 67-2911	Ch.116 - 392
19-4813	Amended	Ch.116 - 394
19-4813	Redesignated 67-2912	Ch.116 - 394
Chapter 53	Referred to	Ch.223 - 771
19-5306	Amended	Ch.142 - 604
TITLE 20		
20-101C	Amended	Ch. 34 - 52
Chapter 5	Referred to	Ch.142 - 606
Chapter 5	Referred to	Ch.218 - 759
20-501	Redesignated from 16-1801	Ch. 44 - 68
20-502	Redesignated from 16-1802	Ch. 44 - 71
20-502	Amended (As Enacted by HB98)	Ch.277 - 926
20-503	New Section Added	Ch. 44 - 72
20-503	Amended (As Enacted by HB98)	Ch.277 - 927
20-504	Redesignated from 16-1826	Ch. 44 - 73
20-504	Amended (As Enacted by HB98)	Ch.277 - 928
20-505	Redesignated from 16-1803	Ch. 44 - 75
20-506	Redesignated from 16-1804	Ch. 44 - 76
20-507	Redesignated from 16-1805	Ch. 44 - 77
20-508	Redesignated from 16-1806	Ch. 44 - 77

TITLE 20 (Continued)		Chapter - Page
20-508	Amended (As Enacted by HB98)	Ch.277 - 930
20-509	Redesignated from 16-1806A	Ch. 44 - 79
20-510	Redesignated from 16-1807	Ch. 44 - 80
20-511	Redesignated from 16-1807A	Ch. 44 - 80
20-512	Redesignated from 16-1808	Ch. 44 - 81
20-513	Redesignated from 16-1809	Ch. 44 - 82
20-514	Redesignated from 16-1809A	Ch. 44 - 82
20-515	Redesignated from 16-1810	Ch. 44 - 83
20-516	Redesignated from 16-1811	Ch. 44 - 83
20-516	Amended (As Enacted by HB98)	Ch.277 - 932
20-516	Amended (As Enacted by SB1020)	Ch.277 - 932
20-517	Redesignated from 16-1812	Ch. 44 - 85
20-518	Redesignated from 16-1812A	Ch. 44 - 86
20-519	Redesignated from 16-1813	Ch. 44 - 86
20-520	Redesignated from 16-1814	Ch. 44 - 87
20-520	Amended (As Enacted by HB98)	Ch.277 - 933
20-521	Redesignated from 16-1814A	Ch. 44 - 90
20-522	Redesignated from 16-1814B	Ch. 44 - 90
20-522	Amended (As Enacted by HB98)	Ch.277 - 936
20-523	Redesignated from 16-1814C	Ch. 44 - 90
20-523	Amended (As Enacted by HB98)	Ch.277 - 936
20-524	Redesignated from 16-1815	Ch. 44 - 91
20-525	Redesignated from 16-1816	Ch. 44 - 91
20-525A	Redesignated from 16-1816A	Ch.277 - 937
20-526	Redesignated from 16-1817	Ch. 44 - 92
20-527	Redesignated from 16-1818	Ch. 44 - 92
20-528	Redesignated from 16-1819	Ch. 44 - 92
20-529	Redesignated from 16-1820	Ch. 44 - 93
20-530	Redesignated from 16-1823	Ch. 44 - 93
20-531	Redesignated from 16-1827	Ch. 44 - 94
20-532	Redesignated from 16-1827	Ch. 44 - 94
20-533	Redesignated from 16-1829	Ch. 44 - 94
20-534	Redesignated from 16-1836	Ch. 44 - 95
20-535	Redesignated from 16-1837	Ch. 44 - 96
20-536	Redesignated from 16-1838	Ch. 44 - 96
20-537	Redesignated from 16-1839	Ch. 44 - 96
20-538	Redesignated from 16-1840	Ch. 44 - 96
20-539	Redesignated from 16-1841	Ch. 44 - 97
20-540	Redesignated from 16-1844	Ch. 44 - 97
20-541	Redesignated from 16-1847	Ch. 44 - 97
20-542	Redesignated from 16-1849	Ch. 44 - 98
20-543	Redesignated from 33-3501	Ch. 44 - 98
20-544	Redesignated from 33-3502	Ch. 44 - 99
20-544	Repealed (As Enacted by HB98)	Ch.277 - 937
20-545	Redesignated from 33-3503	Ch. 44 - 89
20-546	Redesignated from 33-3505	Ch. 44 - 89
20-546	Amended (As Enacted by HB98)	Ch.277 - 938
20-547	Redesignated from 16-1848	Ch. 44 - 100
20-547	Amended (As Enacted by HB98)	Ch.277 - 938
20-624	Amended	Ch.265 - 848
TITLE 21		
21-401	Amended	Ch.118 - 418

TITLE 21 (Continued)		Chapter - Page
21-404	Amended	Ch. 82 - 219
21-805	Amended	Ch.118 - 419
21-805B	Amended	Ch.118 - 420
21-806	Amended	Ch.118 - 424
21-809	Amended	Ch.118 - 425
21-814	Amended	Ch.118 - 425
TITLE 22		
22-206	Amended	Ch. 82 - 220
22-307	Amended	Ch. 82 - 220
22-435	Amended	Ch. 32 - 50
22-1303	Amended	Ch.101 - 327
22-1308	Amended	Ch.101 - 328
22-1408	Amended	Ch.100 - 326
22-1701	Repealed	Ch. 71 - 183
22-1702	Repealed	Ch. 71 - 183
22-1801	Repealed	Ch. 69 - 178
22-1802	Repealed	Ch. 69 - 178
22-1803	Repealed	Ch. 69 - 178
22-1804	Repealed	Ch. 69 - 178
22-2717	Amended	Ch.118 - 429
22-2717	Referred to	Ch.352 - 1169
22-2718	Referred to	Ch.352 - 1169
22-2719	Amended	Ch.118 - 430
22-2721	Amended	Ch.118 - 434
22-2721	Amended	Ch.256 - 837
22-2725	Amended	Ch.118 - 436
22-3417A	New Section Added	Ch.217 - 755
22-3426	Amended	Ch.106 - 340
22-4301	Amended	Ch.118 - 438
TITLE 23		
23-903	Amended	Ch.358 - 1215
23-917	Amended	Ch.118 - 440
23-955	Amended	Ch.145 - 612
23-1001	Amended	Ch.311 - 1071
23-1034	Amended	Ch.172 - 654
23-1304	Amended	Ch.118 - 440
TITLE 25		
25-229	Repealed	Ch. 57 - 129
25-232	Amended	Ch. 33 - 51
25-501	Repealed	Ch. 57 - 129
25-502	Repealed	Ch. 57 - 129
25-503	Repealed	Ch. 57 - 129
25-1181	Amended	Ch.123 - 539
25-2604	Amended	Ch.118 - 444
25-3302	Amended	Ch.124 - 541
TITLE 26		
26-101	Amended	Ch. 99 - 300
26-106	Referred to	Ch.133 - 580
26-107	Amended	Ch. 99 - 300
26-301	Amended	Ch. 99 - 301
26-710	Amended	Ch. 99 - 301
26-1101	Amended	Ch. 99 - 302

TITLE 26 (Continued) Chapter - Page
26-1104 Amended .....Ch. 99 - 303
26-1116 New Section Added .....Ch. 99 - 304
26-1117 New Section Added .....Ch. 99 - 305
26-1601 New Section Added .....Ch. 99 - 305
26-1602 New Section Added .....Ch. 99 - 306
26-1603 New Section Added .....Ch. 99 - 306
26-1604 New Section Added .....Ch. 99 - 306
26-1605 New Section Added .....Ch. 99 - 307
26-1606 New Section Added .....Ch. 99 - 307
26-1701 New Section Added .....Ch. 99 - 307
26-1702 New Section Added .....Ch. 99 - 308
26-1703 New Section Added .....Ch. 99 - 308
26-1704 New Section Added .....Ch. 99 - 309
26-1705 New Section Added .....Ch. 99 - 309
26-1706 New Section Added .....Ch. 99 - 309
26-1707 New Section Added .....Ch. 99 - 310
26-1708 New Section Added .....Ch. 99 - 310
26-1709 New Section Added .....Ch. 99 - 311
26-1710 New Section Added .....Ch. 99 - 312
26-1711 New Section Added .....Ch. 99 - 313
26-1712 New Section Added .....Ch. 99 - 314
26-1713 New Section Added .....Ch. 99 - 314
26-1714 New Section Added .....Ch. 99 - 314
26-1715 New Section Added .....Ch. 99 - 315
26-1716 New Section Added .....Ch. 99 - 315
26-2221 New Section Added .....Ch.211 - 716
26-2223A Amended .....Ch.211 - 716
26-2224 Amended .....Ch.211 - 716
26-2228 Amended .....Ch.211 - 717
26-2229 Amended .....Ch.211 - 718
26-2229A Amended .....Ch.211 - 719
26-2230 Repealed .....Ch.211 - 719
26-2230 New Section Added .....Ch.211 - 720
26-2233 Amended .....Ch.211 - 720
26-2250 Amended .....Ch.211 - 720
26-2601 Amended .....Ch. 99 - 316
26-2602 Amended .....Ch. 99 - 316
26-2603 Amended .....Ch. 99 - 316
26-2604 Amended .....Ch. 99 - 318
26-2605 Amended .....Ch. 99 - 318
26-2606 Amended .....Ch. 99 - 319
26-2607 Amended .....Ch. 99 - 321
26-2608 Amended .....Ch. 99 - 321
26-2609 Amended .....Ch. 99 - 322
26-2610 Amended .....Ch. 99 - 322
26-2611 Amended .....Ch. 99 - 323
26-2612 Amended .....Ch. 99 - 323
26-2613 New Section Added .....Ch. 99 - 323
26-3001 New Section Added .....Ch.133 - 579
26-3002 New Section Added .....Ch.133 - 579
26-3003 New Section Added .....Ch.133 - 580
26-3004 New Section Added .....Ch.133 - 580

		Chapter - Page
TITLE 27		
27-106	Amended	Ch.118 - 445
27-107	Amended	Ch.118 - 446
27-111	Amended	Ch.118 - 446
27-112	Amended	Ch.118 - 447
27-121	Amended	Ch. 82 - 221
27-121	Amended	Ch.118 - 449
TITLE 28		
Chapter 1	Referred to	Ch.272 - 877
28-1-105	Amended	Ch.272 - 916
28-1-206	Amended	Ch.272 - 917
Chapter 3	Referred to	Ch.272 - 877
28-4-104	Amended	Ch.272 - 917
28-5-114	Amended	Ch.272 - 918
28-8-101	Repealed	Ch.272 - 874
28-8-101	New Section Added	Ch.272 - 875
28-8-102	Repealed	Ch.272 - 874
28-8-102	New Section Added	Ch.272 - 875
28-8-103	Repealed	Ch.272 - 874
28-8-103	New Section Added	Ch.272 - 877
28-8-104	Repealed	Ch.272 - 874
28-8-104	New Section Added	Ch.272 - 877
28-8-105	Repealed	Ch.272 - 874
28-8-105	New Section Added	Ch.272 - 878
28-8-106	Repealed	Ch.272 - 874
28-8-106	New Section Added	Ch.272 - 879
28-8-107	Repealed	Ch.272 - 874
28-8-107	New Section Added	Ch.272 - 879
28-8-108	Repealed	Ch.272 - 874
28-8-108	New Section Added	Ch.272 - 880
28-8-109	New Section Added	Ch.272 - 882
28-8-110	New Section Added	Ch.272 - 882
28-8-111	New Section Added	Ch.272 - 883
28-8-112	New Section Added	Ch.272 - 884
28-8-113	New Section Added	Ch.272 - 884
28-8-114	New Section Added	Ch.272 - 884
28-8-115	New Section Added	Ch.272 - 885
28-8-116	New Section Added	Ch.272 - 885
28-8-117	New Section Added	Ch.272 - 885
28-8-201	Repealed	Ch.272 - 874
28-8-201	New Section Added	Ch.272 - 885
28-8-202	Repealed	Ch.272 - 874
28-8-202	New Section Added	Ch.272 - 886
28-8-203	Repealed	Ch.272 - 874
28-8-203	New Section Added	Ch.272 - 887
28-8-204	Repealed	Ch.272 - 874
28-8-204	New Section Added	Ch.272 - 887
28-8-205	Repealed	Ch.272 - 874
28-8-205	New Section Added	Ch.272 - 887
28-8-206	Repealed	Ch.272 - 874
28-8-206	New Section Added	Ch.272 - 887
28-8-207	Repealed	Ch.272 - 874
28-8-207	New Section Added	Ch.272 - 888

TITLE 28 (Continued) Chapter - Page
28-8-208 Repealed .....Ch.272 - 874
28-8-208 New Section Added .....Ch.272 - 888
28-8-209 New Section Added .....Ch.272 - 888
28-8-210 New Section Added .....Ch.272 - 888
28-8-301 Repealed .....Ch.272 - 874
28-8-301 New Section Added .....Ch.272 - 889
28-8-302 Repealed .....Ch.272 - 874
28-8-302 New Section Added .....Ch.272 - 889
28-8-303 Repealed .....Ch.272 - 874
28-8-303 New Section Added .....Ch.272 - 889
28-8-304 Repealed .....Ch.272 - 874
28-8-304 New Section Added .....Ch.272 - 890
28-8-305 Repealed .....Ch.272 - 874
28-8-305 New Section Added .....Ch.272 - 890
28-8-306 Repealed .....Ch.272 - 874
28-8-306 New Section Added .....Ch.272 - 890
28-8-307 Repealed .....Ch.272 - 874
28-8-307 New Section Added .....Ch.272 - 891
28-8-308 Repealed .....Ch.272 - 874
28-8-309 Repealed .....Ch.272 - 874
28-8-310 Repealed .....Ch.272 - 874
28-8-311 Repealed .....Ch.272 - 874
28-8-312 Repealed .....Ch.272 - 874
28-8-313 Repealed .....Ch.272 - 874
28-8-314 Repealed .....Ch.272 - 874
28-8-315 Repealed .....Ch.272 - 874
28-8-316 Repealed .....Ch.272 - 874
28-8-317 Repealed .....Ch.272 - 874
28-8-318 Repealed .....Ch.272 - 874
28-8-319 Repealed .....Ch.272 - 874
28-8-320 Repealed .....Ch.272 - 874
28-8-321 Repealed .....Ch.272 - 874
28-8-401 Repealed .....Ch.272 - 874
28-8-401 New Section Added .....Ch.272 - 891
28-8-402 Repealed .....Ch.272 - 874
28-8-402 New Section Added .....Ch.272 - 892
28-8-403 Repealed .....Ch.272 - 874
28-8-403 New Section Added .....Ch.272 - 893
28-8-404 Repealed .....Ch.272 - 874
28-8-404 New Section Added .....Ch.272 - 893
28-8-405 Repealed .....Ch.272 - 874
28-8-405 New Section Added .....Ch.272 - 894
28-8-406 Repealed .....Ch.272 - 874
28-8-406 New Section Added .....Ch.272 - 894
28-8-407 Repealed .....Ch.272 - 874
28-8-407 New Section Added .....Ch.272 - 895
28-8-408 Repealed .....Ch.272 - 874
28-8-501 New Section Added .....Ch.272 - 895
28-8-502 New Section Added .....Ch.272 - 895
28-8-503 New Section Added .....Ch.272 - 895
28-8-504 New Section Added .....Ch.272 - 895
28-8-505 New Section Added .....Ch.272 - 897

TITLE 28 (Continued)		Chapter - Page
28-8-506	New Section Added	Ch.272 - 897
28-8-507	New Section Added	Ch.272 - 897
28-8-508	New Section Added	Ch.272 - 898
28-8-509	New Section Added	Ch.272 - 898
28-8-510	New Section Added	Ch.272 - 899
28-8-511	New Section Added	Ch.272 - 899
28-9-103	Amended	Ch.272 - 899
28-9-105	Amended	Ch.272 - 903
28-9-106	Amended	Ch.272 - 905
28-9-115	New Section Added	Ch.272 - 905
28-9-116	New Section Added	Ch.272 - 908
28-9-203	Amended	Ch.272 - 908
28-9-301	Amended	Ch.272 - 909
28-9-302	Amended	Ch.272 - 910
28-9-304	Amended	Ch.272 - 912
28-9-305	Amended	Ch.272 - 912
28-9-306	Amended	Ch.272 - 913
28-9-309	Amended	Ch.272 - 915
28-9-312	Amended	Ch.272 - 915
28-10-104	Amended	Ch.272 - 915
28-22-104	Amended	Ch.304 - 1053
28-46-202	Amended	Ch. 99 - 323
28-46-203	Amended	Ch. 99 - 324
28-46-301	Amended	Ch. 99 - 324
TITLE 30		
Chapter 1	Referred to	Ch.163 - 643
30-1-54	Amended	Ch.126 - 543
30-1-61	Amended	Ch.126 - 544
30-1-64	Amended	Ch.126 - 545
30-1-65	Amended	Ch.126 - 546
30-1-67	Amended	Ch.126 - 547
30-1-69	Amended	Ch.126 - 548
30-1-74	Amended	Ch.126 - 549
30-1-75	Amended	Ch.126 - 550
30-1-82	Amended	Ch.126 - 551
30-1-92	Amended	Ch.126 - 551
30-1-110	Amended	Ch.126 - 552
30-1-119	Amended	Ch.126 - 552
30-1-125	Amended	Ch.126 - 553
30-1-126	Amended	Ch.126 - 554
30-1-153	New Section Added	Ch.126 - 554
Chapter 3	Referred to	Ch.163 - 643
Chapter 3	Referred to	Ch.350 - 1153
Chapter 13	Referred to	Ch.163 - 643
30-1311	Amended	Ch.126 - 554
30-1403A	Amended	Ch.212 - 722
Chapter 16	Referred to	Ch. 99 - 323
Chapter 17	Referred to	Ch. 99 - 323
TITLE 31		
31-206	Amended	Ch.118 - 499
31-402	Amended	Ch.118 - 450
31-403	Amended	Ch.118 - 450

TITLE 31 (Continued)		Chapter - Page
31-409	Amended	Ch.118 - 450
31-709	Amended	Ch. 61 - 135
31-807A	New Section Added	Ch. 61 - 135
31-815A	New Section Added	Ch. 61 - 136
31-834	Amended	Ch. 61 - 136
31-836	Amended	Ch.156 - 634
31-847	Amended	Ch.114 - 384
31-1002	Amended	Ch.118 - 451
31-1008	Amended	Ch.118 - 451
31-1008	Amended	Ch.369 - 1285
31-1405	Amended	Ch.118 - 452
31-1406	Amended	Ch.118 - 452
31-1410	Amended	Ch.118 - 453
31-1410A	Repealed	Ch.118 - 513
31-1411	Amended	Ch.118 - 454
31-1411	Amended	Ch. 84 - 248
31-1412	Amended	Ch.118 - 455
31-1501	Amended	Ch. 61 - 136
31-1501	Redesignated 31-1502	Ch. 61 - 136
31-1501	Redesignated from 31-1506	Ch. 61 - 136
31-1502	Amended	Ch. 61 - 138
31-1502	Redesignated 31-1508	Ch. 61 - 138
31-1502	Redesignated from 31-1501	Ch. 61 - 136
31-1503	Amended	Ch. 61 - 137
31-1504	Repealed	Ch. 61 - 136
31-1504	Redesignated from 31-1505	Ch. 61 - 137
31-1505	Amended	Ch. 61 - 137
31-1505	Redesignated 31-1504	Ch. 61 - 137
31-1505	Redesignated from 31-1508	Ch. 61 - 137
31-1506	Amended	Ch. 61 - 136
31-1506	Redesignated 31-1501	Ch. 61 - 136
31-1506	Redesignated from 31-1509	Ch. 61 - 138
31-1507	Repealed	Ch. 61 - 136
31-1507	Redesignated from 31-1512	Ch. 61 - 138
31-1508	Amended	Ch. 61 - 137
31-1508	Redesignated 31-1505	Ch. 61 - 137
31-1508	Redesignated from 31-1502	Ch. 61 - 138
31-1509	Amended	Ch. 61 - 138
31-1509	Redesignated 31-1506	Ch. 61 - 138
31-1509	New Section Added	Ch. 61 - 139
31-1512	Amended	Ch. 61 - 138
31-1512	Redesignated 31-1507	Ch. 61 - 138
31-1515	Repealed	Ch. 61 - 136
31-1516	Repealed	Ch. 61 - 136
31-1517	Repealed	Ch. 61 - 136
31-1518	Repealed	Ch. 61 - 136
Chapter 16	Referred to	Ch.171 - 654
31-1602	Amended	Ch. 61 - 139
31-1603	Amended	Ch. 61 - 140
31-1604	Amended	Ch. 61 - 141
31-1604	Referred to	Ch.369 - 1268
31-1605	Amended	Ch. 61 - 142

TITLE 31 (Continued)		Chapter - Page
31-1605A	Amended	Ch. 61 - 143
31-1606	Amended	Ch. 61 - 143
31-1610	Repealed	Ch. 61 - 144
31-1611	Amended	Ch. 61 - 144
31-1903	Amended	Ch.118 - 456
31-1905	Amended	Ch.118 - 457
31-2003	Referred to	Ch.114 - 385
31-3113	Amended	Ch.191 - 682
31-3201A	Amended	Ch.223 - 772
31-3203	Amended	Ch. 76 - 205
31-3503	Amended	Ch. 9 - 14
31-3503	Amended	Ch. 82 - 222
31-3513	Amended	Ch.118 - 457
31-3515	Amended	Ch.118 - 458
31-3517	Amended	Ch. 9 - 14
31-3519	Amended	Ch. 9 - 16
31-3605	Amended	Ch.118 - 459
31-3613	Amended	Ch. 82 - 223
31-3701	Amended	Ch.221 - 766
31-3702	Amended	Ch.118 - 459
31-3703	Amended	Ch.118 - 459
31-3704	Amended	Ch.221 - 766
31-3705	Amended	Ch.221 - 766
31-3706	Amended	Ch.221 - 767
31-3901	Amended	Ch. 82 - 223
31-4002	Amended	Ch.171 - 653
31-4014	New Section Added	Ch.171 - 653
31-4015	New Section Added	Ch.171 - 654
31-4304	Amended	Ch.118 - 460
31-4304A	New Section Added	Ch.353 - 1194
31-4305	Amended	Ch.118 - 462
31-4307	Amended	Ch.118 - 462
31-4307	Amended	Ch.353 - 1194
31-4314	Amended	Ch.353 - 1195
31-4316	Amended	Ch.353 - 1195
31-4317	Amended	Ch.353 - 1195
31-4318	Amended	Ch. 82 - 223
31-4318	Amended	Ch.353 - 1196
31-4319	Amended	Ch.118 - 463
31-4320	Amended	Ch.118 - 463
31-4323	Amended	Ch.118 - 464
31-4323	Amended	Ch.353 - 1197
31-4324	Amended	Ch.118 - 465
31-4328	Amended	Ch. 82 - 223
31-4328	Amended	Ch.353 - 1197
31-4404	Amended	Ch. 82 - 224
31-4510	Amended	Ch.118 - 465
TITLE 32		
32-201	Amended	Ch.104 - 335
32-203	Repealed	Ch.104 - 335
32-204	Repealed	Ch.104 - 335
32-301	Amended	Ch.104 - 335

TITLE 32 (Continued)		Chapter - Page
32-302	Amended	Ch.104 - 335
32-706A	Amended	Ch.258 - 842
32-710A	Amended	Ch.320 - 1083
32-717	Amended	Ch.128 - 561
32-717C	New Section Added	Ch.275 - 923
32-916	Amended	Ch.229 - 780
32-921	New Section Added	Ch.229 - 780
32-922	New Section Added	Ch.229 - 781
32-923	New Section Added	Ch.229 - 781
32-924	New Section Added	Ch.229 - 781
32-925	New Section Added	Ch.229 - 781
32-926	New Section Added	Ch.229 - 782
32-927	New Section Added	Ch.229 - 782
32-928	New Section Added	Ch.229 - 782
32-929	New Section Added	Ch.229 - 782
32-1210	Amended	Ch.201 - 693
TITLE 33		
33-203	New Section Added	Ch.224 - 775
33-205	Amended	Ch.252 - 827
33-205	Amended	Ch.250 - 825
33-205	Amended	Ch.248 - 820
33-205	Referred to	Ch. 44 - 92
Chapter 5	Referred to	Ch.119 - 518
33-512	Amended	Ch.248 - 821
33-802	Amended	Ch. 26 - 34
33-803	Amended	Ch. 82 - 225
Chapter 10	Referred to	Ch.111 - 360
33-1002	Amended	Ch.306 - 1062
33-1002	Repealed	Ch.306 - 1057
33-1002	New Section Added	Ch.306 - 1058
33-1002	Referred to	Ch. 26 - 37
33-1002D	New Section Added	Ch.108 - 341
33-1002D	New Section Added	Ch. 26 - 36
33-1003A	New Section Added	Ch.321 - 1086
33-1003A	New Section Added	Ch.306 - 1066
33-1004	Amended	Ch.271 - 871
33-1004	Amended	Ch. 52 - 119
33-1209	Amended	Ch.235 - 794
Chapter 14	Referred to	Ch.118 - 468
33-1511	Amended	Ch.259 - 843
33-1612	Referred to	HCR19 - 1365
33-1707	Amended	Ch.279 - 939
33-2006	Referred to	Ch.321 - 1086
33-2107A	Amended	Ch. 82 - 225
33-2111	Amended	Ch. 82 - 226
33-2301	Amended	Ch. 2 - 9
33-2401	Amended	Ch.107 - 340
Chapter 26	Referred to	Ch.111 - 360
33-2603	Referred to	Ch.119 - 514
Chapter 27	Referred to	Ch.111 - 360
33-2701	Amended	Ch.119 - 513
33-2703	Amended	Ch.119 - 514

TITLE 33 (Continued) Chapter - Page
33-2704 Amended .....Ch.119 - 514
33-2705 Amended .....Ch.119 - 515
33-2707 Amended .....Ch.119 - 516
33-2710 Amended .....Ch.119 - 516
33-2711 Amended .....Ch.119 - 517
33-2712 Repealed .....Ch.119 - 518
33-2716 Amended .....Ch.119 - 518
33-2717 Amended .....Ch.119 - 519
33-2717A Referred .....Ch.119 - 519
33-2724 Amended .....Ch.119 - 519
TITLE 34
34-104 Referred to .....Ch.118 - 502
34-106 Referred to .....Ch. 26 - 40
34-106 Referred to .....Ch.118 - 419
34-106 Referred to .....Ch.119 - 516
34-106 Referred to .....Ch.125 - 541
34-106 Referred to .....Ch.290 - 991
34-116 Amended .....Ch.215 - 748
34-407 Amended .....Ch.215 - 749
34-408A Amended .....Ch.215 - 749
34-410 Amended .....Ch.215 - 750
34-410A Repealed .....Ch.215 - 750
34-410A New Section Added .....Ch.215 - 750
34-411 Amended .....Ch.215 - 750
34-412 Amended .....Ch.215 - 751
34-413 Amended .....Ch.215 - 751
34-414 Repealed .....Ch.215 - 752
34-415 Repealed .....Ch.215 - 752
34-421 Repealed .....Ch.215 - 752
34-423 Repealed .....Ch.215 - 752
34-435 Amended .....Ch.215 - 752
34-708 Amended .....Ch.115 - 385
34-1002 Amended .....Ch.215 - 752
34-1005 Amended .....Ch.215 - 753
34-1006 Referred to .....Ch.215 - 749
34-1008 Amended .....Ch.215 - 753
Chapter 12 Referred to .....Ch.118 - 467
34-1202 Amended .....Ch.215 - 753
Chapter 14 Referred to .....Ch.118 - 419
Chapter 14 Referred to .....Ch.159 - 637
Chapter 14 Referred to .....Ch.256 - 838
34-1401 Referred to .....Ch.266 - 855
34-1402 Referred to .....Ch.118 - 493
34-1404 Referred to .....Ch.118 - 489
34-1405 Referred to .....Ch.118 - 487
34-1406 Referred to .....Ch.118 - 425
34-1701 Amended .....Ch.266 - 849
34-1702 Amended .....Ch.266 - 849
34-1703 Amended .....Ch.266 - 850
34-1706 Amended .....Ch.266 - 852
34-1710 Amended .....Ch.118 - 467
34-2201 Amended .....Ch.118 - 467

TITLE 34 (Continued)		Chapter - Page
34-2217	Repealed	Ch.227 - 779
TITLE 36		
36-104	Amended	Ch. 64 - 158
36-113	New Section Added	Ch.352 - 1182
36-202	Amended	Ch. 64 - 162
36-202	Amended	Ch.287 - 951
36-301	Amended	Ch.287 - 954
36-303	Amended	Ch. 64 - 165
36-303	Amended	Ch.287 - 955
36-304	Amended	Ch.287 - 956
36-305	Amended	Ch.287 - 956
36-306	Amended	Ch. 64 - 166
36-306	Amended	Ch.287 - 956
36-307	Amended	Ch.287 - 957
36-308	Amended	Ch.287 - 957
36-309	Amended	Ch.287 - 957
36-310	Amended	Ch.287 - 958
36-401	Amended	Ch. 44 - 100
36-405	Amended	Ch. 64 - 166
36-405	Amended	Ch. 63 - 157
36-405	Amended	Ch.287 - 958
36-406	Amended	Ch.287 - 959
36-407	Amended	Ch.287 - 961
36-408	Amended	Ch.287 - 962
36-409	Amended	Ch.176 - 658
36-409A	New Section Added	Ch.366 - 1280
36-414	Amended	Ch.287 - 963
36-1402	Amended	Ch.318 - 1080
36-1501	Amended	Ch. 66 - 168
36-1502	Amended	Ch. 66 - 169
36-1503	Amended	Ch. 66 - 169
36-1511	New Section Added	Ch.280 - 940
36-1702	Amended	Ch. 82 - 226
TITLE 37		
37-407	Amended	Ch. 78 - 208
37-2701	Amended	Ch.116 - 399
37-2705	Amended	Ch. 1 - 3
37-2707	Amended	Ch. 1 - 6
37-2732B	Amended	Ch.103 - 331
37-2732B	Amended	Ch. 58 - 129
37-2738	Referred to	Ch. 361 - 1265
TITLE 38		
38-201	Repealed	Ch.173 - 655
38-202	Repealed	Ch.173 - 655
38-203	Repealed	Ch.173 - 655
38-204	Repealed	Ch.173 - 655
38-205	Repealed	Ch.173 - 655
38-206	Repealed	Ch.173 - 655
38-207	Repealed	Ch.173 - 655
38-208	Repealed	Ch.173 - 655
38-209	Repealed	Ch.173 - 655
38-210	Repealed	Ch.173 - 655

TITLE 38 (Continued)		Chapter - Page
38-211	Repealed	Ch.173 - 655
38-212	Repealed	Ch.173 - 655
38-213	Repealed	Ch.173 - 655
38-214	Repealed	Ch.173 - 655
38-215	Repealed	Ch.173 - 655
38-216	Repealed	Ch.173 - 655
38-217	Repealed	Ch.173 - 655
38-218	Repealed	Ch.173 - 655
38-219	Repealed	Ch.173 - 655
38-220	Repealed	Ch.173 - 655
38-221	Repealed	Ch.173 - 655
38-222	Repealed	Ch.173 - 655
38-223	Repealed	Ch.173 - 655
38-509	Amended	Ch. 82 - 227
38-808	Amended	Ch.177 - 660
38-1303	Amended	Ch.352 - 1178
38-1305	Amended	Ch.352 - 1179
38-1306	Amended	Ch.281 - 941
38-1306	Amended	Ch.352 - 1180
38-1306B	New Section Added	Ch.281 - 943
38-1314	Repealed	Ch.352 - 1182
38-1503	Amended	Ch.255 - 835
38-1507	Amended	Ch.255 - 836
38-1515	Amended	Ch.255 - 836
TITLE 39		
39-104	Amended	Ch.365 - 1276
39-123	Referred to	Ch.273 - 920
39-124	Referred to	Ch.273 - 920
39-255	Amended	Ch. 53 - 121
39-255	Amended	Ch. 28 - 42
39-257	Amended	Ch. 31 - 49
39-260	Amended	Ch. 28 - 44
39-1323	Amended	Ch.118 - 467
39-1324	Amended	Ch.118 - 468
39-1325a	Amended	Ch.118 - 468
39-1330	Amended	Ch.118 - 469
39-1330	Amended	Ch.154 - 631
39-1330A	Repealed	Ch.118 - 513
39-1330B	Repealed	Ch.118 - 513
39-1334	Amended	Ch. 82 - 227
39-1334	Amended	Ch.118 - 470
39-1339	Amended	Ch.118 - 470
39-1340	Amended	Ch.118 - 472
39-1342	Amended	Ch.118 - 472
39-1390	Amended	Ch.169 - 652
39-2802	Amended	Ch.118 - 472
39-2805	Amended	Ch. 82 - 228
39-2806	Amended	Ch.118 - 473
39-3601	Amended	Ch.352 - 1182
39-3601	Redesignated 39-3624	Ch.352 - 1182
39-3601	New Section Added	Ch.352 - 1166
39-3602	Amended	Ch.352 - 1183

TITLE 39 (Continued) Chapter - Page
39-3602 Redesignated 39-3625 .....Ch.352 - 1183
39-3602 New Section Added .....Ch.352 - 1167
39-3603 Amended .....Ch.352 - 1184
39-3603 Redesignated 39-3626 .....Ch.352 - 1184
39-3603 New Section Added .....Ch.352 - 1170
39-3604 Amended .....Ch.352 - 1185
39-3604 Redesignated 39-3627 .....Ch.352 - 1185
39-3604 New Section Added .....Ch.352 - 1170
39-3605 Amended .....Ch.352 - 1187
39-3605 Redesignated 39-3628 .....Ch.352 - 1187
39-3605 New Section Added .....Ch.352 - 1171
39-3605B Amended .....Ch.352 - 1187
39-3605B Redesignated 39-3629 .....Ch.352 - 1187
39-3605C New Section Added .....Ch.344 - 1133
39-3606 Amended .....Ch.352 - 1188
39-3606 Redesignated 39-3630 .....Ch.352 - 1188
39-3606 New Section Added .....Ch.352 - 1171
39-3606A Amended .....Ch.352 - 1188
39-3606A Redesignated 39-3631 .....Ch.352 - 1188
39-3606B Amended .....Ch.352 - 1188
39-3606B Redesignated 39-3632 .....Ch.352 - 1188
39-3606C New Section Added .....Ch.344 - 1133
39-3607 Amended .....Ch.352 - 1189
39-3607 Redesignated 39-3633 .....Ch.352 - 1189
39-3607 New Section Added .....Ch.352 - 1171
39-3608 Amended .....Ch.352 - 1189
39-3608 Redesignated 39-3634 .....Ch.352 - 1189
39-3608 New Section Added .....Ch.352 - 1172
39-3609 Amended .....Ch.352 - 1189
39-3609 Redesignated 39-3635 .....Ch.352 - 1189
39-3609 New Section Added .....Ch.352 - 1172
39-3610 Amended .....Ch.352 - 1191
39-3610 Redesignated 39-3636 .....Ch.352 - 1191
39-3610 New Section Added .....Ch.352 - 1172
39-3611 Amended .....Ch.352 - 1192
39-3611 Redesignated 39-3637 .....Ch.352 - 1192
39-3611 New Section Added .....Ch.352 - 1173
39-3612 Amended .....Ch.352 - 1192
39-3612 Redesignated 39-3638 .....Ch.352 - 1192
39-3612 New Section Added .....Ch.352 - 1173
39-3613 Amended .....Ch.352 - 1192
39-3613 Redesignated 39-3639 .....Ch.352 - 1192
39-3613 New Section Added .....Ch.352 - 1174
39-3614 Repealed .....Ch.352 - 1182
39-3614 New Section Added .....Ch.352 - 1174
39-3615 Repealed .....Ch.352 - 1182
39-3615 New Section Added .....Ch.352 - 1175
39-3616 Repealed .....Ch.352 - 1182
39-3616 New Section Added .....Ch.352 - 1175
39-3617 Repealed .....Ch.352 - 1182
39-3617 New Section Added .....Ch.352 - 1175
39-3618 Repealed .....Ch.352 - 1182

TITLE 39 (Continued) Chapter - Page
39-3618 New Section Added .....Ch.352 - 1176
39-3619 Repealed .....Ch.352 - 1182
39-3619 New Section Added .....Ch.352 - 1176
39-3620 Repealed .....Ch.352 - 1182
39-3620 New Section Added .....Ch.352 - 1176
39-3621 Repealed .....Ch.352 - 1182
39-3621 New Section Added .....Ch.352 - 1177
39-3622 New Section Added .....Ch.352 - 1177
39-3623 New Section Added .....Ch.352 - 1177
39-3624 Redesignated from 39-3601 .....Ch.352 - 1182
39-3625 Redesignated from 39-3602 .....Ch.352 - 1183
39-3626 Redesignated from 39-3603 .....Ch.352 - 1184
39-3627 Redesignated from 39-3604 .....Ch.352 - 1185
39-3628 Redesignated from 39-3605 .....Ch.352 - 1187
39-3629 Redesignated from 39-3605B .....Ch.352 - 1187
39-3630 Redesignated from 39-3606 .....Ch.352 - 1188
39-3631 Redesignated from 39-3606A .....Ch.352 - 1188
39-3632 Redesignated from 39-3606B .....Ch.352 - 1188
39-3633 Redesignated from 39-3607 .....Ch.352 - 1189
39-3634 Redesignated from 39-3608 .....Ch.352 - 1189
39-3635 Redesignated from 39-3609 .....Ch.352 - 1189
39-3636 Redesignated from 39-3610 .....Ch.352 - 1191
39-3637 Redesignated from 39-3611 .....Ch.352 - 1192
39-3638 Redesignated from 39-3612 .....Ch.352 - 1192
39-3639 Redesignated from 39-3613 .....Ch.352 - 1192
39-4001 Amended .....Ch.267 - 857
39-4002 Amended .....Ch.267 - 857
39-4003 Amended .....Ch.267 - 857
39-4005 Repealed .....Ch.267 - 857
39-4006 Amended .....Ch.267 - 857
39-4007 Repealed .....Ch.267 - 857
39-4008 Amended .....Ch.267 - 858
39-4009 Amended .....Ch.267 - 858
39-4010 Amended .....Ch.267 - 858
39-4105 Amended .....Ch.267 - 859
39-4106 Amended .....Ch.267 - 861
39-4109 Amended .....Ch.267 - 862
39-4111 Amended .....Ch.267 - 863
39-4113 Amended .....Ch.267 - 863
39-4116 Amended .....Ch.267 - 863
39-4201 New Section Added .....Ch.267 - 864
39-4202 New Section Added .....Ch.267 - 865
39-4203 New Section Added .....Ch.267 - 865
39-4427 Amended .....Ch.127 - 560
Chapter 52 Referred to .....Ch.223 - 775
Chapter 63 Referred to .....Ch.356 - 1202
39-6306 Amended .....Ch.357 - 1212
39-6311 Amended .....Ch.357 - 1214
39-7105 Amended .....Ch.116 - 404
TITLE 40
40-202 Amended .....Ch.121 - 522
40-203 Amended .....Ch.121 - 523

TITLE 40 (Continued)		Chapter	Page
40-203A	Amended	Ch.121	525
40-302	Amended	Ch.203	696
40-303	Amended	Ch.203	696
40-306	Amended	Ch.203	697
40-307	Amended	Ch.203	697
40-308	Amended	Ch.203	698
40-709	Referred to	Ch.268	866
40-717	Amended	Ch.268	866
40-1305AA	New Section Added	Ch.245	809
40-1305BB	New Section Added	Ch.245	810
40-1305CC	New Section Added	Ch.245	810
40-1305DD	New Section Added	Ch.245	810
40-1305EE	New Section Added	Ch.245	810
40-1305FF	New Section Added	Ch.245	810
40-1305GG	New Section Added	Ch.245	811
40-1305HH	New Section Added	Ch.245	812
40-1305II	New Section Added	Ch.245	812
40-1305JJ	New Section Added	Ch.245	812
40-1305KK	New Section Added	Ch.245	812
40-1305LL	New Section Added	Ch.245	812
40-1305MM	New Section Added	Ch.245	813
40-1305NN	New Section Added	Ch.245	813
40-1305OO	New Section Added	Ch.245	813
40-1305PP	New Section Added	Ch.245	813
40-1305QQ	New Section Added	Ch.245	814
40-1305RR	New Section Added	Ch.245	814
40-1305SS	New Section Added	Ch.245	814
40-2401	Amended	Ch.268	866
40-2405	Referred to	Ch.361	866
TITLE 41			
Title 41	Referred to	Ch.326	1092
Chapter 1	Referred to	Ch.213	742
41-117	Referred to	Ch.213	740
41-117A	Referred to	Ch.213	740
Chapter 2	Referred to	Ch.213	742
41-201	Amended	Ch.135	586
41-206	Amended	Ch.135	586
41-223	Amended	Ch.136	587
41-226	Amended	Ch.135	587
41-227	Amended	Ch.136	588
41-288	New Section Added	Ch.138	592
41-308	Referred to	Ch.213	742
41-313	Amended	Ch. 96	273
41-313A	Referred to	Ch. 96	276
41-316	Amended	Ch.117	416
41-316	Amended	Ch.289	967
41-332	Referred to	Ch.213	742
41-335	Amended	Ch.289	969
41-345	New Section Added	Ch. 68	174
41-346	New Section Added	Ch. 68	174
41-347	New Section Added	Ch. 68	175
41-406	Referred to	Ch.213	740

TITLE 41 (Continued)		Chapter - Page
41-502 thru 41-506	Referred to	Ch.213 - 740
41-514	Amended	Ch.289 - 969
41-812	Amended	Ch.289 - 973
41-813	Amended	Ch.289 - 974
41-911	Amended	Ch.289 - 975
Chapter 10	Referred to	Ch.213 - 739
41-1029	Amended	Ch.289 - 975
41-1036	Amended	Ch.289 - 976
41-1037	Amended	Ch.289 - 976
41-1046	Amended	Ch.289 - 978
41-1047	Amended	Ch.289 - 980
41-1049	Amended	Ch.289 - 980
41-1080	New Section Added	Ch.289 - 981
41-1201	Referred to	Ch.213 - 742
41-1202	Referred to	Ch.213 - 742
41-1203	Referred to	Ch.213 - 742
Chapter 13	Referred to	Ch.213 - 739
41-1812	Amended	Ch.137 - 591
41-1828	Referred to	Ch.213 - 742
41-1829	Referred to	Ch.213 - 742
41-1830	Referred to	Ch.213 - 742
41-1838	Referred to	Ch. 213 - 742
41-1839	Referred to	Ch.213 - 742
41-1927A	Referred to	Ch. 213 - 742
41-1934	Referred to	Ch.213 - 742
41-2136	Amended	Ch.360 - 1236
41-2141	Referred to	Ch.213 - 742
41-2145	Amended	Ch.254 - 832
41-2145	Redesignated 41-2146	Ch.254 - 832
41-2146	Redesignated from 41-2145	Ch.254 - 832
41-2146	Referred to	Ch.254 - 834
41-2219	Amended	Ch.254 - 833
41-2219	Redesignated 41-2220	Ch.254 - 833
41-2220	Redesignated from 41-2219	Ch.254 - 833
41-2507	Referred to	Ch.361 - 1265
Chapter 27	Referred to	Ch.326 - 1092
41-2801	Amended	Ch.289 - 982
41-2820	Amended	Ch. 96 - 274
41-4820	Referred to	Ch.213 - 731
41-2821	Repealed	Ch. 96 - 276
41-2825	Amended	Ch. 96 - 276
41-2837	Referred to	Ch.213 - 742
41-2906	Amended	Ch. 96 - 276
41-2908	Amended	Ch. 96 - 277
41-2918	Amended	Ch. 96 - 278
41-2926	Amended	Ch. 96 - 279
41-3102A	Referred to	Ch. 96 - 274
41-3201	Repealed	Ch.213 - 723
41-3201	New Section Added	Ch.213 - 723
41-3202	Repealed	Ch.213 - 723
41-3202	New Section Added	Ch.213 - 723

TITLE 41 (Continued) Chapter - Page
41-3203 Repealed ....Ch.213 - 723
41-3203 New Section Added ....Ch.213 - 723
41-3204 Repealed ....Ch.213 - 723
41-3204 New Section Added ....Ch.213 - 724
41-3205 Repealed ....Ch.213 - 723
41-3205 New Section Added ....Ch.213 - 725
41-3206 Repealed ....Ch.213 - 723
41-3206 New Section Added ....Ch.213 - 725
41-3207 Repealed ....Ch.213 - 723
41-3207 New Section Added ....Ch.213 - 725
41-3208 Repealed ....Ch.213 - 723
41-3208 New Section Added ....Ch.213 - 726
41-3209 Repealed ....Ch.213 - 723
41-3209 New Section Added ....Ch.213 - 727
41-3210 Repealed ....Ch.213 - 723
41-3210 New Section Added ....Ch.213 - 727
41-3211 Repealed ....Ch.213 - 723
41-3211 New Section Added ....Ch.213 - 729
41-3212 Repealed ....Ch.213 - 723
41-3212 New Section Added ....Ch.213 - 729
41-3213 Repealed ....Ch.213 - 723
41-3213 New Section Added ....Ch.213 - 730
41-3214 Repealed ....Ch.213 - 723
41-3214 New Section Added ....Ch.213 - 730
41-3215 Repealed ....Ch.213 - 723
41-3215 New Section Added ....Ch.213 - 731
41-3216 Repealed ....Ch.213 - 723
41-3216 New Section Added ....Ch.213 - 731
41-3217 Repealed ....Ch.213 - 723
41-3217 New Section Added ....Ch.213 - 732
41-3218 Repealed ....Ch.213 - 723
41-3218 New Section Added ....Ch.213 - 732
41-3219 Repealed ....Ch.213 - 723
41-3219 New Section Added ....Ch.213 - 732
41-3220 Repealed ....Ch.213 - 723
41-3220 New Section Added ....Ch.213 - 734
41-3221 Repealed ....Ch.213 - 723
41-3221 New Section Added ....Ch.213 - 734
41-3222 Repealed ....Ch.213 - 723
41-3222 New Section Added ....Ch.213 - 734
41-3223 Repealed ....Ch.213 - 723
41-3223 New Section Added ....Ch.213 - 735
41-3224 Repealed ....Ch.213 - 723
41-3224 New Section Added ....Ch.213 - 735
41-3225 Repealed ....Ch.213 - 723
41-3225 New Section Added ....Ch.213 - 735
41-3226 Repealed ....Ch.213 - 723
41-3226 New Section Added ....Ch.213 - 736
41-3227 Repealed ....Ch.213 - 723
41-3227 New Section Added ....Ch.213 - 737
41-3228 Repealed ....Ch.213 - 723
41-3228 New Section Added ....Ch.213 - 737

TITLE 41 (Continued) Chapter - Page
41-3229 Repealed .....Ch.213 - 723
41-3229 New Section Added .....Ch.213 - 737
41-3230 Repealed .....Ch.213 - 723
41-3230 New Section Added .....Ch.213 - 738
41-3231 Repealed .....Ch.213 - 723
41-3231 New Section Added .....Ch.213 - 739
41-3232 Repealed .....Ch.213 - 723
41-3232 New Section Added .....Ch.213 - 739
41-3233 Repealed .....Ch.213 - 723
41-3233 New Section Added .....Ch.213 - 739
41-3234 Repealed .....Ch.213 - 723
41-3234 New Section Added .....Ch.213 - 739
41-3235 Repealed .....Ch.213 - 723
41-3235 New Section Added .....Ch.213 - 740
41-3236 Repealed .....Ch.213 - 723
41-3236 New Section Added .....Ch.213 - 740
41-3237 Repealed .....Ch.213 - 723
41-3237 New Section Added .....Ch.213 - 740
41-3238 Repealed .....Ch.213 - 723
41-3238 New Section Added .....Ch.213 - 741
41-3239 Repealed .....Ch.213 - 723
41-3239 New Section Added .....Ch.213 - 741
41-3240 Repealed .....Ch.213 - 723
41-3241 Repealed .....Ch.213 - 723
41-3242 Repealed .....Ch.213 - 723
41-3243 Repealed .....Ch.213 - 723
41-3244 Repealed .....Ch.213 - 723
41-3245 Repealed .....Ch.213 - 723
Chapter 33 Referred to .....Ch.213 - 742
41-3434 Amended .....Ch. 68 - 177
Chapter 36 Referred to .....Ch.184 - 670
41-3931 Amended .....Ch. 68 - 177
Chapter 43 Referred to .....Ch.184 - 670
41-4403 Amended .....Ch.254 - 834
Chapter 46 Referred to .....Ch.213 - 742
41-4703 Amended .....Ch.360 - 1237
41-4704 Amended .....Ch.360 - 1240
41-4706 Amended .....Ch.360 - 1240
41-4707 Amended .....Ch.360 - 1262
41-4708 Amended .....Ch.360 - 1244
41-4711 Amended .....Ch.360 - 1247
41-4712 Amended .....Ch.360 - 1253
41-4718 New Section Added .....Ch.360 - 1264
41-4903 Amended .....Ch.132 - 576
41-5203 Amended .....Ch.360 - 1254
41-5206 Amended .....Ch.360 - 1256
41-5207 Amended .....Ch.360 - 1263
41-5208 Amended .....Ch.360 - 1259
41-5212 Amended .....Ch.360 - 1260
41-5213 New Section Added .....Ch.360 - 1264
Chapter 53 Referred to .....Ch.362 - 1267
41-5301 Repealed .....Ch.362 - 1266

TITLE 41 (Continued)		Chapter - Page
41-5302	Repealed	Ch.362 - 1266
41-5303	Repealed	Ch.362 - 1266
41-5304	Repealed	Ch.362 - 1266
41-5305	Repealed	Ch.362 - 1266
41-5306	Repealed	Ch.362 - 1266
TITLE 42		
42-111	Amended	Ch.233 - 790
42-111	Referred to	Ch.290 - 984
Chapter 2	Referred to	Ch.233 - 790
42-203A	Referred to	Ch.290 - 995
42-203A	Referred to	Ch.290 - 1013
42-204A	Referred to	Ch.290 - 996
42-222	Referred to	Ch.290 - 995
42-222	Referred to	Ch.290 - 996
42-227	Referred to	Ch.233 - 790
42-233a	Amended	Ch.286 - 949
42-243	Referred to	Ch.290 - 985
42-351	Referred to	Ch.290 - 1003
42-352	Referred to	Ch.290 - 1003
Chapter 6	Referred to	Ch.291 - 1015
42-701	Amended	Ch.291 - 1014
42-704	Repealed	Ch.291 - 1015
42-705	New Section Added	Ch.291 - 1016
42-706	New Section Added	Ch.291 - 1016
42-707	New Section Added	Ch.291 - 1017
42-708	New Section Added	Ch.291 - 1020
42-709	New Section Added	Ch.291 - 1020
42-710	New Section Added	Ch.291 - 1021
42-711	New Section Added	Ch.291 - 1021
42-712	New Section Added	Ch.291 - 1022
42-713	New Section Added	Ch.291 - 1022
42-714	New Section Added	Ch.291 - 1023
42-715	New Section Added	Ch.291 - 1023
42-1601	Amended	Ch.294 - 1036
42-1701A	Referred to	Ch.291 - 1017
42-1718	Amended	Ch.283 - 944
42-1767	Amended	Ch.118 - 473
42-2801	Amended	Ch.118 - 474
42-3115	Amended	Ch. 82 - 228
42-3115	Amended	Ch.118 - 475
42-3117	Amended	Ch.118 - 477
42-3125	Amended	Ch.118 - 478
42-3202	Amended	Ch.118 - 479
42-3202B	Amended	Ch.118 - 479
42-3207	Amended	Ch.118 - 480
42-3211	Amended	Ch.118 - 482
42-3211b	Repealed	Ch.118 - 513
42-3218	Amended	Ch.118 - 483
42-3222	Amended	Ch.118 - 486
42-3223	Amended	Ch.118 - 487
42-3224	Amended	Ch.118 - 487
42-3234	Amended	Ch.118 - 487

TITLE 42 (Continued)		Chapter - Page
42-3705	Amended	Ch.118 - 487
42-3706	Amended	Ch.118 - 489
42-3708	Amended	Ch. 82 - 231
42-3708	Amended	Ch.118 - 489
42-3717	Amended	Ch.118 - 491
Chapter 38	Referred to	Ch.290 - 995
42-4201	Amended	Ch.338 - 1117
42-4201A	Referred to	Ch.290 - 984
42-4204	Amended	Ch.118 - 492
42-4207	Amended	Ch.118 - 493
42-4208	Amended	Ch.118 - 493
42-4209	Amended	Ch.118 - 494
42-4409	Amended	Ch.118 - 494
42-4410	Amended	Ch.118 - 495
42-4416	Amended	Ch.118 - 495
Chapter 51	Referred to	Ch.294 - 1036
42-5104	Amended	Ch.118 - 498
42-5107	Amended	Ch.118 - 498
42-5108	Amended	Ch.118 - 499
42-5109	Amended	Ch.118 - 499
42-5112	Amended	Ch.294 - 1037
42-5115	Amended	Ch.118 - 499
42-5201	New Section Added	Ch.290 - 983
42-5202	New Section Added	Ch.290 - 985
42-5203	New Section Added	Ch.290 - 985
42-5204	New Section Added	Ch.290 - 986
42-5205	New Section Added	Ch.290 - 986
42-5206	New Section Added	Ch.290 - 986
42-5207	New Section Added	Ch.290 - 987
42-5208	New Section Added	Ch.290 - 987
42-5209	New Section Added	Ch.290 - 988
42-5210	New Section Added	Ch.290 - 988
42-5211	New Section Added	Ch.290 - 989
42-5212	New Section Added	Ch.290 - 989
42-5213	New Section Added	Ch.290 - 990
42-5214	New Section Added	Ch.290 - 990
42-5215	New Section Added	Ch.290 - 991
42-5216	New Section Added	Ch.290 - 991
42-5217	New Section Added	Ch.290 - 991
42-5218	New Section Added	Ch.290 - 991
42-5219	New Section Added	Ch.290 - 992
42-5220	New Section Added	Ch.290 - 992
42-5221	New Section Added	Ch.290 - 992
42-5222	New Section Added	Ch.290 - 992
42-5223	New Section Added	Ch.290 - 992
42-5224	New Section Added	Ch.290 - 993
42-5225	New Section Added	Ch.290 - 995
42-5226	New Section Added	Ch.290 - 995
42-5227	New Section Added	Ch.290 - 995
42-5228	New Section Added	Ch.290 - 996
42-5229	New Section Added	Ch.290 - 996
42-5230	New Section Added	Ch.290 - 996

TITLE 42 (Continued) Chapter - Page
42-5231 New Section Added .....Ch.290 - 996
42-5232 New Section Added .....Ch.290 - 996
42-5233 New Section Added .....Ch.290 - 997
42-5234 New Section Added .....Ch.290 - 998
42-5235 New Section Added .....Ch.290 - 1000
42-5236 New Section Added .....Ch.290 - 1001
42-5237 New Section Added .....Ch.290 - 1001
42-5238 New Section Added .....Ch.290 - 1001
42-5239 New Section Added .....Ch.290 - 1001
42-5240 New Section Added .....Ch.290 - 1002
42-5241 New Section Added .....Ch.290 - 1002
42-5242 New Section Added .....Ch.290 - 1002
42-5243 New Section Added .....Ch.290 - 1002
42-5244 New Section Added .....Ch.290 - 1002
42-5245 New Section Added .....Ch.290 - 1003
42-5246 New Section Added .....Ch.290 - 1003
42-5247 New Section Added .....Ch.290 - 1003
42-5248 New Section Added .....Ch.290 - 1003
42-5249 New Section Added .....Ch.290 - 1004
42-5250 New Section Added .....Ch.290 - 1004
42-5251 New Section Added .....Ch.290 - 1004
42-5252 New Section Added .....Ch.290 - 1004
42-5253 New Section Added .....Ch.290 - 1005
42-5254 New Section Added .....Ch.290 - 1006
42-5255 New Section Added .....Ch.290 - 1006
42-5256 New Section Added .....Ch.290 - 1006
42-5257 New Section Added .....Ch.290 - 1006
42-5258 New Section Added .....Ch.290 - 1007
42-5259 New Section Added .....Ch.290 - 1007
42-5260 New Section Added .....Ch.290 - 1008
42-5261 New Section Added .....Ch.290 - 1008
42-5262 New Section Added .....Ch.290 - 1008
42-5263 New Section Added .....Ch.290 - 1008
42-5264 New Section Added .....Ch.290 - 1008
42-5265 New Section Added .....Ch.290 - 1009
42-5266 New Section Added .....Ch.290 - 1009
42-5267 New Section Added .....Ch.290 - 1009
42-5268 New Section Added .....Ch.290 - 1009
42-5269 New Section Added .....Ch.290 - 1010
42-5270 New Section Added .....Ch.290 - 1010
42-5271 New Section Added .....Ch.290 - 1010
42-5272 New Section Added .....Ch.290 - 1011
42-5273 New Section Added .....Ch.290 - 1011
42-5274 New Section Added .....Ch.290 - 1012
42-5275 New Section Added .....Ch.290 - 1013
42-5276 New Section Added .....Ch.290 - 1013
TITLE 43
43-201 Amended .....Ch.125 - 541
43-406 thru
43-408 Referred to .....Ch.290 - 1003
43-712 Referred to .....Ch.290 - 1002

TITLE 43 (Continued)		Chapter - Page
43-715 thru 43-721	Referred to	Ch.290 - 1003
43-724	Referred to	Ch.290 - 1002
43-726	Referred to	Ch.290 - 1002
TITLE 44		
44-109	Amended	Ch.188 - 675
44-1801	Referred	Ch.188 - 675
44-2011	Amended	Ch.178 - 662
44-2011	Redesignated 44-2012	Ch.178 - 662
44-2011	New Section Added	Ch.178 - 662
44-2012	Redesignated from 44-2011	Ch.178 - 662
44-2103	Amended	Ch.202 - 695
44-2206	New Section Added	Ch.341 - 1128
44-2301	Amended	Ch.292 - 1025
44-2302	Amended	Ch.292 - 1026
44-2303	Amended	Ch.292 - 1029
44-2304	Repealed	Ch.292 - 1031
44-2304	Redesignated from 44-2305	Ch.292 - 1031
44-2305	Amended	Ch.292 - 1031
44-2305	Redesignated 44-2304	Ch.292 - 1031
44-2305	New Section Added	Ch.292 - 1034
44-2306	Repealed	Ch.292 - 1031
TITLE 45		
Chapter 2	Referred to	Ch.163 - 643
45-806	Amended	Ch.157 - 635
45-1201	New Section Added	Ch.326 - 1092
45-1202	New Section Added	Ch.326 - 1093
45-1203	New Section Added	Ch.326 - 1093
45-1204	New Section Added	Ch.326 - 1095
45-1205	New Section Added	Ch.326 - 1095
45-1206	New Section Added	Ch.326 - 1095
45-1502	Amended	Ch.326 - 1095
45-1502	Referred to	Ch.326 - 1092
45-1511	Referred to	Ch.326 - 1093
TITLE 46		
46-722	Amended	Ch. 82 - 232
TITLE 47		
47-1505	Amended	Ch.364 - 1275
TITLE 48		
Chapter 5	Referred to	Ch.163 - 643
TITLE 49		
49-102	Amended	Ch.116 - 405
49-114	Amended	Ch.339 - 1120
49-117	Amended	Ch.122 - 526
49-117	Referred to	Ch.246 - 815
49-123	Amended	Ch.122 - 528
49-202	Amended	Ch.116 - 407
49-202	Amended	Ch.209 - 710
49-306	Amended	Ch.339 - 1121
49-313	Amended	Ch.339 - 1124
49-318	Amended	Ch.339 - 1126
49-319	Referred to	Ch. 76 - 206

TITLE 49 (Continued)		Chapter - Page
49-406	Amended	Ch.109 - 342
49-406A	Amended	Ch.109 - 344
49-410	Amended	Ch.246 - 815
49-417A	New Section Added	Ch.186 - 674
49-434A	Amended	Ch.251 - 826
49-509	Amended	Ch.116 - 411
49-524	Amended	Ch.162 - 641
49-672	Amended	Ch. 55 - 128
49-1001	Amended	Ch. 72 - 183
49-1001	Amended	Ch.122 - 532
49-1010	Amended	Ch. 72 - 190
49-1013	Amended	Ch.122 - 538
49-1814	Amended	Ch.116 - 412
TITLE 50		
50-235	Amended	Ch. 82 - 233
50-303	Amended	Ch. 82 - 233
50-305	Amended	Ch.222 - 768
50-320	Amended	Ch. 82 - 233
50-321	Amended	Ch. 82 - 234
50-329	Amended	Ch.226 - 777
50-329A	New Section Added	Ch.226 - 778
50-341	Amended	Ch.164 - 644
50-345	New Section Added	Ch.129 - 562
Chapter 4	Referred to	Ch.226 - 778
Chapter 14	Referred to	Ch.222 - 769
50-1762	Amended	Ch. 82 - 235
50-1766	Amended	Ch. 82 - 235
TITLE 51		
Chapter 1	Referred to	Ch.163 - 643
TITLE 53		
Chapter 2	Referred to	Ch.163 - 643
53-202	Amended	Ch.126 - 555
53-204A	New Section Added	Ch.126 - 555
53-210	Amended	Ch.126 - 555
53-220	Amended	Ch.126 - 556
53-244	Amended	Ch.126 - 556
53-249	Amended	Ch.126 - 557
53-251	Amended	Ch.126 - 557
53-253	Amended	Ch.126 - 558
53-255	Amended	Ch.126 - 558
Chapter 3	Referred to	Ch.163 - 643
53-302	Amended	Ch. 92 - 263
53-306	Amended	Ch. 92 - 264
53-315	Amended	Ch. 92 - 264
53-318	Amended	Ch. 92 - 264
53-334	Amended	Ch. 92 - 265
53-336	Amended	Ch. 92 - 265
53-340	Amended	Ch. 92 - 266
53-343A	New Section Added	Ch. 92 - 267
53-343B	New Section Added	Ch. 92 - 268
53-343C	New Section Added	Ch. 92 - 268
53-504	Amended	Ch. 92 - 268

TITLE 53 (Continued)		Chapter - Page
Chapter 6	Referred to	Ch.163 - 643
53-602	Amended	Ch.126 - 559
53-613	Amended	Ch.126 - 559
Chapter 7	Referred to	Ch.163 - 643
Chapter 7	Referred to	Ch.350 - 1153
53-710	Referred to	Ch.350 - 1159
TITLE 54		
54-204	Amended	Ch.134 - 581
54-206	Amended	Ch.134 - 582
54-212	Amended	Ch.134 - 585
54-214	Referred to	HCR6 - 1342
54-501	Amended	Ch. 77 - 207
54-518	Repealed	Ch. 77 - 207
54-518	New Section Added	Ch. 77 - 207
54-528	Amended	Ch.225 - 776
54-606	Amended	Ch. 27 - 41
54-1104	Amended	Ch.112 - 381
54-1404	Amended	Ch.351 - 1163
54-1406	Amended	Ch.351 - 1164
54-1408	Amended	Ch.351 - 1165
54-1728	Amended	Ch. 42 - 63
Chapter 18	Referred to	Ch.230 - 783
54-2022	Amended	Ch. 97 - 280
54-2023	Amended	Ch. 97 - 281
54-2023	Amended	Ch. 75 - 196
54-2027	Amended	Ch. 97 - 281
54-2028	Amended	Ch. 75 - 197
54-2029	Amended	Ch. 97 - 282
54-2029	Amended	Ch. 75 - 198
54-2030	Amended	Ch. 75 - 202
54-2031	Amended	Ch. 97 - 285
54-2032	Amended	Ch. 75 - 202
54-2034	Amended	Ch. 97 - 286
54-2035I	Amended	Ch. 97 - 286
54-2038	Amended	Ch. 97 - 287
54-2040	Amended	Ch. 97 - 287
54-2040	Amended	Ch. 73 - 192
54-2040	Amended	Ch. 75 - 202
54-2044	Amended	Ch. 75 - 204
54-2045	Amended	Ch. 75 - 204
54-2049	Amended	Ch. 97 - 288
54-2050	Amended	Ch. 97 - 289
54-2103	Amended	Ch. 62 - 145
54-2104	Amended	Ch. 62 - 148
54-2105	Amended	Ch. 62 - 150
54-2106	Repealed	Ch. 62 - 152
54-2107	Amended	Ch. 62 - 152
54-2111	Amended	Ch. 62 - 153
54-2112	Amended	Ch. 62 - 153
54-2113	Amended	Ch. 62 - 154
54-2114	Repealed	Ch. 62 - 155
54-2115	Amended	Ch. 62 - 155

TITLE 54 (Continued)		Chapter - Page
54-2116	Amended	Ch. 62 - 155
54-2117	Amended	Ch. 62 - 156
54-2402	Amended	Ch. 11 - 17
54-2403	Amended	Ch. 11 - 18
54-2606	Amended	Ch.253 - 828
54-2611	Amended	Ch.253 - 829
54-2614	Amended	Ch.253 - 830
54-2616	Amended	Ch.253 - 830
54-2618	Amended	Ch.253 - 831
54-3607	Amended	Ch.204 - 699
54-3610	New Section Added	Ch.204 - 700
TITLE 55		
55-1701	Amended	Ch. 70 - 179
55-1702	Amended	Ch. 70 - 179
55-1703	Amended	Ch. 70 - 180
55-1705	Amended	Ch. 70 - 180
55-1706	Amended	Ch. 70 - 181
55-1707	Amended	Ch. 70 - 182
55-1708	Amended	Ch. 70 - 182
55-1709	Amended	Ch. 70 - 183
TITLE 56		
56-136	New Section Added	Ch.230 - 783
56-209d	Amended	Ch. 41 - 62
56-209g	New Section Added	Ch.228 - 780
56-214	Amended	Ch.214 - 746
56-218	Amended	Ch.105 - 336
56-218A	New Section Added	Ch.105 - 337
TITLE 57		
57-813	Amended	Ch. 9 - 16
57-1204	Amended	Ch.113 - 382
57-1205	Amended	Ch.113 - 384
Chapter 17	Heading Amended	Ch. 67 - 170
57-1701	Amended	Ch. 67 - 170
57-1703	New Section Added	Ch. 67 - 171
57-1704	New Section Added	Ch. 67 - 171
57-1705	New Section Added	Ch. 67 - 172
57-1706	New Section Added	Ch. 67 - 172
57-1707	New Section Added	Ch. 67 - 173
TITLE 58		
58-307	Amended	Ch.185 - 671
58-307	Amended	Ch.174 - 655
58-310	Amended	Ch.231 - 783
58-310B	New Section Added	Ch.231 - 784
58-406	Amended	Ch.165 - 647
TITLE 59		
59-103	Repealed	Ch. 30 - 48
59-509	Referred to	Ch.189 - 678
59-509	Referred to	Ch.352 - 1174
59-801 thru 59-804	Referred to	Ch.291 - 1019
59-904	Amended	Ch. 44 - 105
59-911	Amended	Ch.118 - 501

TITLE 59 (Continued)		Chapter - Page
59-1302	Amended	Ch.143 - 607
59-1302	Referred to	Ch.268 - 867
59-1303	Amended	Ch.116 - 413
59-1391	Referred to	Ch.188 - 676
59-1308	New Section Added	Ch.120 - 520
TITLE 61		
Chapter 1	Referred to	Ch.226 - 777
61-801	Amended	Ch.102 - 329
61-802B	Amended	Ch.131 - 564
61-812	Amended	Ch.131 - 565
TITLE 62		
62-608A	New Section Added	Ch. 60 - 133
TITLE 63		
63-105BB	Amended	Ch. 81 - 216
63-105DD	Amended	Ch. 81 - 211
63-105EE	New Section Added	Ch.220 - 765
63-107	Amended	Ch. 81 - 217
63-114A	Amended	Ch.349 - 1151
63-117	Amended	Ch. 81 - 212
63-122	Amended	Ch. 81 - 215
63-221	Amended	Ch. 82 - 236
63-307B	Referred to	Ch.341 - 1129
63-511	Amended	Ch.144 - 611
63-909	Amended	Ch. 82 - 236
63-911	Amended	Ch. 82 - 237
63-919	Amended	Ch. 26 - 40
63-1102	Referred to	Ch. 26 - 37
63-1117	Referred to	Ch. 90 - 261
63-1703	Amended	Ch. 90 - 259
63-1909	Amended	Ch. 80 - 210
63-1910	Amended	Ch. 80 - 210
63-2211	New Section Added	Ch.159 - 637
63-2220A	New Section Added	Ch. 26 - 39
63-2220A	Amended	Ch.155 - 632
63-2224	Repealed	Ch. 26 - 40
63-2224A	Repealed	Ch. 26 - 40
63-2225	Repealed	Ch. 26 - 40
63-2226	Repealed	Ch. 26 - 40
63-2301	Repealed	Ch.206 - 701
63-2301	New Section Added	Ch.206 - 701
63-2302	Repealed	Ch.206 - 701
63-2302	New Section Added	Ch.206 - 701
63-2303	Repealed	Ch.206 - 701
63-2303	New Section Added	Ch.206 - 702
63-2304	Repealed	Ch.206 - 701
63-2304	New Section Added	Ch.206 - 702
63-2305	Repealed	Ch.206 - 701
63-2305	New Section Added	Ch.206 - 702
63-2306	Repealed	Ch.206 - 701
63-2306	New Section Added	Ch.206 - 702
63-2307	Repealed	Ch.206 - 701
63-2307	New Section Added	Ch.206 - 702

TITLE 63 (Continued) Chapter - Page
63-2308 Repealed ....Ch.206 - 701
63-2308 New Section Added ....Ch.206 - 703
63-2309 Repealed ....Ch.206 - 701
63-2309 New Section Added ....Ch.206 - 703
63-2310 Repealed ....Ch.206 - 701
63-2311 Repealed ....Ch.206 - 701
63-2312 Repealed ....Ch.206 - 701
63-2313 Repealed ....Ch.206 - 701
63-2314 Repealed ....Ch.206 - 701
63-2401 Amended ....Ch.132 - 566
63-2401 Amended ....Ch.348 - 1143
63-2407 Amended ....Ch.132 - 568
63-2407 Amended ....Ch.303 - 1051
63-2408 Amended ....Ch.132 - 569
63-2409 Repealed ....Ch.132 - 570
63-2410 Amended ....Ch.132 - 570
63-2410 Amended ....Ch.348 - 1145
63-2416 Amended ....Ch.348 - 1147
63-2419 Repealed ....Ch.132 - 572
63-2420 Amended ....Ch.303 - 1052
63-2421 Amended ....Ch.132 - 572
63-2423 Amended ....Ch.348 - 1149
63-2424 Amended ....Ch.132 - 572
63-2425 New Section Added ....Ch.348 - 1149
63-2427A New Section Added ....Ch.132 - 573
63-2428 Amended ....Ch.132 - 574
63-2440 Amended ....Ch.132 - 575
63-2443 Amended ....Ch.348 - 1150
63-2505 Amended ....Ch. 43 - 64
63-2506 Amended ....Ch.160 - 638
63-2506 Amended ....Ch.368 - 1282
63-2506 Repealed ....Ch.368 - 1283
63-2506 New Section Added ....Ch.368 - 1283
63-2507 Amended ....Ch. 43 - 65
63-2552A Amended ....Ch.160 - 638
63-2552A Amended ....Ch.368 - 1283
63-2552A Repealed ....Ch.368 - 1283
63-2552A New Section Added ....Ch.368 - 1283
63-3002 Amended ....Ch.111 - 349
63-3004 Amended ....Ch. 79 - 209
63-3011 New Section Added ....Ch.111 - 349
63-3011A New Section Added ....Ch.111 - 349
63-3011B New Section Added ....Ch.111 - 350
63-3011C New Section Added ....Ch.111 - 350
63-3013 Amended ....Ch. 83 - 239
63-3013 Amended ....Ch.111 - 350
63-3013A Amended ....Ch.111 - 351
63-3021 Amended ....Ch.111 - 351
63-3022 Amended ....Ch. 83 - 240
63-3022 Amended ....Ch.111 - 351
63-3022 Amended ....Ch.362 - 1268
63-3022B Amended ....Ch.111 - 356

TITLE 63 (Continued)		Chapter	Page
63-3022C	Amended	Ch.111	356
63-3022C	Amended	Ch. 91	262
63-3022E	Amended	Ch.111	357
63-3022F	Amended	Ch.111	358
63-3022G	Amended	Ch.111	358
63-3022H	Amended	Ch. 83	244
63-3022H	Amended	Ch.111	359
63-3022J	New Section Added	Ch.111	359
63-3022J	New Section Added	Ch.362	1266
63-3023	Amended	Ch.111	360
63-3023A	Repealed	Ch.111	361
63-3024	Amended	Ch.111	361
63-3025	Amended	Ch.111	362
63-3025A	Amended	Ch.111	362
63-3025B	Repealed	Ch.111	363
63-3025B	New Section Added	Ch.111	363
63-3025B	Amended	Ch.314	1075
63-3026	Repealed	Ch.111	364
63-3026	New Section Added	Ch.111	364
63-3026A	New Section Added	Ch.111	364
63-3027	Amended	Ch.111	366
63-3027A	Repealed	Ch.111	372
63-3027A	New Section Added	Ch.111	372
63-3029	Amended	Ch.111	372
63-3029B	Amended	Ch. 94	270
63-3030	Amended	Ch.111	373
63-3035	Amended	Ch. 83	245
63-3035	Amended	Ch.111	375
63-3046B	Amended	Ch.111	378
63-3068	Amended	Ch.111	378
63-3501	Referred to	Ch.226	778
63-3610	Amended	Ch. 54	123
63-3611	Amended	Ch. 54	123
63-3615	Amended	Ch. 54	124
63-3622O	Amended	Ch. 54	125
63-3622O	Amended	Ch.219	763
63-3622R	Amended	Ch. 54	126
63-3622Y	New Section Added	Ch.288	966
63-3623B	Amended	Ch.340	1126
63-3633	Amended	Ch.110	346
63-3634	Amended	Ch. 54	127
63-3635	Amended	Ch. 54	127
63-3638	Amended	Ch. 26	37
Chapter 39	Referred to	Ch. 26	40
63-4103	Amended	Ch.118	501
TITLE 65			
65-103	Amended	Ch. 82	237
65-104	Amended	Ch. 82	238
65-301	Amended	Ch. 3	10
65-302	Amended	Ch. 3	10
TITLE 66			
66-1106	Amended	Ch. 44	101

TITLE 66 (Continued)		Chapter	Page
66-1107	Amended	Ch. 44	101
TITLE 67			
67-407	Amended	Ch.232	788
67-408	Amended	Ch.232	788
67-409	Amended	Ch.232	788
67-410	Amended	Ch.232	789
67-411A	New Section Added	Ch.232	789
67-450B	Referred to	Ch.291	1024
67-455	Repealed	Ch.208	709
67-509	Referred to	HCR4	1339
67-904	Referred to	HCR8	1344
67-916	Amended	Ch.163	643
67-1210	Referred to	Ch.344	1133
Chapter 14	Referred to	Ch.184	670
67-1401	Amended	Ch.141	599
67-1406	New Section Added	Ch.141	601
67-1407	New Section Added	Ch.141	602
67-1408	New Section Added	Ch.141	602
67-1409	New Section Added	Ch.141	603
67-1910	Amended	Ch.365	1280
67-2001	Amended	Ch. 44	102
67-2007	Referred to	Ch.204	700
67-2008	Referred to	Ch.268	867
67-2008	Referred to	Ch.204	700
67-2008	Referred to	Ch.232	788
67-2220A	Referred to	Ch.369	1286
67-2337	Repealed	Ch.269	867
67-2337	New Section Added	Ch.269	867
67-2349	Referred to	Ch.164	645
67-2402	Amended	Ch.365	1277
67-2402	Amended	Ch. 44	102
67-2403	Amended	Ch.365	1278
67-2406	Amended	Ch. 44	103
67-2601	Amended	Ch. 44	103
67-2603	Amended	Ch.170	652
67-2614	Referred to	Ch. 77	208
67-2619	New Section Added	Ch.184	670
Chapter 27	Referred to	Ch.204	699
Chapter 27	Referred to	Ch.268	866
67-2702	Amended	Ch. 99	325
67-2901	Amended	Ch.116	387
67-2903	Amended	Ch.116	395
67-2903	Redesignated 67-2913	Ch.116	395
67-2903	New Section Added	Ch.116	389
67-2904	Amended	Ch.116	396
67-2904	Redesignated 67-2914	Ch.116	396
67-2904	New Section Added	Ch.116	390
67-2905	Amended	Ch.116	396
67-2905	Redesignated 67-2915	Ch.116	396
67-2905	Redesignated from 19-4804	Ch.116	390
67-2906	Amended	Ch.116	396
67-2906	Redesignated 67-2916	Ch.116	396

TITLE 67 (Continued) Chapter - Page
67-2906 Redesignated from 19-4807 .....Ch.116 - 391
67-2907 Redesignated from 19-4809 .....Ch.116 - 391
67-2908 Redesignated from 19-4811 .....Ch.116 - 391
67-2909 Redesignated from 67-2931 .....Ch.116 - 391
67-2910 New Section Added .....Ch.116 - 392
67-2911 Redesignated from 19-4812 .....Ch.116 - 392
67-2912 Redesignated from 19-4813 .....Ch.116 - 394
67-2913 Redesignated from 67-2903 .....Ch.116 - 395
67-2914 Redesignated from 67-2904 .....Ch.116 - 396
67-2915 Redesignated from 67-2905 .....Ch.116 - 396
67-2916 Redesignated from 67-2906 .....Ch.116 - 396
67-2917 Redesignated from 67-2929 .....Ch.116 - 397
67-2918 Redesignated from 67-2930 .....Ch.116 - 398
67-2929 Amended .....Ch.116 - 397
67-2929 Redesignated 67-2917 .....Ch.116 - 397
67-2930 Amended .....Ch.116 - 398
67-2930 Redesignated 67-2918 .....Ch.116 - 398
67-2931 Amended .....Ch.116 - 391
67-2931 Redesignated 67-2909 .....Ch.116 - 391
67-3502 Repealed .....Ch.153 - 621
67-3502 New Section Added .....Ch.153 - 621
67-3503 Repealed .....Ch.153 - 621
67-3504 Amended .....Ch.153 - 622
67-3505 Repealed .....Ch.153 - 621
67-3505 New Section Added .....Ch.153 - 622
67-3506 Amended .....Ch.153 - 622
67-3507 Amended .....Ch.153 - 623
67-3508 Amended .....Ch.153 - 623
67-3510 Amended .....Ch.153 - 624
67-3511 Amended .....Ch.153 - 625
67-3512 Amended .....Ch.153 - 625
67-3512A Amended .....Ch.153 - 626
67-3514 Amended .....Ch.153 - 626
67-3516 Amended .....Ch.153 - 627
67-3517 Amended .....Ch.153 - 628
67-3518 Amended .....Ch.153 - 629
67-3519 Amended .....Ch.153 - 629
67-3520 Repealed .....Ch.153 - 621
67-3521 Amended .....Ch.153 - 629
67-3522 Repealed .....Ch.153 - 621
67-3531 Amended .....Ch.153 - 630
67-4125 Amended .....Ch.187 - 675
67-4223 Amended .....Ch. 40 - 59
67-4223 Amended .....Ch.332 - 1106
67-4245 New Section Added .....Ch.332 - 1104
67-4246 New Section Added .....Ch.332 - 1104
67-4247 New Section Added .....Ch.332 - 1104
67-4248 New Section Added .....Ch.332 - 1105
67-4249 New Section Added .....Ch.332 - 1106
67-4607 Referred to .....Ch.305 - 1056
67-4711 Amended .....Ch.219 - 762
67-4902 Amended .....Ch.118 - 502

TITLE 67 (Continued)		Chapter - Page
67-4907	Amended	Ch.118 - 502
67-4911	Amended	Ch.118 - 504
67-4917B	Amended	Ch.219 - 762
67-4922	Amended	Ch.118 - 505
67-4923	Amended	Ch.118 - 505
67-4924	Amended	Ch.118 - 506
67-4928	Amended	Ch.118 - 506
Chapter 50	Heading Amended	Ch.189 - 681
67-5001	Repealed	Ch.189 - 677
67-5001	New Section Added	Ch.189 - 677
67-5002	Repealed	Ch.189 - 677
67-5002	New Section Added	Ch.189 - 677
67-5003	Repealed	Ch.189 - 677
67-5003	New Section Added	Ch.189 - 678
67-5004	Repealed	Ch.189 - 677
67-5004	New Section Added	Ch.189 - 678
67-5007	Amended	Ch.189 - 678
67-5008	Amended	Ch.189 - 679
67-5009	Amended	Ch.189 - 679
67-5010	Amended	Ch.189 - 681
Chapter 52	Referred to	Ch. 44 - 75
Chapter 52	Referred to	Ch. 62 - 154
Chapter 52	Referred to	Ch. 66 - 169
Chapter 52	Referred to	Ch. 99 - 303
Chapter 52	Referred to	Ch.101 - 328
Chapter 52	Referred to	Ch.111 - 360
Chapter 52	Referred to	Ch.136 - 589
Chapter 52	Referred to	Ch.189 - 678
Chapter 52	Referred to	Ch.249 - 824
Chapter 52	Referred to	Ch.352 - 1170
67-5224	Amended	Ch.196 - 686
67-5225	Amended	Ch.270 - 869
67-5226	Amended	Ch.196 - 687
67-5230	Amended	Ch.270 - 869
67-5250	Amended	Ch.270 - 870
67-5272	Amended	Ch.270 - 870
67-5273	Amended	Ch.270 - 871
67-5291	Amended	Ch.196 - 688
67-5291	Referred to	SCR114 - 1298
Chapter 53	Referred to	Ch.116 - 388
Chapter 53	Referred to	Ch.135 - 586
Chapter 53	Referred to	Ch.365 - 1276
67-5302	Referred to	Ch.141 - 601
67-5303	Amended	Ch.365 - 1278
67-5335	Amended	Ch.210 - 714
67-6301	Repealed	Ch.327 - 1096
67-6301	New Section Added	Ch.327 - 1096
Chapter 65	Referred to	Ch.364 - 1275
67-6501	Amended	Ch.181 - 665
67-6504	Amended	Ch.181 - 665
67-6508	Amended	Ch.181 - 666
67-6508	Amended	Ch.305 - 1054

TITLE 67 (Continued)		Chapter - Page
67-6509A	Amended	Ch.305 - 1056
67-7404	Referred to	Ch.350 - 1153
67-7439	Referred to	Ch.111 - 365
67-6526	Amended	Ch.118 - 506
67-7702	Amended	Ch.350 - 1152
67-7703	Amended	Ch.350 - 1155
67-7703	Redesignated 67-7707	Ch.350 - 1155
67-7703	New Section Added	Ch.350 - 1153
67-7704	Amended	Ch.350 - 1156
67-7704	Redesignated 67-7708	Ch.350 - 1156
67-7704	New Section Added	Ch.350 - 1153
67-7705	Amended	Ch.350 - 1156
67-7705	Redesignated 67-7709	Ch.350 - 1156
67-7705	New Section Added	Ch.350 - 1154
67-7706	Amended	Ch.350 - 1158
67-7706	Redesignated 67-7710	Ch.350 - 1158
67-7706	New Section Added	Ch.350 - 1155
67-7707	Amended	Ch.350 - 1158
67-7707	Redesignated 67-7711	Ch.350 - 1158
67-7707	Redesignated from 67-7703	Ch.350 - 1155
67-7708	Amended	Ch.350 - 1160
67-7708	Redesignated 67-7712	Ch.350 - 1160
67-7708	Redesignated from 67-7704	Ch.350 - 1156
67-7709	Redesignated from 67-7705	Ch.350 - 1156
67-7710	Amended	Ch.350 - 1162
67-7710	Redesignated 67-7713	Ch.350 - 1162
67-7710	Redesignated from 67-7706	Ch.350 - 1158
67-7711	Amended	Ch.350 - 1162
67-7711	Redesignated 67-7714	Ch.350 - 1162
67-7711	Redesignated from 67-7707	Ch.350 - 1158
67-7712	Redesignated from 67-7708	Ch.350 - 1160
67-7713	Redesignated from 67-7710	Ch.350 - 1162
67-7714	Redesignated from 67-7711	Ch.350 - 1162
67-7715	New Section Added	Ch.350 - 1162
Chapter 80	Referred to	Ch.181 - 666
67-8001	Amended	Ch.182 - 668
67-8002	Amended	Ch.182 - 668
67-8003	Amended	Ch.182 - 669
TITLE 68		
Chapter 8	Referred to	Ch.214 - 744
68-1401	New Section Added	Ch.214 - 743
68-1402	New Section Added	Ch.214 - 743
68-1403	New Section Added	Ch.214 - 743
68-1404	New Section Added	Ch.214 - 744
68-1405	New Section Added	Ch.214 - 744
TITLE 69		
69-401	Repealed	Ch. 56 - 128
69-402	Repealed	Ch. 56 - 128
69-403	Repealed	Ch. 56 - 128
TITLE 70		
Title 70	Referred to	Ch.207 - 709
70-1102	Amended	Ch.118 - 508

TITLE 70 (Continued)		Chapter - Page
70-1105	Amended	Ch.118 - 509
70-1106	Amended	Ch.118 - 509
70-1111	Amended	Ch.118 - 509
70-1204	Amended	Ch.118 - 510
70-1208	Amended	Ch.118 - 510
70-1209	Amended	Ch.118 - 510
70-1210	Amended	Ch.118 - 510
70-1212	Amended	Ch.118 - 510
70-1215	Amended	Ch.118 - 511
70-1216	Repealed	Ch.118 - 512
70-1217	Amended	Ch.118 - 511
70-1218	Amended	Ch.118 - 511
70-1702	Amended	Ch. 82 - 238
70-1706	Amended	Ch.118 - 512
70-1707	Amended	Ch. 82 - 238
70-1716	Amended	Ch.118 - 512
TITLE 72		
72-1346	Referred to	Ch. 35 - 54
72-1347A	Amended	Ch. 98 - 289
72-1348	Referred to	Ch.35 - 54
72-1350	Amended	Ch. 98 - 291
72-1366	Amended	Ch. 98 - 294

LAWS OF 1987

Ch.173, Sec.3	Amended	Ch.175 - 657

LAWS OF 1992

Ch.310, Sec.1	Referred to	Ch.273 - 920

LAWS OF 1993

Ch.239, Sec.17	Referred to	HCR6(A)
Ch.239, Sec.35	Referred to	HCR6(A)
Ch.403, Sec.2	Amended	Ch.296 - 1041

LAWS OF 1994

Ch.153, Sec.2	Referred to	Ch.130 - 563
Ch.154, Sec.1	Referred to	Ch.355 - 1200
Ch.155, Sec.1	Referred to	Ch.345 - 1136
Ch.156, Sec.1	Referred to	Ch. 8 - 13
Ch.168, Sec.1	Amended	Ch. 19 - 27
Ch.168, Sec.1	Referred to	Ch. 24 - 32
Ch.169, Sec.1	Referred to	Ch. 6 - 12
Ch.169, Sec.1	Referred to	Ch. 13 - 20
Ch.169, Sec.1	Referred to	Ch. 86 - 250
Ch.186	Referred to	Ch.362 - 1268
Ch.189, Sec.1	Referred to	Ch. 12 - 18
Ch.195, Sec.1	Referred to	Ch. 15 - 21
Ch.195, Sec.1	Referred to	Ch. 22 - 30
Ch.195, Sec.1	Referred to	Ch. 88 - 257
Ch.196, Sec.1	Referred to	Ch. 12 - 19
Ch.197, Sec.1	Referred to	Ch. 12 - 18
Ch.199, Sec.1	Referred to	Ch. 5 - 11

LAWS OF 1994 (Continued)

		Chapter	Page
Ch.202, Sec.1	Referred to	Ch. 14	20
Ch.223, Sec.1	Referred to	Ch.236	800
Ch.224, Sec.1	Referred to	Ch.293	1035
Ch.225, Sec.1	Referred to	Ch. 36	54
Ch.231, Sec.1	Referred to	Ch.139	593
Ch.231, Sec.1	Referred to	Ch.278	939
Ch.253, Sec.1	Referred to	Ch.308	1067
Ch.254, Sec.2	Referred to	Ch. 65	167
Ch.257, Sec.2	Referred to	Ch. 23	31
Ch.257, Sec.2	Referred to	Ch.285	949
Ch.258, Sec.1	Referred to	Ch. 17	22
Ch.259, Sec.1	Referred to	Ch. 17	24
Ch.261, Sec.1	Referred to	Ch. 18	26
Ch.261, Sec.1	Referred to	Ch.236	797
Ch.262, Sec.1	Referred to	Ch. 4	10
Ch.278, Sec.1	Referred to	Ch. 21	30
Ch.304, Sec.2	Referred to	Ch. 12	19
Ch.304, Sec.2	Referred to	Ch. 65	167
Ch.305, Sec.1	Referred to	Ch. 25	33
Ch.306, Sec.2	Referred to	Ch. 7	12
Ch.316, Sec.1	Repealed	Ch.306	1057
Ch.337, Sec.1	Referred to	Ch. 17	25
Ch.337, Sec.1	Referred to	Ch. 37	55
Ch.378, Sec.2	Referred to	Ch. 12	19
Ch.378, Sec.2	Referred to	Ch. 21	30
Ch.380, Sec.1	Referred to	Ch.333	1109
Ch.384, Sec.1	Amended	Ch. 38	56
Ch.387, Sec.2	Referred to	Ch. 20	29
Ch.404, Sec.1	Referred to	Ch.254	832
Ch.404, Sec.2	Referred to	Ch.254	833
Ch.428, Sec.2	Repealed	Ch.306	1057
Ch.439, Sec.1	Referred to	Ch. 17	23
Ch.439, Sec.1	Referred to	Ch. 37	55
Ch.439, Sec.1	Referred to	Ch. 93	269
Ch.440, Sec.1	Repealed	Ch.306	1057
Ch.456, Sec.3	Amended	Ch.160	638

LAWS OF 1995

H.B.98, Sec.3	Amended	Ch.277	926
H.B.98, Sec.4	Amended	Ch.277	927
H.B.98, Sec.5	Amended	Ch.277	928
H.B.98, Sec.9	Amended	Ch.277	930
H.B.98, Sec.17	Amended	Ch.277	932
H.B.98, Sec.21	Amended	Ch.277	933
H.B.98, Sec.23	Amended	Ch.277	936
H.B.98, Sec.24	Amended	Ch.277	936
H.B.98, Sec.51	Amended	Ch.277	938
H.B.98, Sec.53	Amended	Ch.277	938
H.B.98, Sec.54	Amended	Ch.277	938
H.B.156, Sec.4	Referred to	Ch.155	632
S.B.1020, Sec.1	Amended	Ch.277	932

NUMERICAL LIST OF SENATE BILLS

that became law with a brief synopsis and the chapter number of the bill

		Chapter - Page
S1006	Crime/single act/more than 1 punishment ..	Ch. 16 - 22
S1008	Records, optical imaging, evidence	Ch. 39 - 58
S1009	Constitutional Defense Fund created	Ch.327 - 1096
S1013aa,aaH	Juvenile, detention, parents pay, ...	Ch.354 - 1198
S1015	Juvenile, certain crime, detention	Ch. 45 - 107
S1016	Juvenile, adult court, when	Ch. 46 - 110
S1017	Juvenile under 14, tried as adult	Ch. 47 - 111
S1018	Juvenile, arson, tried as adult	Ch. 48 - 114
S1020	Juvenile, detention, fingerprnt/photo	Ch. 49 - 115
S1021	Juvenile hearing, witness intimidated	Ch. 50 - 117
S1022	Juvenile, correction officer, assault	Ch. 51 - 118
S1023	Right to work, public/private empl	Ch.178 - 662
S1024	Student/expelled/enroll denied, when	Ch.252 - 827
S1029	Approp, add'l, Deaf&Blind School	Ch. 4 - 10
S1030	Legislative subpoena, requirement	Ch.232 - 787
S1031	APA, technical amendments	Ch.270 - 868
S1032	Parks/Recreation area, rule violation	Ch. 40 - 59
S1034	Approp, reduced, Water Resource Dept	Ch. 6 - 12
S1035	Approp, add'l, Agriculture Dept	Ch. 7 - 12
S1038	Approp, reduced, H&W Dept	Ch. 17 - 22
S1039	Approp, add'l, Racing Comm	Ch. 23 - 31
S1040	Approp, reduced, Lands Dept	Ch. 19 - 27
S1041	Approp, add'l, Parks&Recreation	Ch. 22 - 30
S1042	Approp, add'l, Fish&Game Dept	Ch. 21 - 30
S1043	Approp, add'l, Correction Dept	Ch. 20 - 29
S1045aaH	Ski resort defined, liquor license	Ch.358 - 1214
S1046	Child support guidelines, sunset	Ch.258 - 841
S1047	Approp, add'l, State Library	Ch. 18 - 26
S1048aa,aaH	Domestic violence protection order	Ch.357 - 1212
S1050	Peace officer/extraterritory authority ...	Ch.269 - 867
S1053	Medically needy program, deleted	Ch. 41 - 62
S1058	Educ Support Prog, staff allowance	Ch. 52 - 119
S1060aa	Police, State, Law Enforce Dept	Ch.116 - 386
S1061	Log brands, cancelled, re-issue	Ch.177 - 660
S1062aa	Migratory waterfowl stamp/sunset	Ch.175 - 657
S1064aa	Child abuse, rpt, false, penalty	Ch.276 - 924
S1066	Medicaid, pharmacy reimburse not cut	Ch.228 - 779

		Chapter - Page
S1068	Child abuse, divorce, investigation	Ch.275 - 923
S1069aa	Child abuse, minister exempt rpt	Ch.328 - 1097
S1074	Insurer, title, out-of-state	Ch.117 - 416
S1075	School dist, minimum support	Ch.321 - 1085
S1076	School dist, staff allowance, add'l	Ch.271 - 871
S1078	School dist, driver educ, reimburse	Ch.279 - 939
S1082	Investment securities, uniform law	Ch.272 - 873
S1083	Premarital Agreement, Uniform Act	Ch.229 - 780
S1084	Death sentence/post-convict hearing	Ch.140 - 594
S1085	Accts, consolidated, Sec State	Ch.163 - 643
S1086	State land, lease, conflict bid appl	Ch.174 - 655
S1087	Timber sales, state, dollar limits	Ch.165 - 647
S1088	Reforestation law, repealed	Ch.173 - 655
S1089	Endowment land, parcel added, lease	Ch.185 - 670
S1090	Approp, reduce, Office of Governor	Ch. 38 - 56
S1091	Approp, add'l, H&W Dept, certn Div	Ch. 37 - 55
S1093	Small claims, personal property	Ch.183 - 669
S1094	Juveniles, crime, restitution/limit	Ch.274 - 920
S1097aa	Election, special dist, date held	Ch.118 - 417
S1103	Library dist, elections	Ch.119 - 513
S1108	Child abuse rpt, minister exempt	Ch.329 - 1098
S1109	Retire, suppl plans, PERSI admin	Ch.120 - 520
S1112	Employee, city, seasonal/casual	Ch.143 - 606
S1113	Cities, competitive bid, requirement	Ch.164 - 644
S1115	MV, child safety seat required	Ch. 55 - 127
S1116	Hwy Technical Assist Council, fund	Ch.268 - 866
S1117aa	Right-of-way, technical correction	Ch.121 - 522
S1119	Commercial vehicle, variable load axle ...	Ch.122 - 526
S1120	Brand inspection, false info clarified ...	Ch.123 - 539
S1121	Agric Ground Water Quality Protection	Ch.273 - 920
S1122	Brand bd, compensation	Ch.124 - 540
S1125	Irrigation dist, election, dates	Ch.125 - 541
S1130	Secretary of St, duties, corps, etc	Ch.126 - 542
S1132	Beer retail, wholesaler asst delete	Ch.172 - 654
S1134	County, purchasing, joint program	Ch.171 - 653
S1135	Hazardous waste disposal, fees	Ch.127 - 560
S1136	MV, operating fees not paid, detain	Ch.251 - 826
S1139	MV, license plate, timber special	Ch.186 - 674
S1140	Student, suspension extended, when	Ch.250 - 825
S1141	Historical Society Bd, compensation	Ch.187 - 675
S1142aa,aaH	Environment Audit Protect Act	Ch.359 - 1218
S1145	Child custody, grandprnts considered	Ch.128 - 561
S1150	RV, inspection, manuf. required	Ch.267 - 856
S1151	Garnishment, search fee, banks	Ch.330 - 1099
S1152	Occupational license chief	Ch.170 - 652
S1153aaH	Medical savings accounts	Ch.362 - 1265
S1156	Medicaid serve, physician reimburse	Ch.230 - 782
S1163	Administrative rules, effect cont'd	Ch.249 - 823
S1164	Injuries, firearm/criminal, reported	Ch.169 - 651
S1166	Probate, joint, clarified	Ch.168 - 651
S1167	Estates, value, personal property	Ch.167 - 650

		Chapter - Page
S1168	Estate, list of assets, Tax Comm	Ch.166 - 648
S1169	Probate, trustees, powers	Ch.180 - 663
S1170	Trusts, transfers	Ch.179 - 662
S1171	Marijuana possess, minor, penalty	Ch.361 - 1264
S1173aa	Soil conservation dist, election	Ch.256 - 837
S1174	Upland game bird stamp created	Ch.176 - 658
S1175aa	Forest Product Comm, member, term	Ch.255 - 835
S1177aa	Recreation dist, plan unit devel	Ch.353 - 1193
S1180	Tax Comm/employees, may hold office	Ch.144 - 611
S1181	Map system, computer, cities, fee	Ch.129 - 562
S1183aa	Insurance, medicare suppl	Ch.254 - 831
S1189aa	Student, firearm in school, expulsion	Ch.248 - 819
S1190aa,aaH	Title co, trust deeds, reconvey	Ch.326 - 1092
S1194aaH	Endowment land, state, conflict lease	Ch.231 - 783
S1199	Water appropriation, fee waiver	Ch.338 - 1117
S1205	Liquor license, split owner, qualify	Ch.145 - 612
S1208aa	Construction standard, energy conserv	Ch.292 - 1025
S1212aa	Firefighters, paid, standards	Ch.188 - 675
S1215aaH	Driver license, motorcycle endorsement ...	Ch.339 - 1119
S1217	Attorney General, legal services	Ch.141 - 599
S1218	Approp, add'l, Parks&Recreation	Ch. 88 - 257
S1219	Outdoor Recreation Enhancemt Trust Fund ..	Ch.332 - 1103
S1220	Approp, add'l, Transp Dept	Ch.139 - 593
S1221aaH	Weapon, concealed, licensure revised	Ch.356 - 1201
S1223	Approp, Public Schools	Ch. 89 - 257
S1225	Plumbing contractor/special/license	Ch.253 - 828
S1227	Aging, Commission on, established	Ch.189 - 676
S1228	Prisoner, sentenced, jurisdiction	Ch.247 - 817
S1229	License plate/parent/disabled child	Ch.246 - 815
S1231	Health insurance available, amens	Ch.360 - 1235
S1232	Approp, Public Utilities Comm	Ch.130 - 563
S1234	Governor's Housing Comm est	Ch.367 - 1281
S1235	Hwy dist comm, recall election	Ch.245 - 809
S1236	Approp, Education Dept	Ch.146 - 613
S1238	Law enforcement facility fund	Ch.369 - 1284
S1239	Insurance guaranty, self-governing agy ...	Ch.184 - 670
S1243	Approp, Financial Mgmt Division	Ch.147 - 614
S1244	Approp, Lottery Comm	Ch.148 - 615
S1245	DUI, license suspension, admin, stay	Ch.190 - 681
S1247	Payette Cnty, prosecut atty, full-time ...	Ch.191 - 682
S1249	Approp, Insurance Dept	Ch.192 - 682
S1250	Approp, Lieutenant Governor	Ch.193 - 683
S1251	Approp, Blind&Visually Impaired Comm	Ch.194 - 684
S1252	Approp, Endowment Fund Bd	Ch.195 - 685
S1253	Juvenile Correct Dept, techn amens	Ch.277 - 925
S1254	Administrative rule, effective date	Ch.196 - 686
S1255	Water rights, domestic use	Ch.233 - 790
S1256	Approp, Human Rights Comm	Ch.197 - 688
S1257	Approp, Secretary of State	Ch.257 - 840
S1258	Approp, State Controller	Ch.198 - 689
S1259	Approp, Insurance Fund	Ch.199 - 691

		Chapter - Page
S1260	Approp, Water Management Fund	Ch.200 - 692
S1261	Approp, Labor & Industrial Serv	Ch.244 - 807
S1262	Approp, Vocational Education	Ch.243 - 806
S1263	Approp, Agriculture Dept	Ch.242 - 803
S1264	Approp, Deaf & Blind School	Ch.240 - 801
S1265	Approp, Supreme Court	Ch.363 - 1273
S1266	Approp, Public Broadcasting	Ch.241 - 802
S1269	Approp, Colleges/Universities	Ch.239 - 799
S1271	Approp, Public Health Dist	Ch.238 - 799
S1272	Approp, Military Div	Ch.237 - 798
S1273	Approp, State Library Bd	Ch.236 - 796
S1274aaH	Approp, Education Bd	Ch.355 - 1199
S1275	Approp, Agric Research, sugarbeet	Ch.325 - 1091
S1276	Approp, Business Develop/Research	Ch.333 - 1108
S1278aa	Approp, Educ Bd, Technology/Learn	Ch.334 - 1109
S1279	Approp, Transportation Dept	Ch.324 - 1090
S1280	Approp, Lands Dept	Ch.331 - 1101
S1281	Approp, Juvenile Corrections Dept	Ch.336 - 1111
S1282	Approp, Attorney General	Ch.335 - 1110
S1283	Approp, Catastrophic health care	Ch.323 - 1089
S1284	Water quality regulation	Ch.352 - 1165
S1285	Approp, H&W, Health Div/Welfare Div	Ch.322 - 1086
S1286	Approp, H&W, Family/Community Serv	Ch.337 - 1113
S1287	Approp, Educ Bd, Special Prog	Ch.293 - 1034
S1288	Approp, add'l, Transp. Dept	Ch.278 - 939

NUMERICAL LIST OF HOUSE BILLS

that became law with a brief synopsis and the chapter number of the bill

		Chapter	Page
H 1aa	Barbershops, supervision, fees	Ch. 77	207
H 2	Pharmacy Bd, hearing costs	Ch. 42	63
H 3	Control substance, list amended	Ch. 1	3
H 4	Rehabilitation Act, references	Ch. 2	9
H 5	Real estate license, termination	Ch. 73	192
H 6	Podiatrists, licensure, exam fees	Ch. 27	41
H 9	Environment health specialist, fee	Ch. 11	17
H 10aa	Commercial vehicle, allowable load	Ch. 72	183
H 12	Seed Advisory Bd, oil crop member	Ch. 32	50
H 13	Dairy process, fee increase, due	Ch. 78	208
H 15	Livestock disease control, fee	Ch. 33	51
H 17	Land surveying, coordinate systems	Ch. 70	178
H 20	Insurance, material transactions	Ch. 68	173
H 22	Public records/business address	Ch. 87	251
H 27aa	Unemploymnt, reemploy service req	Ch. 98	289
H 28	Approp, Employment Dept, bldg	Ch. 35	54
H 37	Prisoner, furlough, serious ills	Ch. 34	52
H 38	Hunting license, revoke, procedure	Ch. 66	168
H 39	F&G license, telephone purchase	Ch. 64	158
H 42aa	Motor carrier, filing requirement, fee	Ch. 42	63
H 44	F&G license, false information	Ch. 63	157
H 46aa	F&G licensure, computerized system	Ch.287	951
H 49	Real estate law, technical amens	Ch. 97	280
H 52aa	Child support, person care/child	Ch.320	1083
H 58	Birth/death certificate, filing	Ch. 28	42
H 59aa	Paternity, genetic testing	Ch.234	791
H 60	Child support, withholding, employer	Ch.201	693
H 61	Birth certificate, natural father	Ch. 53	120
H 62	Veterans Affairs, U.S., reference	Ch. 3	9
H 63aa	Child support, lien, 23 years	Ch.264	846
H 69	Fingerprint processing, fee	Ch. 29	46
H 70aa	County budget procedures, revised	Ch. 61	134
H 73	Ground water diversion, reports	Ch.286	949
H 75	Birth certificate, father changed	Ch. 31	49
H 81	Medically indigent, cnty responsible	Ch. 9	14
H 82	Drivers license, mail renewal, fee	Ch. 76	205
H 83	Dams, emergency repair, warrants	Ch.283	944

		Chapter - Page
H 98	Juvenile Corrections Dept created	Ch. 44 - 65
H 99	Real estate co, limited liability	Ch. 75 - 196
H 100aaS	Manufact home, electric serv equip	Ch.341 - 1128
H 108	Executive officer residence requirment ...	Ch. 30 - 48
H 109	Domestic violence, counsel require	Ch.223 - 770
H 112	Approp, add'l, Blind&Visually	Ch. 5 - 11
H 113	Approp, add'l, Athletic Comm	Ch. 8 - 13
H 114	Approp, reduced, certain agencies	Ch. 12 - 18
H 116	Insurers, surplus/capital require	Ch. 96 - 273
H 117	Income tax, IRC adopted	Ch. 79 - 209
H 118	Cigarettes, unstamped, transport	Ch. 43 - 64
H 119	Property tax, personal, abstract, file ...	Ch. 80 - 209
H 120	Forest land tax, collection	Ch. 90 - 259
H 121	Property tax, homeowner's exemption	Ch. 81 - 211
H 122	Approp, catastrophic health care	Ch. 10 - 17
H 123	Approp, add'l, Lands Dept	Ch. 24 - 32
H 124	Approp, add'l, State Controller	Ch. 25 - 33
H 125	Approp, add'l, Water Resources	Ch. 13 - 20
H 126	Approp, reduction, Parks&Recreation	Ch. 15 - 21
H 127	Property tax, mill levy, market value	Ch. 82 - 218
H 129	Sales tax, charities, exemptions	Ch. 54 - 122
H 130	Sales tax collection, time	Ch.110 - 346
H 131	Income tax, capital gains	Ch. 83 - 238
H 132	Income tax, definitions, computations ...	Ch.111 - 347
H 136	Income tax deduct, alternative energy	Ch. 91 - 261
H 138	Crossbow/archery season, disabled hunter..	Ch.366 - 1280
H 139	Approp, add'l, Historical Society	Ch. 14 - 20
H 140	Child, adoption, home study	Ch.161 - 639
H 142	Approp, add'l, substance abuse prog	Ch.160 - 637
H 152	Telecommunication, interLATA serv	Ch. 60 - 133
H 156	School maintenance/operation levies	Ch. 26 - 33
H 159	Veterinary medicine law, revised	Ch. 62 - 145
H 160	Proprietary school degrees, authority	Ch.107 - 340
H 162aaS	College/univ, tech equip donated/tax	Ch.314 - 1075
H 165	Defendant, right to appoint counsel	Ch. 59 - 130
H 166	Drug traffick/sentence, not suspend	Ch. 58 - 129
H 167aaS	Fine, nonpymt, credit, jail time	Ch.265 - 848
H 168	Juvenile, escape detention, penalty	Ch. 74 - 194
H 169	Approp, reduced, Agric Research	Ch. 36 - 54
H 171aa	Schools, dual enrollment	Ch.224 - 775
H 172	High schools, alternative, report	Ch.108 - 341
H 173	Labor/Ind Serv, deposit, perform bond	Ch.202 - 694
H 174	Mortician/funeral dir, license req	Ch.112 - 381
H 175aa	Crime victim, rights	Ch.142 - 604
H 176	Marriage, common-law, abolished	Ch.104 - 334
H 177	Heroin, trafficking, penalty	Ch.103 - 331
H 179aa	Tax dist, name change, procedure	Ch.159 - 636
H 183aa	Cigarette tax, distribution	Ch.368 - 1281
H 188	Tax, motor fuel, distributor license	Ch.132 - 565
H 192	Limited liability partner, register	Ch. 92 - 263
H 193	Univ/college, debit card program	Ch.133 - 579

		Chapter - Page
H 194	Accountancy Bd, powers/duties	Ch.134 - 580
H 197	Forest practice violation, notify	Ch.281 - 941
H 198	Property, casualty loss, tax exempt	Ch.220 - 764
H 200	Fire protection dist, annexation	Ch. 84 - 248
H 202aa	Transp Bd, membership, terms	Ch.203 - 695
H 205	Farm produce dealers, bond required	Ch.101 - 326
H 206aa	Pesticide, safe inspct, fire persnl	Ch.106 - 339
H 207	Grazing, dist bds, renamed, terms	Ch.113 - 382
H 208	Agriculture, sacked products, weight	Ch. 71 - 183
H 209	Agriculture products, loss/fraud	Ch. 69 - 178
H 210	Animals, diseases, glanders	Ch. 57 - 128
H 211	Grains/beans/peas, storage, insurance	Ch. 56 - 128
H 212aa	Planning/zoning comm, residence, term	Ch.181 - 664
H 215aa	Dists, special, recall elections	Ch.266 - 848
H 216	Income tax, invest tax credit rev	Ch. 94 - 269
H 217	Defendant, deposit, returned	Ch.158 - 636
H 218	MV, license plate, classic vehicle	Ch.109 - 342
H 219aa	Grape/wine producers, tax imposed	Ch.204 - 698
H 227	Judgments, fines, collection	Ch.205 - 700
H 229aa	Interest, legal rate, calculation	Ch.304 - 1053
H 231	Wildlife taking/Natl Park/penalty	Ch.280 - 940
H 233	Mining reclamation plans, notice	Ch.364 - 1274
H 237	Liens, certain, filed Sec/State	Ch.157 - 635
H 238	Bank laws, conformity with fed law	Ch. 99 - 299
H 239	Insurance Dept, authority clarified	Ch.135 - 585
H 240	Barber teacher, certicate	Ch.225 - 776
H 241	Insurance Dept/proceedings/info	Ch.136 - 587
H 242	Insurance, forms	Ch.137 - 591
H 243	Insurers, out-of-state, sanction	Ch.138 - 592
H 246	Food, surplus, donate/food estab	Ch. 85 - 249
H 247aa	Business license tax	Ch.206 - 701
H 248aaS	Planning/zoning, housing needs	Ch.305 - 1054
H 252aa	Liens, medical assistance	Ch.105 - 336
H 253	Central cancer registry, purpose	Ch. 67 - 170
H 256	Vehicles, manure haul, exempt PUC	Ch.102 - 329
H 257	Fuel tax, distribute, worthless acct	Ch.303 - 1051
H 259	MV, salvage certificate req'd, when	Ch.162 - 641
H 260	County employees, military leave	Ch.114 - 384
H 264	Chemigation, no license, penalty	Ch.100 - 326
H 265	Artesian wells, leaking, repair	Ch.294 - 1036
H 269	Port dist, certn records not disclosed	Ch.207 - 703
H 270	Candidates, independent, filing	Ch.115 - 385
H 271	Personnel Matter, Special Comm repeal	Ch.208 - 709
H 272aa	Tax, special fuels, collection	Ch.348 - 1142
H 276	County property, lease, stadium, name	Ch.156 - 633
H 279	Taxing dist, budget limit, tech amen	Ch.155 - 632
H 282	Hospital, county-city, authority	Ch.221 - 765
H 284	Water measurement dist, created	Ch.291 - 1013
H 286	Hospitals, city, lease	Ch.222 - 768
H 287	Approp, add'l, Administration Dept	Ch. 65 - 167
H 288	Hospital dist elections, date	Ch.154 - 631

		Chapter - Page
H 290	Regulatory takings, local govt	Ch.182 - 668
H 291	Driver license, test, open range	Ch.209 - 710
H 297	Employees, state, vacation accrual	Ch.210 - 714
H 299aaS	Employee, state, certain nonclass	Ch.365 - 1276
H 301	Ronald McDonald House, exempt tax	Ch.219 - 762
H 303	Teacher, unethical conduct, hearing	Ch.235 - 794
H 307aa	Snowmake equip, trmway/no sales tax	Ch.288 - 966
H 308	School bus, standards	Ch.259 - 843
H 309	Collection agency laws, amend	Ch.211 - 715
H 310aa	Securities, sale, prospectus	Ch.212 - 721
H 311	Fraternal benefit society, regs	Ch.213 - 722
H 312	Minors, trusts, special needs	Ch.214 - 742
H 314	Approp, add'l, Water Resources Dept	Ch. 86 - 250
H 315	US Constitution, amend, advisory vote	Ch.227 - 779
H 316	Election, admin, voter registration	Ch.215 - 747
H 318aa,aaS	Amusement devices, permits	Ch.340 - 1126
H 319	Approp, Personnel Comm	Ch. 95 - 272
H 320	Budget, state, agency procedures	Ch.153 - 620
H 323aa	Ground water districts, creation	Ch.290 - 982
H 326	Approp, add'l, H&W, Youth Serv	Ch. 93 - 269
H 328aaS	Nursing education prog, approval	Ch.351 - 1163
H 329	Franchise fees, public utilities	Ch.226 - 777
H 330aa	Beer sales, definitions, reporting	Ch.311 - 1071
H 337	Theft, series, penalty	Ch.216 - 754
H 340	Insurance law, technical changes	Ch.289 - 967
H 342	Education Support Prog, calculation	Ch.306 - 1057
H 343	Approp, Retirement System	Ch.152 - 619
H 344	Approp, Administration Dept	Ch.151 - 617
H 345	Pesticide application, ratites, noise	Ch.217 - 755
H 346	Telecomm serv, resale/not pub utility	Ch.349 - 1150
H 350	Juveniles, criminal record released	Ch.218 - 755
H 351	F&G violation, Hunter Ed req'd, when	Ch.318 - 1080
H 353	Approp, Finance Dept	Ch.150 - 615
H 354	Approp, Commerce Dept	Ch.149 - 615
H 355	Grizzly bear oversight comm, sunset	Ch.296 - 1041
H 358	Approp, Juvenile Corrections Dept	Ch.260 - 843
H 359	Approp, Liquor Dispensary	Ch.261 - 844
H 360	Approp, Women's Programs Comm	Ch.262 - 844
H 361	Approp, State Treasurer	Ch.263 - 845
H 363	Approp, Water Resources Dept	Ch.315 - 1076
H 364	Approp, Legislative Services	Ch.319 - 1082
H 365aa	Bingo, regulation	Ch.350 - 1151
H 366	Approp, Fish & Game	Ch.295 - 1038
H 367	Approp, Parks & Recreation	Ch.312 - 1072
H 368	Approp, Community Colleges	Ch.313 - 1074
H 369	Approp, Education Dept, Gooding School ...	Ch.316 - 1078
H 370	Approp, Legis Cncl, Higher Ed study	Ch.342 - 1129
H 372	Approp, Governor's Office	Ch.317 - 1079
H 373	Approp, Law Enforcement Dept	Ch.285 - 946
H 374	Approp, Historical Society	Ch.302 - 1050
H 375	Approp, Office on Aging	Ch.297 - 1042

		Chapter - Page
H 376	Approp, Industrial Comm	Ch.298 - 1042
H 377	Approp, Self-Governing Agencies	Ch.299 - 1043
H 378	Approp, Vocational Rehabilitation	Ch.300 - 1046
H 379	Approp, Revenue and Taxation Dept	Ch.301 - 1048
H 380	Approp, Fish & Game, automation	Ch.307 - 1067
H 381	Approp, PERSI, 401(k) administration	Ch.308 - 1067
H 382	Approp, Parks&Rec	Ch.309 - 1068
H 383	Approp, Correction Dept	Ch.347 - 1139
H 384	Approp, Permanent Bldg Acct	Ch.310 - 1068
H 385	Approp, Agricultural Research	Ch.282 - 943
H 386	Approp, Substance Abuse Prog	Ch.284 - 945
H 387	Approp, H&W, INEL/Environmental Qlty Div .	Ch.344 - 1130
H 388	Approp, Health Education Prog	Ch.345 - 1135
H 389	Approp, H&W, Indirect Support	Ch.346 - 1136
H 391	Approp, Water Resources/Attorney Gen	Ch.343 - 1129

NUMERICAL LIST OF SENATE AND HOUSE JOINT MEMORIALS, AND CONCURRENT RESOLUTIONS

SENATE JOINT MEMORIALS

		Page
SJM103	Amtrak service continued	1283

HOUSE JOINT MEMORIALS

HJM 1	Sales tax, out-of-state mail order	1289
HJM 2	National Hwy System, approval requested	1290
HJM 4	Table Rock Cross, land title	1291

SENATE CONCURRENT RESOLUTIONS

SCR101	Legislature, standing comm, minutes	1293
SCR103	Federal system, balanced, conference	1294
SCR104	Literacy Month recognized	1296
SCR105	Reapportionment Comm implement, study	1297
SCR114	H&W rules, air pollution control, amended	1298
SCR116	H&W rules, air pollution control, amended	1312
SCR118	Outdoor recreation facility, study	1332
SCR119	Kootenai tribe, sales tax, study	1333
SCR122	World Sports Humanitarian Hall of Fame	1334
SCR125	Freedom of speech, restraint	1335

HOUSE CONCURRENT RESOLUTIONS

HCR 1	State of State Address	1336
HCR 2	Budget Address to Legislature	1336
HCR 3	Legislative bills, printing contract	1337
HCR 4	Legislative journals, printing contract	1339
HCR 6	Accountancy Bd rules, approved	1342
HCR 7	Idaho sovereign under U.S. Const	1342
HCR 8	Session Laws, printing contract	1344
HCR 9	Legislation, SOP/Fiscal Notes	1346
HCR 10	Nuclear waste storage, not in Idaho	1347
HCR 11aa	H&W, water quality rules, amended	1349
HCR 15	H&W Dept, rules, schools, immunization	1361
HCR 16	H&W Dept, rules, immunizations	1362
HCR 17	University system, single, study	1363

HCR 19 Education in values, Legislature commends 1364
HCR 20 County gov't, optional form, study 1366
HCR 21 Transportation issues, study comm 1366
HCR 23 School dist/experience-base career prog 1367

IDAHO STATE OFFICIAL DIRECTORY

ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS
Senator Larry E. Craig (R)
Senator Dirk Kempthorne (R)

REPRESENTATIVES IN CONGRESS
Helen Chenoweth (R), First District
Mike Crapo (R), Second District

Mailing Address:
304 N. 8th
Boise, Idaho 83702

STATE ELECTED OFFICIALS

GOVERNOR Phill Batt (R)

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 Alan G. Lance (R)

SUPERINTENDENT OF PUBLIC INSTRUCTION Anne C. Fox (R)

Mailing Address:
700 W. Jefferson St.
P.O. Box 83720
Boise, Idaho 83720

LEGISLATORS BY DISTRICT

1-BONNER & BOUNDARY COUNTIES

Tim Tucker (D), Senate . . . . . 4th Term
(Served 3 1/2 terms House, 1983-89)
HCR 60, Box 227 Porthill 83853
Home 267-2977 FAX 267-3172 Bus. 267-5198
Farmer Wife - Ellen
Agricultural Affairs, Education
Local Government/Taxation

Carol Peitsch (D), House Seat A . . . . . 1st Term
695 Sand Creek Lane, Sandpoint 83864
Home 263-4217 Bus 263-7523
Retired Teacher Husband - Gary
Business, Education
Health/Welfare

Jim Stoicheff (D), House Seat B . . . . . 12th Term
615 Lakeview, Sandpoint 83864
Home 263-2375 Wife - Jerry
Retired Teacher
MINORITY LEADER
Local Government, Resources/Conservation
State Affairs, Ways/Means

2-BONNER & KOOTENAI COUNTIES

Clyde Boatright (R), Senate . . . . . 1st Term
N. 1520 Wrangler Rd, Rathdrum 83858
Home 687-0591 FAX 765-5808 Bus 667-0521
Realtor Wife - "Bing" Karen
Agricultural Affairs, Commerce/Human Resources
Health/Welfare

Hilde Kellogg (R), House Seat A . . . . . 2nd Term
(Served 4 terms House, 1983-91)
P.O. Box 1479, Post Falls 83854-1479
Phone 773-5412 Businesswoman
VICE-CHAIRMAN - Transportation/Defense
Business, Revenue/Taxation

Wayne R. Meyer (R), House Seat B . . . . . 1st Term
E. 100 Lancaster, Rathdrum 83858
Home 687-0420 Wife - Karleen
Farmer
Business, Education
Environmental Affairs

3-KOOTENAI COUNTY

Gordon F. Crow (R), Senate . . . . . 1st Term
10282 Hillview Dr., Hayden 83835-9236
Home 762-0105 Bus. 765-9323
Media Consultant Wife - Sandy
Commerce/Human Resources
Health/Welfare

Marvin G. Vandenberg (D), House Seat A . . 4th 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

Jeff Alltus (R), House Seat B . . . . . 1st Term
P.O. Box 2406, Coeur d'Alene 83816
Home 765-3907 Wife - Margaret
Insurance Agent
Health/Welfare, Human Resources
State Affairs.

4-BENEWAH, KOOTENAI & SHOSHONE COUNTIES

Mary Lou Reed (D), Senate . . . . . 6th Term
10 Giesa Road, Coeur d'Alene 83814
Phones 664-3564 & 664-1813 Husband-Scott
ASSISTANT MINORITY LEADER
Health/Welfare, State Affairs,
Resources/Environment

Tom Dorr (R), House Seat A . . . . . 1st Term
160 Hughes Lane, Post Falls 83854
Home 773-5833 Bus 773-3639
Owner/Trucking Company Wife - Robbie
Health/Welfare, Human Resources
State Affairs

Don Pischner (R), House Seat B . . . . . 1st Term
P.O. Box 7, Coeur d'Alene 83816
Home 667-5770
Site Adm. Consultant
Education, Transportation/Defense

5-LATAH COUNTY

Gary J. Schroeder (R), Senate . . . . . 2nd Term
1289 Highland, Moscow 83843
Home 882-9092 FAX 882-5715 Bus 882-0601
Business owner/Outdoor writer
VICE-CHAIRMAN--Education
Resources/Environment, Transportation

James R. "Doc" Lucas, DVM (R), House Seat A
. . . . . 8th Term
4231 Highway 95 South, Moscow 83843
Home 882-7374 Wife - Vi
Veterinarian - Retired
Appropriations (JFAC), Resources/Conservation

Maynard M. Miller (R), House Seat B . . . . . 2nd Term
514 E. First Street, Moscow 83843
Home 882-1237 Bus 885-6192
Professor/administrator, U of Idaho Wife - Joan
Education, Environmental Affairs
Human Resources

6-NEZ PERCE COUNTY

Bruce L. Sweeney (D), Senate . . . . . 7th 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
MINORITY LEADER
CO-CHAIRMAN--Legislative Oversight Committee
Health/Welfare, State Affairs, Transportation

Frank C. Bruneel (R), House Seat A . . . . . 1st Term
307 Prospect, Lewiston 83501
Home 743-8951 FAX 746-9873 Bus 746-9873
Tire Business
Human Resources, Revenue/Taxation
Transportation/Defense

Dan Mader (R), House Seat B . . . . . 2nd Term
387 Reservoir Drive, Lewiston 83501
Bus 285-1294 Home 746-4029
Farmer Wife - Cindi
Agricultural Affairs, Appropriations (JFAC)
Resources/Conservation

LEGISLATORS BY DISTRICT (continued)

7-BENEWAH, CLEARWATER, IDAHO, LATAH LEWIS & NEZ PERCE COUNTIES

Marguerite McLaughlin (D), Senate ..... 7th Term
(Served 2 terms House, 1979-82)
704 Floyd Ave., Orofino 83544
Home 476-4136 Husband - G. Bruce
Finance (JFAC), Commerce/Human Resources
State Affairs

Charles D. Cuddy (D), House Seat A ..... 3rd Term
12640 Hartford Ave., Orofino 83544
Home 476-3729 Bus. 476-4643
Surveying/Engineering Consultant Wife - Judy
Resources/Conservation, Revenue/Taxation,
Transportation/Defense

June E. Judd (D), House Seat B ..... 3rd Term
2105 College, St. Maries 83861
Home 245-2818
Retired Educator
Agricultural Affairs, Judiciary/Rules,
State Affairs

8-ADAMS, BOISE, GEM IDAHO & VALLEY COUNTIES

Judi Danielson (R), Senate ..... 1st Term
(Served 3 terms House, 1989-94)
P.O. Box 724, Council 83612
Home 253-4850 Husband - John
Retired nurse/Former county commissioner
VICE-CHAIRMAN--Resources/Environment
Commerce/Human Resources, Education

Gayle Ann Wilde (R), House Seat A ..... 5th Term
P.O. Box 984, McCall 83638
Home 634-5678 Husband - Ralph
Former Petroleum Marketer/Teacher
VICE-CHAIRMAN--Human Resources
Education, Environmental Affairs

Twila Hornbeck (R), House Seat B ..... 1st Term
808 Lake, Grangeville 83530-1334
Home 983-1412
Grangeville City Council Husband - John G.
Local Government/Taxation, State Affairs

9-GEM, PAYETTE, WASHINGTON COUNTIES

Mary Hartung (R), Senate ..... 4th Term
(Served 3 years House, 1987-89)
Box 147, Payette 83661
Home 642-3270 Bus. 452-3543
Insurance Husband - Morris
ASSISTANT MAJORITY LEADER
VICE-CHAIRMAN--Transportation
Finance (JFAC), State Affairs

Gertrude Sutton (R), House Seat A ..... 3rd Term
Route 1, Box 42, Midvale 83645
Home 355-2442
Pres. Family Ranch Corp.
Agricultural Affairs, Resources/Conservation
State Affairs

Donna Jones (R), House Seat B ..... 5th Term
1911 1st Ave. S., Payette 83661
Home 642-9679 FAX 642-9476 Bus. 642-9433
Realtor Husband - Donald
CHAIRMAN--Ways/Means
Judiciary/Rules, Revenue/Taxation
Transportation/Defense

10-CANYON COUNTY

David E. Kerrick (R), Senate ..... 3rd Term
P.O. Box 44, Caldwell 83606
Home 454-3373 FAX 459-4573 Bus. 459-4574
Attorney Wife - Juneal
MAJORITY LEADER
Commerce/Human Resources
Judiciary/Rules, State Affairs

Ron Crane (R), House Seat A ..... 7th Term
1907 Alder, Caldwell 83605
Home 459-4990
Businessman Wife - Cheryl
CHAIRMAN--State Affairs
Business

Dorothy L. Reynolds (R), House Seat B ... 10th Term
(Served 3 terms House, 1974-80)
1920 Howard, Caldwell 83605
Home 459-2553
Farm Owner/substitute teacher
CHAIRMAN--Health/Welfare
Education

11-CANYON COUNTY

Atwell J. Parry (R), Senate ..... 8th Term
6985 Baseline Road, Melba 83641
Home 495-2226 Wife - Elaine
Grocer/Meat Cutter -- Retired
CHAIRMAN--Finance, Co-Chairman--JFAC
Local Government/Taxation

Robert E. Schaefer (R), House Seat A ..... 6th Term
P.O. Box 55, Nampa 83653
Home/Bus 466-3636 Wife - Betty
Architect
CHAIRMAN--Human Resources
Environmental Affairs

W. O. "Bill" Taylor (R), House Seat B ..... 5th Term
8367 Track Road, Nampa 83686
Home 466-0970 Wife - Shirley
Contractor/Real Estate Investments
CHAIRMAN--Business
Local Government, Revenue/Taxation

12-CANYON COUNTY

J. L. "Jerry" Thorne (R), Senate ..... 6th Term
331 Winther Blvd., Nampa 83651
Home 467-2892 Wife - Lois
Retired
CHAIRMAN--Local Government/Taxation
VICE-CHAIRMAN--Finance (JFAC)
Transportation

Dolores J. Crow (R), House Seat A ..... 7th 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 ..... 3nd Term
312 3rd St. S., Nampa 83651
Home 466-3184 Bus. 466-2465/887-1077
Insurance Wife - Joan
VICE-CHAIRMAN--State Affairs
Business, Local Government

LEGISLATORS BY DISTRICT (continued)

13-ADA COUNTY

Sheila Sorensen (R), Senate . . . . . 2nd Term
(Served 3 terms House, 1987-92)
P.O. Box 873, Boise 83701-0873
Home 345-8688 Bus. 344-4900
Health Care Professional Husband - Dean
MAJORITY CAUCUS CHAIRMAN
VICE-CHAIRMAN--State Affairs
Judiciary/Rules

Debbie Field (R), House Seat A . . . . . 1st Term
3236 Chickory Way, Boise 83706
Home 336-8565 Husband - Mike
Political Consultant
Business, State Affairs

Dave Baumann (R), House Seat B . . . . . 1st Term
5620 S. Amaryllis, Boise 83705-6820
Home 343-4051 Wife - Irene
Sales – Air & Water Purifiers
Education, Environmental Affairs
Human Resources

14-ADA COUNTY

Harold R. "Hal" Bunderson (R), Senate . . . . 2nd Term
582 River Heights Dr., Meridian 83642
Home 888-7156 FAX 888-7188
CPA, Retired Wife - Mary
VICE-CHAIRMAN--Judiciary/Rules
Health/Welfare, Transportation

Dave Bivens (R), House Seat A . . . . . 2nd Term
(Served 8 years Senate, 1967-74)
2354 Star Lane, Meridian 83642
Home 888-3776 Retired Agri-Bus Wife - Helen
Revenue/Taxation
Transportation/Defense

Milt Erhart (R), House Seat B . . . . . 1st Term
4776 Riverine Place, Boise 83703
Home 853-2420 Bus. 338-6901
Investments Wife - Mary
Local Government, Resources/Conservation
State Affairs

15-ADA COUNTY

Rod Beck (R), Senate . . . . . 1st Term
(Served 3 terms Senate, 1985-90)
4257 Tattenham Way, Boise 83713
Home 376-9797
Marketing Sales Consultant Wife - Rhonda
Agricultural Affairs, Education, Judiciary/Rules

Paul Kjellander (R), House Seat A . . . . . 1st Term
9880 West Lupine, Boise 83704
Home 322-6954 Bus 385-3752
Boise State Univeristy Faculty Wife - Radelle
Judiciary/Rules, Local Government
State Affairs

Max C. Black (R), House Seat B . . . . . 2nd Term
3731 Buckingham Drive, Boise 83704
Home 375-2635 Bus 334-7920
Insurance Wife - Clydene
VICE-CHAIRMAN--Business
Education, Health/Welfare

16-ADA COUNTY

Cecil D. Ingram (R), Senate . . . . . 2nd Term
7025 El Caballo Dr., Boise 83704
Home 375-8876
Retired Accountant Wife - Ann
CHAIRMAN -- Agricultural Affairs
Transportation, Local Government/Taxation

Sylvia McKeeth (R), House Seat A . . . . . 2nd Term
4113 Catalpa Dr., Boise 83703
Home 343-8150
Retired
Education, Health/Welfare, Judiciary/Rules

Horace B. "Hod" Pomeroy (R), House Seat B 4th 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 . . . . . 2nd Term
1010 Houston Road, Boise 83706
Home 342-4470 FAX 342-0261 Bus 345-1010
CPA--Insurance/investments Wife - Edna (Eddie)
CHAIRMAN--Health/Welfare
Local Government, Judiciary/Rules

Jesse S. Berain (R), House Seat A . . . . . 2nd Term
1725 Gourley St., Boise 83705
Home 344-6098 Wife - Maria Andrea
Business Consultant
Environmental Affairs, Human Resources,
State Affairs

Ruby R. Stone (R), House Seat B . . . . . 6th Term
6604 Holiday Drive, Boise 83709
Property Management Home 375-7975
CHAIRMAN--Local Government
State Affairs

18-ADA COUNTY

James E. Risch (R), Senate . . . . . 1st Term
(Served 7 terms Senate, 1975-1988)
5400 S. Cole Rd., Boise 83709
Home 362-2626 Bus 345-9974
Attorney Wife - Vicki
Commerce/Human Resources, Education

William T. "Bill" Sali (R), House Seat A . . . 3rd Term
2295 W. Columbia, Meridian 83642
Home 888-3165 Wife - Terry
Attorney
VICE-CHAIRMAN--Health/Welfare
Judiciary/Rules

Fred D. Tilman (R), House Seat B . . . . . 3rd Term
11457 Alejandro, Boise 83709
Home 322-1133 Wife - Geri
Business Consultant
VICE-CHAIRMAN--Education
Business, Local Government

LEGISLATORS BY DISTRICT (continued)

19-ADA COUNTY

Sue Reents (D), Senate . . . . . 4th Term
908 N. 18th, Boise 83702
Home/Bus 343-7009
Financial consultant Husband - Henry
Education, Judiciary/Rules

Kathleen W. (Kitty) Gurnsey (R), House Seat A
. . . . . 11th 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 . . . . 5th Term
(Served 1 Term Senate, 1979-80)
1119 N. 12th Street, Boise 83702
Journalist Home 345-3440
Appropriations, Environmental Affairs,
Resources/Conservation

20-ELMORE & OWYHEE COUNTIES

R. Claire Wetherell (D), Senate . . . . . 6th Term
360 East 15th North, Mountain Home 83647
Home 587-3240 FAX 587-8370 Bus. 587-9091
Title Insurance
Agricultural Affairs, Finance (JFAC)

Frances Field (R), House Seat A . . . . . 6th Term
HC-85, Box 221, Grand View 83624
Home 834-2488
Homemaker/Retired school dist mgr/Farm partner
CHAIRMAN--Agricultural Affairs
Education, Resources/Conservation

Robbi King (R), House Seat B . . . . . 2nd Term
P.O. Box 28, Glenns Ferry 83623
Home 366-7715 Bus. 366-7526
Husband - Kevin
Judiciary/Rules, State Affairs,
Transportation/Defense

21-BLAINE, CAMAS, ELMORE GOODING & LINCOLN COUNTIES

W. Clinton Stennett (D), Senate . . . . . 1st Term
(Served 2 terms House, 1990-94)
P. O. Box 475, Ketchum 83340
Home 726-8106 Bus. 788-4504
TV and Radio Broadcasting, Station Owner
Commerce/Human Resources, Resources/Environment
Local Government/Taxation

Wendy Jaquet (D), House Seat A . . . . . 1st Term
P.O. Box 783, Ketchum 83340
Home 726-3100 FAX 726-4533 Bus 726-3423
Executive Director/Sun Valley
Chamber of Commerce Husband - Jim
Education, Judiciary/Rules
Local Government

Tim Ridinger (R), House Seat B . . . . . 1st Term
607 West B, P.O. Box 110, Shoshone 83352
Home 886-2958
Hay Hauler Wife - Penny
Local Government, Revenue/Taxation

22-GOODING & TWIN FALLS COUNTIES

B. Joyce McRoberts (R), Senate . . . . . 4th Term
342 Monroe Place, Twin Falls 83301
Home 734-3329 Husband - Darrel
Businesswoman
CHAIRMAN--State Affairs
Finance, Judiciary/Rules

Celia R. Gould (R), House Seat A . . . . . 5th 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 . . . . . 6th Term
3515 N. 2300 E., Filer 83328
Home 326-4181 FAX 326-5280 Bus. 733-8458
Farmer Wife - Mary Liz
Education, Resources/Conservation
Agricultural Affairs

23-TWIN FALLS COUNTY

Laird Noh (R), Senate . . . . . 8th Term
3442 Addison Ave E., Kimberly 83341
Home 733-3617 Wife - Kathleen
Sheep Producer
CHAIRMAN--Resources/Environment
Agricultural Affairs, Education

Ronald L. Black (R), House Seat A . . . . . 5th Term
921 Trotter Dr., Twin Falls 83301
Home 734-9035 FAX 736-4711 Bus 736-2166
Director of Refugee Services
College of Southern Idaho Wife - Gael
CHAIRMAN--Education
Business, Health/Welfare

Mark D. Stubbs (R), House Seat B . . . . . 3nd 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 . . . . . 3rd Term
702 4th Street, Rupert 83350
Home 436-5624 Bus. 436-3584
Self-employed Insurance Agent Wife - Linda
CHAIRMAN--Commerce/Human Resources
Finance, Resources/Environment

Steve Antone (R), House Seat A . . . . . 14th Term
1141 Link St., Rupert 83350
Phone 436-3927
Farmer Wife - Diane
CHAIRMAN--Revenue/Taxation
Business

Maxine T. Bell (R), House Seat B . . . . . 4th Term
194 S. 300 E., Jerome 83338
Home 324-4296 FAX 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 . . . . . 7th 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 . . . . . 3rd Term
Star Rt., Box 28, Albion 83311
Home 673-6261 Wife - Susan
Rancher
VICE-CHAIRMAN--Revenue/Taxation
Judiciary/Rules, Transportation/Defense

Bruce Newcomb (R), House Seat B . . . . . 5th Term
1626 Monroe, Burley 83318
Home 678-3758 Wife - Celia Gould
Farmer/Rancher
MAJORITY LEADER
CO-CHAIRMAN--Legislative Oversight Committee
Resources/Conservation, State Affairs, Ways/Means

26-CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

Rex L. Furness (R), Senate . . . . . 4th Term
3470 E. 300 N., Rigby 83442
Home 754-8558 Wife - Fern
Ag/Business
Finance, Local Government/Taxation
Resources/Environment

JoAn E. Wood (R), House Seat A . . . . . 7th 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 . . . 2nd Term
143 W. Pleasant, Box 347, Challis 83226
Phone 879-2797 Husband - Robert
Mining/Investments
VICE-CHAIRMAN--Local Government,
Revenue/Taxation

27-FREMONT & MADISON COUNTIES

Robert R. Lee (R), Senate . . . . . 1st Term
1330 Barney Dairy Rd., Rexburg 83440
Home 356-9506 Wife - Gwen
Irrigation Engineer
VICE-CHAIRMAN--Agricultural Affairs
Health/Welfare

Michael T. Johnson (R), House Seat A . . . . . 2nd Term
P.O. Box 848, Rexburg 83440
Home 356-8690 Bus. 359-2337
Educator/HS Wife - Mary
Education, Judiciary/Rules
Health/Welfare

Golden C. Linford (R), House Seat B . . . . . 6th Term
2120 West 4200 South, Rexburg 83440
Home 356-7220 Bus. 356-7346
Potato Grower/Processor Wife - Pat
CHAIRMAN--Resources/Conservation
Revenue/Taxation

28-BONNEVILLE, FREMONT & TETON COUNTIES

Stan Hawkins (R), Senate . . . . . 3rd Term
(Served 6 years House, 1984-90)
P.O. Box 367, Ucon 83454
Home 524-1586 Bus. 523-2880
Agri-Business Wife - Linn
VICE-CHAIRMAN--Local Government/Taxation
Finance (JFAC), Resources & Environment

Max C. Mortensen (R), House Seat A . . . . . 2nd 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 . . . . . 3rd 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 . . . . . 5th 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
Resources/Environment

Jack T. Barraclough (R), House Seat A . . . . 2nd Term
3018 Westmoreland Circle, Idaho Falls 83402
Home 523-4463 FAX 526-0875 Bus. 526-1887
Hydrologist Wife - Elaine
VICE-CHAIRMAN--Environmental Affairs
Education, Resources/Conservation

Reed Hansen (R), House Seat B . . . . . 1st Term
(Served 4 terms House, 1985-92)
4329 N. 26th West, Idaho Falls 83402
Home 522-5359
Farmer Wife - Marilyn
Health/Welfare, Revenue/Taxation

30-BONNEVILLE COUNTY

Melvin M. "Mel" Richardson (R), Senate . . . 2nd Term
(Served 2 terms House, 1989-92)
3725 Brookfield, Idaho Falls 83406
Home 522-0772 Bus. 1-800-473-0772
Public Relations - Broadcasting Wife - Dixie
VICE-CHAIRMAN--Commerce/Human Resources
Finance (JFAC), Resources/Environment

Ralph J. Steele (R), House Seat A . . . . . 5th 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 . . . 5th Term
1357 Bone Road, Iona 83427 Home 522-3072
Farmer Wife - Linda
ASSISTANT MAJORITY LEADER
Health/Welfare, State Affairs
Ways/Means

31-BINGHAM & BUTTE COUNTIES

Jerry T. Twiggs (R), Senate . . . . . 6th Term
955 West 100 South, Blackfoot 83221
Senate Office 334-2085 Home 684-4090
Farmer Wife - Sandra
PRESIDENT PRO TEM
State Affairs

Allan F. Larsen (R), House Seat A . . . . . 2nd Term
(Served 6 terms House, 1967-78; 1 term Senate, 1991-92)
848 W. Taber Rd., Blackfoot 83221
Home/Bus. 684-4911 Wife - Alva Lu
Retired Farmer
Resources/Conservation, Revenue/Taxation
Transportation/Defense

Michael K. Simpson (R), House Seat B . . . . 6th 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

Robert L. Geddes (R), Senate . . . . . 1st Term
270 Eastman Ave, Soda Springs 83276
Home 547-2423 Bus. 547-3391
Environmental Engineer Wife - Tammy
Education

Robert C. Geddes (R), House Seat A . . . . . 10th Term
7235 N. 2600 West, Preston 83263
Home 852-1376
Farmer Wife - Carma
VICE-CHAIRMAN--Appropriations (JFAC)
Agricultural Affairs

John H. Tippets (R), House Seat B . . . . . 4th Term
65 E. Center, Bennington, 83254
Home 847-2876 Wife - Nancy
Instrumentation Technician
MAJORITY CAUCUS CHAIRMAN
Judiciary/Rules, State Affairs, Ways/Means

33-BANNOCK COUNTY

Lin Whitworth (D), Senate . . . . . 1st Term
P.O. Box 183, Inkom 83245
Home 775-3773
Farmer/RR Conductor Wife - Carol
Health/Welfare, Resources/Environment,
Transportation

John Alexander (D), House Seat A . . . . . 3rd Term
3537 Conlin, Pocatello 83201
Home 238-0912 Bus. 526-0849
INEL -- Technology Transfer Executive Wife - Lisa
Environmental Affairs, Human Resources,
State Affairs

Millie L. Flandro (D), House Seat B . . . . . 3rd 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 . . . . . 2nd Term
(Served 1 term House, 1990-92)
2950 Trevor, Pocatello 83201
Home/Bus. 238-8800
Marketing executive Wife - Analyn
CHAIRMAN--Transportation
Local Government/Taxation, Resources/Environment

Elaine Hofman (D), House Seat A . . . . . 3rd Term
216 S. 16th Ave., Pocatello 83201
Home 232-7167 Husband - Cornelius
Former Educator
Education, Judiciary/Rules

Pete Black (D), House Seat B . . . . . 7th 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

Ralph "Moon" Wheeler (R), Senate . . . . . 1st Term
(Served 2 terms House, 1973-76)
659 Gifford Ave., American Falls 83211
Home 226-2409 FAX 226-2409 w/prior notice
Retired Pharmacist Wife - Ann
Agriculture, Commerce/Human Resources

Albert M. (Al) Johnson (D), House Seat A . . 7th Term
12350 N. Philbin Rd., Pocatello 83202
Home 237-2828
Farmer/Rancher Wife - Betty
Agricultural Affairs, Resources/Conservation
Revenue/Taxation

Jim Christiansen (D), House Seat B . . . . . 2nd 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, Business, Revenue/Taxation